



GOVERNMENT OF PUDUCHERRY

**PUDUCHERRY CODE
VOLUME - IV**



**LAW DEPARTMENT
PUDUCHERRY**



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THE PUDUCHERRY CODE VOLUME-IV

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The Law Department, Government of Puducherry.

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Compiled and Codified by

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MESSAGE

There has been a persistent demand from the lawyers and the public for codification of all the laws enacted in Puducherry. On my request in this connection, the revised editions of Puducherry Code would be made available to them shortly. Now, the Law Department, Puducherry have completed the arduous task of bringing out the revised edition of the Puducherry Code Volumes I, II and III. In addition, the first edition of the Puducherry Code Volume IV containing Acts from 1973 till date has also been prepared for publication.

I believe that this Code will be highly useful to all concerned. I place on record my appreciation to the Law Department for their yeomen service in this regard.

Puducherry,
19-04-2012.


(N. RANGASAMY)
CHIEF MINISTER
GOVERNMENT OF PUDUCHERRY



MESSAGE

The Law Department, Puducherry has brought out Puducherry Code Volumes I, II and III long back. Acts upto 1973 were incorporated in those books. Presently the Department has successfully revised and reprinted the Codes with all up to date amendments.

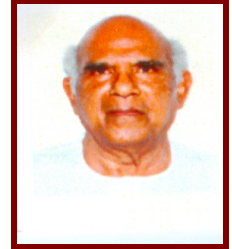
The Department has already completed the works relating to the revised edition of Puducherry Code Volumes I, II and III and this was a tremendous and appreciable effort on their part. This apart, the Department has also made the maiden attempt of compiling and codifying all the Acts from 1973 to till date in this first edition of the Puducherry Code Volume IV.

It is hoped and trusted that this book would be of immense help and assistance to all the end-users, more specifically the Executives, the Legislators, the Bench, the Bar and the general public.

I congratulate the valuable service and the painstaking endeavour rendered by the Law Department in this new venture.

Puducherry,
19-04-2012


M. SATHIAVATHY, I.A.S.,
CHIEF SECRETARY TO GOVERNMENT



FOREWORD

This fourth volume of the Puducherry Code is most welcome. It covers a long period of about 40 years from 1973 up to now. During this period lawyers and administrators were at a loss to know the law holding the field in which they were called upon to putforth arguments or to take decisions. They have now a handy and reliable tool. The present volume contains not only the original pieces of legislations but also all subsequent amendments. The statements of objects and reasons are also reproduced which help to get the spirit of the law and to render its comprehension safe.

This volume consists of three parts; the first one consists of the Acts passed by the Legislative Assembly of Puducherry; the second contains Regulations made by the Union Government in exercise of their powers under article 240 of the Constitution; the third part is made of one piece of legislation extending to Puducherry an Act of TamilNadu purportedly in exercise of the powers conferred to the Union Government by the Puducherry Administration Act, 1962. This brings home the existence of the three sources of legislations in the Union territory. Of course we have to add the considerable number of statutes of the Parliament which apply automatically here.

Now that we have all the pieces of legislations specific to Puducherry available in form of Code in four volumes, the users of the code would desire an index covering all the volumes in an alphabetic order. That tool will save much time to the daily users of the code. The considerable work so far done in publishing within a short period of 18 months the four volumes makes me feel that such complementary work also will soon see the light of the day.

I take pleasure in felicitating Thiru K. Oumabady, the Librarian of the Law Department who has made meticulously all the necessary spade work and Thiru. J.C.P. Mariadassou, the Law secretary who has piloted relentlessly the work. The users of this book owe a tribute of gratitude to those two persons for the handy tool provided to them.

JUSTICE DR. DAVID ANNOUSSAMY
FORMER JUDGE OF THE MADRAS HIGH COURT

Puducherry,
16th April 2012.



PREFACE

It gives me immense pleasure in bringing out the first edition of Puducherry Code Volume IV. Legislations including all amendments thereto from 1973 till date and the statements of objects and reasons for all legislations have been incorporated in this maiden venture. With the publication of the Puducherry Code Volume IV, the task of compilation of all Puducherry Acts updated from 1964 till date has been accomplished.

I hope and wish that this Volume would be quite handy and helpful to the Bench, the Bar and the Executives in performance of their arduous task to the same extent and degree as the other Volumes of the Code.

I deem it a privilege to place on record my appreciation to Thiru K. Oumabady, Assistant Library and Information Officer of the Law Department, Puducherry and Thiru N. Rajendiran, Retired Under Secretary (Law), without whose sincere and unstinted co-operation, it would have been impossible to bring out this edition within such a short time span.

My heart felt thanks are also due to Thiru. M. Krishnamoorthy, Director and Thiru. D. Rajasekaran, Deputy Director of the Directorate of Stationery and Printing, Puducherry for extending their utmost co-operation to finish the printing work of all the four Volumes with full speed in record time.

Puducherry,
17-04-2012

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JOHN CLAUDE POMPEI MARIADASSOU, M.A., M.L., D.F.L.,
LAW SECRETARY TO GOVERNMENT

PUDUCHERRY CODE

Volume - IV

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PART - I

THE PUDUCHERRY AGRICULTURAL PRODUCE MARKETS ACT, 1973.

(No. 3 of 1974)

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THE PUDUCHERRY AGRICULTURAL PRODUCE MARKETS ACT, 1973.

(No. 3 of 1974)

(28-03-1974)

AN ACT

to provide for the better regulation of buying and selling of agricultural produce and the establishment and proper administration of markets for agricultural produce in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-fourth Year of the Republic of India as follows: -

**CHAPTER - I
PRELIMINARY**

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Agricultural Produce Markets Act, 1973.

(2) It extends to the whole of the Union territory of Puducherry.

†(3) It shall come into force on such date as the Government may, by notification, appoint; and different dates may be appointed for different areas and for different provisions of this Act.

Definitions.

2. In this Act, unless the context otherwise requires, -

- (i) "agricultural produce" means any produce (whether processed or not) of agriculture, horticulture, animal husbandry, apiculture, pisciculture and forest declared by the Government, by notification, to be an agricultural produce for the purposes of this Act;
- (ii) "Collector" means the Chief Officer-in-charge of the revenue administration of the Union territory of Puducherry, and includes any other officer appointed by the Government to exercise all or any of the powers of a Collector under this Act;
- (iii) "Co-operative marketing society" means any co-operative society registered or deemed to be registered under the Puducherry Co-operative Societies Act, 1965 (11 of 1965), which has, as its principal object, the promotion of the sale of agricultural produce grown, reared or produced by its members;
- (iv) "Director" means the Director of Agriculture, Puducherry, and includes any other person or authority authorised by the Government, by notification, to perform the functions of the Director under this Act for such area as may be specified in the notification;

† This Act came into force w.e.f 01-05-1975 vide Notification-I issued under S.O. 19 published in the Gazette of Puducherry No.19 dated 13-05-1975

- (v) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;
- (vi) "market" means any market established under sub-section (1) of section 5;
- (vii) "market committee" means any market committee established under section 4;
- (viii) "notification" means a notification published in the Official Gazette;
- (ix) "notified agricultural produce" means any agricultural produce specified in the notification under sub-section (3) of section 3 as in force for the time being;
- (x) "notified area" means any area notified under section 3 as in force for the time being;
- (xi) "notified market area" means any area notified under sub-section (2) of section 5 as in force for the time being;
- (xii) "prescribed" means prescribed by rules made under this Act;
- (xiii) "producer" means any person who grows, rears or produces by himself or by hired labour or otherwise any agricultural produce, but does not include a dealer or broker in that produce although he may grow, rear or produce that agricultural produce;
- (xiv) "Registrar" means the Registrar of Co-operative Societies, Puducherry.

CHAPTER - II

NOTIFIED AREA, MARKET COMMITTEE, MARKETS, NOTIFIED MARKET AREAS AND TRADING IN AGRICULTURAL PRODUCE IN SUCH AREAS.

Declaration of notified area.

3. (1) The Government may publish in such manner as may be prescribed, a draft of a notification declaring its intention of regulating the purchase and sale of such agricultural produce in such area as may be specified in such draft.

(2) The draft published under sub-section (1) shall state that any objections or suggestions which may be received by the Government from any person within a period of one month from the date of publication of such draft shall be taken into consideration.

(3) After the expiration of the period specified in such draft and after considering such objections and suggestions as may be received before such expiration, the Government may finally publish a notification declaring the area specified in the draft notification or any portion thereof, to be a notified area for the purposes of this Act in respect of any agricultural produce specified in the draft notification.

- (4) Subject to the provisions of sub-sections (1), (2) and (3), the Government may, -
- (a) exclude from any notified area, any area comprised therein, or
 - (b) include in any notified area, any new area, or
 - (c) exclude from, or include in, the notification issued under sub-section (3), any agricultural produce.

Establishment of market committee.

4. The Government shall establish, by notification, a market committee for every notified area and it shall be the duty of the market committee to enforce in such notified area, the provisions of this Act, the rules and bye-laws made thereunder.

Establishment of markets.

5. (1) Every market committee shall establish in the notified area such number of markets providing for such facilities as the Government may, from time to time direct, for the purchase and sale of any notified agricultural produce and shall provide such facilities in such markets as may be specified by the Government from time to time by a general or special order.

(2) The Government shall, as soon as may be, after the establishment of a market by a market committee under sub-section (1), declare, by notification, the area of the market and such area adjoining thereto as may be specified in such notification to be a notified market area for the purposes of this Act in respect of any notified agricultural produce.

(3) The Government may, by notification, alter the limits of any notified market area either by altering the area of the market or the area adjoining thereto.

Trading in Agricultural produce in notified area.

6. (1) No person shall, within a notified area, set up, establish or use, or continue or allow to be continued, any place for the purchase, sale, storage, weighment, pressing or processing of any notified agricultural produce, except under and in accordance with the conditions of a licence granted to him by the market committee:

Provided that the market committee may exempt from the provisions of this sub-section any person who carries on the business of purchasing or selling any notified agricultural produce in any quantity not exceeding, that prescribed.

Provided further that a producer selling his notified agricultural produce which has been grown, reared or produced by him or a Co-operative Marketing Society selling notified agricultural produce which has been grown, reared or produced by any of its members, shall be exempt from the provisions of this sub-section, but the

Government may in public interest and for reasons to be recorded in writing withdraw for such period as may be prescribed such exemption in respect of any such producer or Co-operative Marketing Society or all of them or in case of breach, impose such penalty as may be prescribed.

(2) Nothing contained in sub-section (1) shall apply to a person purchasing notified agricultural produce for his own domestic consumption in any quantity not exceeding that prescribed.

(3) A licence under sub-section (1) may be refused to a person –

- (i) whose licence was cancelled and three years have not elapsed since the date of its cancellation; or
- (ii) who has been convicted of any offence or been guilty of misconduct which, in the opinion of the market committee, affects the said person's integrity as a man of business; or
- (iii) in regard to whom the market committee is satisfied, after such inquiry as it considers adequate, that he is a benamidar for, or a partner with, any other person to whom a licence may be refused under clause (i) or clause (ii); or
- (iv) if the market committee finds that the grant of a licence in respect of any place situated within a distance of ten Kilometres from the notified market area is likely to affect the levy of market fees under section 18 or the transaction of sale or purchase of the notified agricultural produce in the market.

(4) A licence granted under sub-section (1) shall be in such form and subject to the payment of such fees as may be prescribed.

(5) A licence granted under sub-section (1) shall be valid for a financial year and may be renewed from year to year and the provisions of this Act shall, so far as may be, apply in relation to the renewal of a licence as they apply in relation to the grant of a licence.

(6) Every person to whom a licence is granted under sub-section (1) shall comply with the provisions of this Act, the rules and by-laws made thereunder and the conditions of the licence.

(7) If a market committee is satisfied either on a reference made to it in this behalf, or otherwise, that –

- (a) a licence granted under sub-section (1) has been obtained by misrepresentation or fraud; or
- (b) the holder of a licence has contravened or failed to comply with, any of the provisions of this Act or the rules or bye-laws made thereunder or any of the conditions of the licence.

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the market committee may, subject to such rules as may be made under this Act, cancel or suspend the licence after giving the holder of the licence a reasonable opportunity of showing cause against such cancellation or suspension.

(8) Any person aggrieved by the decision of the market committee refusing to grant, or cancelling or suspending a licence may, within such time as may be prescribed, appeal to such authority and in such manner as may be prescribed.

Agricultural produce to be sold in the market only.

7. Notwithstanding anything contained in sub-section (1) of section 6, all agricultural produce brought to the notified market area by a producer shall be sold only in the market.

Incorporation of market committee.

8. Every market committee established under section 4, shall be a body corporate by the name of the notified area for which it is established and shall have perpetual succession and a common seal with power to acquire, hold and dispose of property and may, by its corporate name, sue and be sued.

Constitution of market committee by election.

9. (1) Every market committee shall consist of members not exceeding eighteen (including the ex-officio member provided under section 10) and shall be constituted in the manner hereinafter specified.

(2) Each of the following electorates shall elect as members, from among the persons comprising it, to the market committee: -

- (a) producers of the notified agricultural produce in the notified area; and
- (b) persons licensed under sub-section (1) of section 6 in the notified area in respect of the notified agricultural produce.

(3) The number of members to be elected under clause (a) of sub-section (2) shall be nine and the number of members to be elected under clause (b) of that sub-section shall be four.

(4) The Government may appoint to every market committee one producer residing in the notified area on the recommendation of the Registrar to represent co-operative interests.

(5) The Government may appoint to every market committee such number of members as it thinks fit not exceeding three:

Provided that where a market committee is established for any notified area for the first time –

- (i) the Government shall appoint all the members of such Committee for a period of one year; and
- (ii) if before the expiry of the period of one year aforesaid the elections of members to the market committee could not be held or if, for any reason the Government considers it desirable that the market committee should consist solely of members appointed by it, it may extend the term of office of all or any of the members appointed under clause (i), or appoint new members in their places for such period or periods not exceeding one year in the aggregate as it thinks fit.

Project Agricultural Officer to be ex-officio member.

10. The Project Agricultural Officer having jurisdiction over the notified area shall be an *ex-officio* member of the market committee established for such area.

Explanation: - Where there are two or more Project Agricultural Officers having jurisdiction over different portions of a notified area, the Government shall decide which of such officers shall be a member of the market committee of the area.

Term of office of member, etc.

11. (1) The term of office of an elected member shall be five years from the date of occurrence of the vacancy, to which he was elected or from the date of his election whichever is later. The term of office of a member appointed under sub-section (5) of section 9, shall expire on the date on which the term of office of elected members expires:

Provided that a member elected under clause (b) of sub-section (2) of section 9 shall cease to hold his office if he ceases to be a member of the electorate by which he was elected.

(2) A member of every market committee, other than the *ex-officio* member shall cease to hold his office if he absents himself from three consecutive meetings of the market committee.

(3) When the seat of any member becomes vacant before the expiry of his term of office, the vacancy shall be filled up ---

- (i) in case he was an elected member, by a person co-opted by the market committee from among the members of the electorate by which the member was elected.
- (ii) in any other case, by a person appointed by the Government:

Provided that no casual vacancy shall be filled up within three months before the expiry of the term of office of the elected members.

(4) The member co-opted or appointed to fill a vacancy under sub-section (3) shall hold office only for so long as the member in whose place he is co-opted or appointed would have been entitled to hold office if the vacancy had not occurred.

(5) For the purposes of sub-section (2), no meeting of the market committee from which a member absents himself shall be counted against him if due notice of that meeting was not given to him.

(6) Where a person ceases to be member under sub-section (2), the Chairman shall, at once intimate the fact in writing to such person and report the same to the market committee at its next meeting. If such person applies for restoration of his membership to the market committee on or before the date of the next meeting, or within fifteen days of the receipt by him of such intimation, the market committee may, at the meeting next after the receipt of such application, restore him to his office of member:

Provided that a member shall not be so restored more than twice during his term of office.

(7) Any member of a market committee may, at any time, be removed from office by the Government for any of the reasons prescribed.

(8) Vacancies caused by the expiry of the term of office of elected members of any market committee may be filled at elections which may be fixed by the Director, to take place on such days not earlier than two months before the date on which the vacancies arise as he thinks fit.

(9) Every market committee shall elect one of its members, who is a producer of any notified agricultural produce in the notified area, to be its Chairman and any other member to be its Vice-Chairman.

Special provision where there is delay in the re-constitution of new market committee.

12. Where the term of office of the members of a market committee has expired and the Director is of the opinion that it is not practicable to reconstitute the market committee forthwith, he may, by notification, extend the term of office of the members of the market committee for a further period or periods not exceeding two years in the aggregate or until the market committee is reconstituted, whichever is earlier.

Sub-committee, Special Committee and delegation of powers.

13. The market committee may appoint one or more of its members to be a sub-committee or to be a special committee for the conduct of any work or to report on any matter and may delegate to any one or more of its members such of its powers or duties as it may think fit.

Meetings.

14. (1) The market committee may, at any time, call a general meeting of the market committee and shall call such a meeting within one month after receipt of a requisition in writing from the Director or from such number of members or proportion of the total number of members as may be specified in the bye-laws of the market committee.

(2) If a general meeting is not called in accordance with such requisition, the Director shall have the power to call a general meeting of the market committee.

Appointment and salaries of officers and servants of market committee.

15. (1) Subject to such rules as may be prescribed, a market committee may appoint such officers or employ such servants as may be necessary for the management of the market and may pay such officers and servants such salaries as it may think fit and shall have power to control and punish them.

(2) The market committee may also provide for the payment to its officers and servants of such leave, allowances, pensions, gratuities or compassionate allowances, as it deems proper and may contribute to any provident fund which may be established for the benefit of such officers and servants.

(3) The market committee shall, in the case of any officer or servant of the Government whom it employs, make such contribution towards his pension and leave allowances, as may be required by the conditions of his service under the Government to be paid by him or on his behalf.

(4) The Chairman, Vice-Chairman and every officer or servant of a market committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

Supersession of market committee.

16. (1) If, in the opinion of the Government, a market committee is not competent to perform or persistently makes default in performing, the duties imposed on it by or under this Act, or abuses its powers, the Government may, by notification, supersede such market committee for a period not exceeding one year in the first instance and may, by order, extend the period of supersession for a period not exceeding one year at a time, so however, that the total period of supersession in the case of any market committee shall not exceed four years:

Provided that, before issuing a notification under this sub-section, the Government –

- (i) shall give a reasonable opportunity to the market committee of showing cause against the proposed action and shall consider the explanations and objections, if any, of the market committee; and
- (ii) may, at its discretion, consult such authority or officer as it may deem fit.

(2) Upon the publication of a notification under sub-section (1) superseding a market committee, the following consequences shall ensue, namely: -

- (a) all the members, as well as the Chairman and Vice-Chairman of the market committee, shall, as from the date of such publication, be deemed to have vacated their offices; and
- (b) all the assets vested in the market committee shall, subject to all its liabilities vest in the Government.

(3) When a market committee has been superseded:-

- (a) the Government may, at its discretion, by order appoint a suitable person or persons to carry out the functions of the market committee and transfer to such person or persons the assets and liabilities of the superseded market committee as on the date of such transfer; and
- (b) at any time before the expiry of the period of supersession, the Government may establish a new market committee under section 4.

CHAPTER - III**FINANCE, CONTRACT AND PROPERTY.****Execution of contracts.**

17. (1) No contract shall be executed on behalf of the market committee except with the sanction of the market committee by a resolution made in this behalf and all contracts shall be in writing and shall be signed on behalf of the market committee by the Chairman and two other members of the Market Committee, or if the Market Committee has been superseded, by the person or persons appointed under sub-section (3) of section 16.

(2) No contract other than a contract executed as provided in sub-section (1) shall be binding on a market committee.

Levy of market fee by market committee.

18. (1) The market committee shall levy and collect market fees on any notified agricultural produce brought or sold in the notified market area at such rate, as may be specified in a notification issued by the Government in this behalf, which shall not be more than one rupee for every hundred rupees of the aggregate amount for which the notified agricultural produce is bought or sold whether for cash or for deferred payment or other valuable consideration.

Explanation. – For the purposes of this sub-section, all notified agricultural produce taken out or proposed to be taken out of a notified market area, shall, unless the contrary is proved, be presumed to be bought or sold within such area.

(2) The market fee referred to in sub-section (1) shall be paid by the purchaser of the notified agricultural produce concerned:

Provided that where the purchaser of a notified agricultural produce cannot be identified, the market fee shall be paid by the seller.

(3) (a) At any time, when so required by any officer or servant of a market committee, who is empowered by the Government in this behalf, the driver or any other person in charge of any vehicle, boat or other conveyance, which is taken or proposed to be taken out of a notified market area, shall stop the vehicle, boat or other conveyance as the case may be, and keep it stationary as long as may reasonably be necessary and allow the officer or servant empowered as aforesaid to examine the contents in the vehicle, boat or other conveyance.

(b) Such officer or servant who has been so empowered by the Government under clause (a) may also inspect all records relating to the notified agricultural produce carried, which are in the possession of such driver or other person in charge,

who shall, if so required, give his name and address and the name and address of the owner of the vehicle, boat or other conveyance.

(c) The officer or servant of the market committee empowered as aforesaid shall have power to seize any notified agricultural produce taken or proposed to be taken, out of a notified market area in any vehicle, boat or other conveyance, if such officer or servant has reason to believe that any market fee or other amount due under this Act in respect of such notified agricultural produce has not been paid and such seizure shall be forthwith reported by the officer or servant aforesaid to a Magistrate having jurisdiction to try an offence under this Act and the provisions of sections 523*, 524* and 525* of the Code of Criminal Procedure, 1898* (Central Act 5 of 1898), shall, so far as may be, apply, in relation to the notified agricultural produce seized as aforesaid, as they apply in relation to property seized by a police officer:

Provided that no such notified agricultural produce shall be seized from any person, if he satisfactorily accounts for his possession and for the payment of the market fees or other amount due under the Act and relating to the said produce.

Levy of subscriptions for market reports, etc.

19. The market committee may, subject to such rules as may be prescribed, levy a subscription for collecting and disseminating among the subscribers, information as to any matter relating to statistics or marketing in respect of the notified agricultural produce.

Market Committee Fund.

20. (1) All moneys received by a market committee shall be paid into a fund called the "Market Committee Fund" (hereinafter referred to as the Fund) and all expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said Fund; and any surplus remaining after such expenditure has been met, shall be invested in such manner as may be prescribed.

(2) (a) Every market committee shall, out of its Fund, pay to the Government the cost of any special or additional staff, employed by the Government in consultation with the market committee for giving effect to the provisions of this Act in the notified area to which the market committee was established.

(b) The Government shall determine the cost of such special or additional staff and shall, where the staff is employed for the purposes of more than one market committee, apportion such cost among the market committees concerned in such manner as it thinks fit.

* Now, Sections 457, 458 and 459 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(3) The decision of the Government determining the amount payable by any market committee shall be final.

Purposes for which the Fund may be expended.

21. Subject to the provisions of section 20, the Fund shall be expended for the following purposes only, namely: -

- (i) the acquisition of site or sites for the market;
- (ii) the maintenance and improvement of the market;
- (iii) the construction and repair of buildings which are necessary for the purposes of such market and for the health, convenience and safety of the persons using it;
- (iv) the provision and maintenance of standard weight and measures;
- (v) the pay, pension, leave allowances, gratuities, compassionate allowances and contributions towards leave allowances, pension or provident fund of the officers and servants employed by the market committee;
- (vi) the payment of interest on loans that may be raised for purposes of the market and the provision of a sinking fund in respect of such loans;
- (vii) the collection and dissemination of information regarding all matters relating to statistics and marketing in respect of the notified agricultural produce;
- (viii) schemes for the extension or cultural improvement of the notified agricultural produce within the notified area, including the grant, subject to the approval of the Government, of financial aid to schemes for such extension or improvement within such area, undertaken by other bodies or individuals;
- (ix) schemes for grading of agricultural produce;
- (x) the expenses in regard to elections to the market committee and matters incidental thereto;
- (xi) the measures to be taken for the preservation of any agricultural produce;
- (xii) such other purposes as may be authorised by the Director or the Government in this behalf by general or special order.

No trade allowance permissible except as prescribed by rules or bye-laws.

22. No trade allowance other than an allowance prescribed by the rules or bye-laws made under this Act shall be made or received in a notified area by any person in any transaction in respect of the notified agricultural produce concerned and no civil court shall, in any suit or proceeding arising out of any such transaction, have regard to any trade allowance not so prescribed.

Explanation: - Every deduction, other than a deduction on account of deviation from sample, when the purchase is made by sample, or of deviation from standard when the purchase is made by reference to a known standard, or on account of difference between the actual weight of the sacking and the standard weight or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purposes of this Act.

Power to borrow.

23. (1) Every market committee may, with the previous sanction of the Government, raise the money required for carrying out the purposes for which it is established on the security of any property vested in, or belonging to, the market committee and of any market fee leviable by the market committee under this Act. The market committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing the market obtain a loan from the Government.

(2) The conditions under which such money or loan shall be raised and the time within which the same shall be repayable shall be subject to the previous sanction of the Government.

Power to write off irrecoverable fee, market fee, etc.

24. A market committee may write off any fee, market fee or other amount whatsoever due to it. Whether under a contract or otherwise, or any sum payable in connection therewith, if in its opinion, such fee, market fee or other amount is irrecoverable:-

Provided that the market committee shall, before writing off any such fee, market fee or amount obtain the sanction of –

- (i) the Director, if the fee, market fee or amount exceeds one hundred rupees, but does not exceed such amount as may be prescribed; and
- (ii) the Government, if such amount exceeds the amount so prescribed.

Recovery of sums due to Government from market committee.

25. Subject to such rules as may be prescribed the Government may recover all sums due from the market committee in the same manner as arrears of land revenue.

Liability of Chairman, Vice-Chairman and members for loss, waste or misapplication of property.

26. (1) The Chairman, Vice-Chairman and every member of a market committee shall be liable for the loss, waste or misapplication of any money or other property owned by, or vested in, the market committee, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him in any court of competent jurisdiction by the market committee with the previous sanction of the Director.

(2) Every such suit shall be commenced within three years after the date on which the cause of action arose.

CHAPTER - IV

OFFENCES AND PENALTIES.

Penalties.

27. Any person who –

- (a) fraudulently evades the payment of any fee, market fees or other amount due from him under this Act or the rules or bye-laws made thereunder, or
- (b) wilfully acts in contravention of any of the provisions of this Act,

shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing evasion or contravention, with a further fine which may extend to one hundred rupees for every day during which the evasion or contravention is continued after conviction therefor.

Trial of offences.

28. (1) No offence made punishable by this Act or any rule or bye-law made thereunder shall be tried by any court inferior to that of a Magistrate of the first class.

(2) Any prosecution under this Act may be instituted by any person duly authorised in writing by the market committee in this behalf.

Liability of accused to pay fee, market fee or other amount.

29. Every person who is prosecuted for an offence under section 27 shall be liable on proof to the satisfaction of the Magistrate that he wilfully omitted to pay the fee, market fee or other amount due from him under this Act or the rules or bye-laws made thereunder, to pay to the market committee the amount which may be due from him on account of such fee, market fee or other amount.

Composition of offences.

30. The market committee may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act or the rules or bye-laws made thereunder, by way of composition of such offence ---

- (a) where the offence consists of the failure to pay or the evasion of any fee, market fee or other amount recoverable under this Act or the rules or bye-laws made thereunder, in addition to the fee or other amount so recoverable, a sum of money not exceeding two hundred rupees or double the amount of the fee, market fee or other amount whichever is greater; and
- (b) in other cases, a sum of money not exceeding two hundred rupees.

Power of Magistrate to recover summarily fee, market fee or other amount.

31. Whenever any person is convicted of an offence under this Act or the rules or bye-laws made thereunder, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the market committee, the amount of fee, market fee or other amount due from him under this Act or bye-laws made thereunder and may in his discretion, also recover summarily and pay over to the market committee such amount if any, as he may fix as the cost of the prosecution.

CHAPTER – V MISCELLANEOUS.

Power of Director to decide certain questions.

32. If any question arises whether any person is a producer or not for the purposes of this Act, the Director shall decide the question after following such procedure as may be prescribed. The decision of the Director, shall, subject to the provisions of section 33, be final.

Power of Government to call for records and pass orders.

33. (1) The Government may of its own motion, or on application made to it, call for and examine the record of any market committee or of the Director in respect of any proceeding to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein and, if in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly:

Provided that, before passing any order under this sub-section, the Government –

- (i) shall, if such order is likely to be prejudicial to any person, give such person a reasonable opportunity of making his representations; and
- (ii) may, at its discretion, consult such authority or officer as it may deem fit.

(2) The Government may stay the execution of any such decision or order pending the exercise of its powers under sub-section (1) in respect thereof.

Registration of document executed on behalf of a market committee.

34. (1) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), it shall not be necessary for the Chairman or any member or officer or servant of a market committee or the person referred to in sub-section (1) of section 17 to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Chairman, member, officer, servant or person for information respecting the same and shall, on being satisfied of the execution thereof, register the instrument.

Saving.

35. Nothing in this Act shall apply to any place set up, established or continued by or on behalf of the Central Government or any State Government for the purchase, sale, storage, weighing, pressing or processing of any notified agricultural produce or to the purchase or sale of any notified agricultural produce by or on behalf of the Central Government or any State Government.

Act to over ride other laws.

36. Nothing in any law providing for the establishment, maintenance or regulation of market or the levy of fees therein shall apply to any market established under this Act or affect in any way the powers of a market committee, in respect of such market.

Exemption.

37. The Government may, by notification, and for the reasons to be specified therein, either permanently or for any specified period, exempt any market committee, any person or class of person from all or any of the provisions of this Act, subject to such conditions as the Government may deem fit to impose.

Power to remove difficulties.

38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by Order in the Official Gazette, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) Every order made under this section shall be laid before the Legislative Assembly, Puducherry, as soon as may be, after it is made.

Power to make rules.

39. (1) The Government may, by notification, make either generally or specially for any notified area or areas, rules for carrying out all or any of the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or regulate –

- (i) the issue by a market committee of licences to brokers, weighmen, measures and surveyors, the form in which and the conditions subject to which, such licences shall be issued or renewed, and the fees to be charged therefor;
- (ii) the provision of accommodation for storing any notified agricultural produce brought into the market;
- (iii) the kind and description of the scales, weights and measures, which alone may be used in transactions in the notified agricultural produce concerned in a notified area;
- (iv) the periodical inspection, verification and correction of all scales, weights and measures in use in a notified area and the seizure of scales, weights and measures found to be false;
- (v) the annual fees that may be levied by the market committee in respect of licences granted under section 6 and the recovery of such fees;
- (vi) the election, appointment, co-option and removal of members of a market committee, the preparation and revision of lists of electors; and the payment of all expenditure in connection with or incidental to elections;
- (vii) the election of the Chairman and Vice-Chairman of a market committee and their terms of office;
- (viii) the filling of casual vacancies in the office of the Chairman, Vice-Chairman or member of a market committee;
- (ix) the provision of facilities for the settlement of any dispute between a buyer and seller of the notified agricultural produce or their agents including disputes regarding the quality or weight of the article, the allowances for wrappings, dirt or impurities or deductions from any cause;
- (x) the prohibition of brokers from acting in any transaction on behalf of both the buyer and seller of any notified agricultural produce;
- (xi) the manner of collection of market fee;
- (xii) the maximum rates of subscriptions which may be levied by the market committee under section 19 and the recovery of such subscriptions;

- (xiii) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of the market committee, and the grant of sanction to such plans and estimates;
- (xiv) the procedure to be followed by a market committee in respect of financial matters generally, including the manner in which, and the restrictions and conditions subject to which, expenditure may be incurred by it;
- (xv) the form in which the accounts of a market committee shall be kept, the audit and publication of such accounts, and the charges, if any, to be made for such audit;
- (xvi) the powers of auditors and the Director to disallow and surcharge items and the recovery of sums so disallowed and surcharged;
- (xvii) the institution of provident funds;
- (xviii) the preparation and submission for sanction of an annual budget and the reports and returns to be furnished by a market committee;
- (xix) the investment and disposal of the surplus funds of a market committee;
- (xx) the trade allowance which may be made or received by any person in any transaction in the notified agricultural produce in a notified area;
- (xxi) the prevention of adulteration of notified agricultural produce;
- (xxii) the maintenance of standards of notified agricultural produce;
- (xxiii) the provision for affording facilities for settlement of debts charged on notified agricultural produce;
- (xxiv) any other matter which has to be or may be prescribed.

(3) Any rule made under this section may provide that any contravention thereof or of any of the conditions of any licence issued or renewed thereunder shall be punishable with fine which may extend to two hundred rupees.

(4) Every rule made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly, Puducherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly, makes any modification in the rule or decides that the rule should not be made or issued, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be:

Provided that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

Power to make bye-laws.

40. (1) Subject to any rules made by the Government under section 39 and with the previous sanction of the Director, a market committee may, in respect of the notified area for which it was established, make bye-laws for the regulation of the business and the conditions of trading therein:

Provided that where a market committee fails to make bye-laws under this sub-section within one month from the date of its establishment, the Director may make such bye-laws as he thinks fit and the bye-laws so made shall be deemed to be bye-laws made by the market committee and may be amended or varied, by the Director or, with his previous sanction, by the market committee.

(2) Any bye-law made under this section may provide that any contravention thereof shall be punishable with fine which may extend to fifty rupees.

NOTES ON CLAUSES

Clause 2 seeks to insert definitions of certain new expressions in the Act. The proposed definitions are self-explanatory.

Clause 3 enables the Government to publish a draft notification regulating the purchase and sale of such agricultural produce in such area as may be specified in the notification and also to publish the final notification, after considering the objections and suggestions, declaring the area specified in the draft notification or any portion thereof to be a notified area for the purposes of the Act.

Clause 4 seeks to empower the Government to establish by notification, a Market Committee for every notified area for enforcing the provisions of the Act.

Clause 5 seeks to empower every Market Committee to establish in the notified area such number of markets as may be directed by the Government by a general or special order.

Clause 6 seeks to provide for trading in agricultural produce in a notified area after obtaining a licence granted by the Market committee. The licence granted shall be valid for a financial year and shall be renewed from year to year. This clause also empowers the Market Committee to cancel or suspend any licence so granted, after such inquiry as it deems fit, and in the case of a refusal to grant a licence or of suspension or cancellation of a licence, the applicant or the licensee shall be entitled to appeal to such officer as may be prescribed under the Act.

Clause 7 seeks to lay down that all agricultural produce brought to the notified market areas by a producer shall be sold only in the market.

Clause 8: The Market Committee established shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and may, by its corporate name, sue and be sued.

Clause 9 seeks to provide for the constitution of a Market Committee by election.

Clause 10: The Project Agricultural Officer having jurisdiction over the notified area shall be the ex-officio member of the Market Committee established for such area.

Clause 11 deals with the term of office, casual vacancy etc. of the elected members of the Market Committee.

Clause 12 seeks to empower the Director, where there is delay in the reconstitution of a new Market Committee due to the administrative difficulties, to extend the terms of office of the members of the Market Committee for a further period

or periods not exceeding two years in the aggregate or until the Market Committee is reconstituted, whichever is earlier.

Clause 13 seeks to empower the Market Committee to appoint one or more of its members to be sub-committee or to be a special committee for the conduct of any work or to report on any matter and to delegate its powers to such sub-committee or special committee, as it may think fit.

Clause 14 seeks to empower the Market Committee to call a general meeting of a Market Committee and also to call a meeting on requisition from the Director of such number of members or proportion of the total number of members as may be specified in the bye-laws of the Market Committee. If no meeting is called for in accordance with such requisition, the Director himself shall have power to call a general meeting of the Market Committee.

Clause 15 deals with the appointment and salaries of officers and servants of the Market Committee. The Chairman, Vice-Chairman and every officer or servant of a Market Committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Clause 16 Where in the opinion of the Government, the Market Committee is not competent to perform or persistently makes default in performing the duties imposed on it by the Act or abuses its powers, the Government may, after giving a reasonable opportunity of showing cause against the proposal and after considering the explanations and objections, supersede the Market Committee for a period not exceeding one year in the first instance. This clause further empowers the Government to extend the period by one more year at a time and imposes a condition that the total period of supersession should not exceed four years.

Clause 17 deals with the execution of contracts by the Market Committee.

Clause 18 seeks to empower the Market Committee to levy a market fee on any notified agricultural produce bought or sold in the notified market area at a rate not exceeding one rupee for every hundred rupees.

Clause 19 empowers the Market Committee, subject to such rules as may be prescribed, to levy a subscription for collecting and disseminating among the subscribers information as to any matter relating to statistics or marketing in respect of the notified agricultural produce.

Clause 20 deals with the Market Committee fund.

Clause 21 deals with the purposes for which the fund may be expended.

Clause 22 provides that no trade allowance is permissible except as may be prescribed by rules or bye-laws.

Clause 23 seeks to empower the Market Committee, with the previous sanction of the Government to raise money required for carrying out the purposes for which it is established on the security of any property vested in, or belonging to, the Market Committee.

Clause 24 seeks to empower the Market Committee to write off any irrecoverable fee, etc.

Clause 25 deals with the recovery of sums due to Government from a market Committee as arrears of land revenue.

Clause 26 deals with the liability of the Chairman, Vice-Chairman and members of the Market Committee for any loss, waste or misapplication of property.

Clause 27 provides penalties for certain offences committed by any person under the Act.

Clause 28 deals with the trial of offences.

Clause 29 deals with the liability of accused to pay fee, or other amount to the Market Committee.

Clause 30 provides for the composition of offences.

Clause 31 deals with the power of Magistrate to recover summarily fee, or other amount from a person who is convicted of an offence under the Act or the rules or bye-laws.

Clause 32 empowers the Director to decide certain questions under the Act.

Clause 33 deals with the power of revision by Government and to call for records by the Government from any Market Committee or the Director in respect of any proceeding to satisfy itself as to the regularity or the correctness legality or propriety of any decision or order passed by any Market Committee or the Director.

Clause 34 deals with the registration of document executed on behalf of a Market Committee.

Clause 35 is a saving clause.

Clause 36 provides that nothing in any law providing for establishment, maintenance or regulation of a market or the levy of fees shall apply to any market established under the Act or affect in any way the powers of a Market Committee in respect of such market.

Clause 37 seeks to empower the Government, by notification for reasons to be specified therein either permanently or for any specified period, to exempt any Market Committee, or any person or class of persons from all or any of the provisions of the Act, subject to such conditions as the Government may deem fit to impose.

Clause 38 empowers the Government to make orders to remove any difficulties in the application of the Act.

Clause 39 provides for the rule making power of the Government for purposes of the Act.

Clause 40 seeks to empower the Market Committee, subject to any rules made by the Government and with the provisions sanction of the Director, to make bye-laws for the regulation of its business.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.3 OF 1974

At present, there is no enactment in this Union territory for the better regulation of buying and selling of agricultural produce and establishment and proper administration of markets for agricultural produce. Therefore, it has been decided to enact a law with suitable modification on the lines of similar Acts in force in the neighbouring States. The present Bill seeks to achieve the above objects.

THE PUDUCHERRY NON-MOTORISED VEHICLES TAX ABOLITION ACT, 1973

(No. 4 of 1974)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement.
 2. Definition.
 3. Repeal and savings.
 4. Protection of action taken in good faith.
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THE PUDUCHERRY NON-MOTORISED VEHICLES TAX ABOLITION ACT, 1973

(No. 4 of 1974)

(8-4-1974)

AN ACT

to provide for the abolition of taxes on non-motorised vehicles in the Union territory of Puducherry and matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-fourth Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Non-motorised Vehicles Tax Abolition Act, 1973.

(2) It extends to the whole of the Union territory of Puducherry.

+ (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definition

2. In this Act, "Government" means the Administrator appointed by the President under article 239 of the Constitution.

Repeal and savings

3. (1) On and from the commencement of this Act, the Deliberations dated 26th December, 1911, 26th November, 1935 and 15th December, 1941, respectively enforced by the arretes dated 1st December, 1912, 19th June, 1936 and 24th December, 1941 shall stand repealed.

(2) Notwithstanding anything contained in sub-section (1), every proceeding or transaction pending under the provisions of the Deliberations and Arretes referred to therein immediately before the commencement of this Act shall, after such commencement, stand transferred to the Sub/Assistant/Deputy Collector (Revenue) of the respective regions, as the case may be, and such proceeding or transaction shall be disposed of in accordance with the provisions of the said Deliberations and Arretes as if the said Deliberations and Arretes had continued in force and this Act had not been passed.

+ This Act came into force w.e.f 01-06-1975 vide Notification published in EG No. 47 dt. 17.05.1975.

(3) The provisions of sub-section (2) shall be without prejudice to the general application of section 6 of the General Clauses Act, 1897, as applicable under section 2 of the Puducherry General Clauses Act, 1965, to the interpretation of Acts of the Legislature of the Union territory of Puducherry and the said section 6 shall apply to the repeal of the Deliberations and the Arretes referred to in sub-section (1) as if the said Deliberations and Arretes were enactments.

Protection of action taken in good faith

4. No suit or other legal proceedings shall lie against the Government or any person authorised by the Government for anything which is in good faith done or intended to be done in pursuance of this Act.

STATEMENT OF OBJECTS AND REASONS FOR NO.4 OF 1974

There has been a long pending demand from the public do away with the levy of taxes on non-motorised vehicle. So, the question of abolition of these taxes has been under the consideration of the Government for some time past. The annual revenue derived by way of these taxes is about ₹ 87,000. This amount is very meager and not worth the trouble taken for its realisation. Besides, the taxes are levied mostly from the poor people and the abolition thereof will be a great relief to them. So, it has been decided to abolish these taxes.

The Bill seeks to achieve the above object.

THE PUDUCHERRY (PUBLIC) HEALTH ACT, 1973

(No. 5 of 1974)

ARRANGEMENT OF SECTIONS

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9. Public health establishment of local authorities
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11. Appointment of persons to carry out the provisions of this Act
12. Health Officer's control over public health staff

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42. Exposure of persons and articles
43. Infected persons not to engage in certain trades and occupations
44. Prevention of communicable disease transmissible from animals
45. Powers of Health Officers
46. Destruction of hut or shed to prevent spread of infection
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48. Use of public conveyance
49. Letting or sub-letting a building occupied by an infected person
50. Prohibition of the exposure of other persons to infection
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52. Prohibition of use of public library by infected person
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54. Compulsory immunisation
55. Restriction on movement
56. Closure of certain places
57. Power of Magistrate to prohibit assembly of persons
58. Power of Government to confer special powers on officers to control notified diseases
59. Destruction of rats, mice, etc.
60. Special provision for small-pox
61. Venereal diseases
62. Rules for prevention, treatment and control of disease
63. Maternity and child welfare

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COLLECTION AND DISPOSAL OF COMMUNITY WASTES

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70. The control and administration of public drains and sewerage disposal
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73. Permission to construct septic tank and sanitary latrines
74. Common privies
75. Nuisance from offensive matters
76. Responsibility of the local authority to provide public latrines, urinals and dust bins
77. Cleaning of roads and roadside drains
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THE PUDUCHERRY (PUBLIC) HEALTH ACT, 1973

(No. 5 of 1974)

(16-04-1974)

AN ACT

to make provision for the advancement and administration of health in the territory.

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-fourth Year of the Republic of India as follows: -

CHAPTER - I**PRELIMINARY****Short title, extent and commencement**

1. (1) This Act may be called the Puducherry (Public) Health Act, 1973.

(2) It extends to the whole of the Union territory of Puducherry.

*(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint; provided that different dates may be appointed for different areas and for different provisions of this Act, and any reference to the commencement of the Act in relation to any such provision shall be construed as a reference to the coming into force of that provision.

Definitions

2. In this Act, unless the context otherwise requires: -

(1) "building" includes --

- (i) a house, out-house, stable, latrine, godown, shed, hut, wall (other than a boundary wall not exceeding two metres in height) and any other structure whether of masonry, bricks, wood, mud, metal or any other material whatsoever;
- (ii) a structure on wheels or simply raised on the ground without foundations;

* Chapters I, II, V and XIV of this Act came into force w.e.f 12.11.1981 vide Notification - I published in EG No. 114 dt. 12.11.1981. Chapters III, IV, VI, VII, VIII, IX, X, XI, XII and XIII of this Act shall come into force in the whole of the Union territory of Puducherry on and from the 1st May, 1984 vide Notification published in EG Pt. I No. 62 dt. 13.06.1984.

(iii) a ship, vessel, boat (when outside the port limits of major ports as defined under the Indian Ports Act, 1908), tent, van and any other structure used for human habitation; but does not include a temporary shed erected on ceremonial or festive occasions.

(2) "cattle" includes elephants, camels, mules, asses, horses, cows, bulls, bullocks, buffaloes, sheep, goats and pigs and their young ones.

(3) "Chief Public Health Engineer" means an Engineer appointed or designated as such by the Government by a notification in the Official Gazette.

(4) "dairy" includes –

- (i) any farm, cattle-shed, milk store, milk shop or other place from which milk is sold or supplied for sale or in which milk is kept for sale or manufactured into butter, ghee, cheese, cream, curd, buttermilk or dried, sterilized or condensed milk; and
- (ii) in relation to a dairy-man who does not occupy any premises for the sale of milk, any place in which he keeps the vessels used by him for the storage or sale of milk;

but does not include a shop or place in which milk is sold for consumption on the premises only or a shop or a place from which milk is sold or supplied for sale in hermetically closed and unopened receptacles in the same original condition in which it was first received in such a shop or place.

(5) "Director" means the Director of Health Services;

(6) "drain" means a house-drain or a drain of any other description and includes a sewer, tunnel, culvert, ditch, channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rain water or sub-soil water;

(7) "dwelling house" means a building constructed, used or adapted to be used, wholly or partly for human habitation or in connection therewith;

(8) "executive authority" means the executive officer or other functionary of a local authority who is vested with the general executive powers by or under any law for the time being in force relating to (the creation and administration of) local authorities;

(9) "factory" means any premises as defined in the Factories Act, 1948;

(10) "food" means any article as defined in the Prevention of Food Adulteration Act, 1954*;

(11) "functions" includes powers and duties;

(12) "Government" means the Administrator appointed by the President under Article 239 of the Constitution;

(13) "guardian" includes any person who has or is presumed to have accepted the care or custody of any child;

(14) "health officer" means administrative medical officer or any other officer vested with the powers of a health officer under the Act, by the Government;

(15) "hut" means any building which is constructed principally of wood, mud, leaves, grass, thatch or metallic sheets and includes any temporary structure of whatever size or any small building of whatever material made which the local authority may declare to be a hut for the purpose of this Act;

(16) "latrine" includes a privy, water-closet and urinal, whether public or private, or whether open or flushout or any construction for purposes of urination or defecation;

(17) "local area" means the area within the jurisdiction of a local authority;

(18) "local authority" means –

- (a) a municipal council, or
- (b) any other body (not being a Cantonment authority governed by the Cantonments Act, 1924) constituted by law for the local administration of a village, town or other local areas;

(19) "lodging house" means a hotel, a boarding house, a choultry, dharmasala or religious place or rest house not maintained by the Government or a local authority, an unlicensed emigration depot, or any place where casual visitors are received and provided with sleeping accommodation, with or without food, on payment, but does not include ---

- (a) a students' hostel under public or recognised authority, or
- (b) retiring rooms or rest-houses provided by a railway administration and normally used by passengers or railway servants or both;

(20) "Magistrate" does not include an honorary or village magistrate;

(21) "milk" includes cream, skimmed milk, separated milk and condensed, sterilised, desiccated or toned or boiled milk;

* Now, the Food Safety and Standards Act, 2006 (Central Act 34 of 2006).

(22) "notification" means a notification published in the Official Gazette;

(23) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to the health of the public or the people in general who dwell or occupy property in the vicinity or persons who may have occasion to use any public right;

(24) "occupier" includes –

- (a) any person for the time being paying or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used or for damages on account of the occupation of such land, building or part thereof;
- (b) a rent free occupant;
- (c) an owner living in or otherwise using his own land or building;
- (d) a person having the charge, management or control of a building, or a part of a building or a house, premises or in the case of a lodging house which is let out to lodgers either on his own account or as the agent of another person, and in the case of ship, vessel or boat, the master or other person in charge thereof; and
- (e) in the case of land, building or house not occupied by any tenant or other person, the owner of the building or premises;

(25) "offensive trade" means any trade in which the substances dealt with are or are likely to become a nuisance as defined in clause (23);

(26) "owner" includes the person for the time being receiving or entitled to receive, whether on his account or as agent, trustee, guardian, manager or receiver for another person or estate or for any religious or charitable purposes the rent or profits of the property in connection with which the word is used;

(27) "parent" means the father or mother of a child and includes foster and step parents;

(28) "premises" includes buildings and lands;

(29) "prescribed" means prescribed by rules under this Act;

(30) "private street" means any street, road, square, court, alley, lane, passage or riding-path which is not a "public street" but does not include a pathway made by the owner of premises on his own land to secure access to, or the convenient use of, such premises;

(31) "public building" means a building used or adopted to be used ---

- (a) as a place of public worship or as school, college or other place of instruction (not being a dwelling house so used) or as a hospital, work house, public theatre, public cinema, public hall, public library or public lecture-room, public concert- room, public exhibition room, or as a public place of assembly;
- (b) for any other public purpose; or
- (c) as a hotel, eating house, lodging house, refuge or shelter;

(32) "public street" means any street, road, square, court, alley, lane, passage or riding-path, whether a thoroughfare or not, over which the public have a right of way and includes ---

- (a) the roadway over any public bridge or causeway;
- (b) the footway attached to any such street, public bridge or causeway; and
- (c) the drains attached to any such street, public bridge or causeway and the land whether covered or not by any pavement, verandah or other structure which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to the Government;

(33) "public health services" or "health services" means services for the prevention and treatment of diseases and promotion of health and includes environmental sanitation, immunisation and any other services provided under this Act and the establishment and maintenance of any institution for the purpose of any such services;

(34) "urban local area" means the area within the jurisdiction of an urban local authority;

(35) "Registered Medical Practitioner" means a medical practitioner registered under the Indian Medical Council Act, 1956;

(36) "urban local authority" means a city corporation, a municipal council or committee, or any other local authority notified by the Government as an urban local authority for the purposes of this Act;

(37) "water course" includes any river, stream or channel whether natural or artificial other than a drain;

(38) "Venereal disease" means syphilis, gonorrhoea, soft chancre (chancroid) venereal granuloma (Granuloma inguinale) or lympho granuloma (Lymphogranuloma venereum);

(39) "work place" means any premises including the precincts thereof (not being a factory or a workshop) wherein is carried on any official business, industrial, manufacturing or trade process at which not less than five persons are employed for wages or any other remuneration;

(40) "workshop" means any premises including the precincts thereof (not being a factory) wherein any article or part of an article is made, repaired, altered, ornamented, finished or otherwise adapted for use on a commercial basis and not less than five persons are employed for that purpose for wages or any other remuneration;

(41) "year" means financial year;

(42) "trade waste" includes industrial and factory wastes.

CHAPTER – II

HEALTH AUTHORITIES AND THEIR FUNCTIONS

Board of Health

3. (1) As soon as may be, after the commencement of this Act, the Government shall, by notification in the Official Gazette, constitute a Board of Health for the Union territory of Puducherry (hereinafter referred to as the Board) and the said Board shall consist of the following members: -

- (a) the Minister of Health;
- (b) the Minister of Local Self-Government;
- (c) the Secretary to Government in-charge of the Health Department;
- (d) the Secretary to Government in-charge of the Local Administration Department;
- (e) the Director of Health Services;
- (f) the Director of Public Works Department;
- (g) the Inspector of Municipal Councils and Local Bodies;
- (h) two members of the Legislature of the Union territory;
- (i) two members representing the local authorities in the Union territory;
- (j) two representatives of associations or other organisations connected with medicines or nursing and public health.

(2) The Minister in-charge of Health and the Secretary to Government in-charge of the subject shall be the Chairman and Vice-Chairman of the Board and the Director of Health Services shall be the Secretary to the Board.

(3) The members other than the official members of the Board shall be nominated by the Government.

(4) An official member shall continue to be a member as long as he holds the office by virtue of which he is such a member and any other member shall hold office for a term of three years from the date on which his appointment is notified in the Official Gazette and shall also be eligible for reappointment for a period not exceeding two years:

Provided that a member appointed under clause (h) of sub-section (1) shall cease to hold office when he ceases to be a member of the Legislature.

(5) A member appointed to fill a casual vacancy shall hold office for the remainder of the term of office of the member in whose place he is appointed.

Functions of the Board

4. Subject to the provisions of this Act and the rules made thereunder, the functions of the Board shall be to advise the Government for the planning and direction of the health services provided under this Act and to perform such other functions as the Government may, from time to time assign to it under this Act.

Meetings of the Board

5. (1) The Board shall meet at such time and place as required and shall, subject to the provisions of sub-sections (2) and (3), observe the procedure as may be prescribed in regard to the transactions of the business at such meetings.

(2) The Chairman or in his absence the Vice-Chairman or in the absence of both, any member chosen from among the members present, shall preside at a meeting of the Board.

(3) All questions of a meeting of the Board shall be decided by a majority of votes of the members present and voting in the case of equality of votes, the Chairman or the persons presiding shall have exercised a casting vote.

Committees

6. (1) For the purposes of assisting the Board in exercising its powers, discharging its duties or performing its functions as may be specified by it, the Board may constitute one or more Committees.

(2) The Committee constituted under sub-section (1) shall consist of such members as may be specified by the Board and such members shall also include persons other than the members of the Board.

(3) The meeting of the Committees and the process of transactions of business of all such committees shall be governed by regulations made by the Board.

Powers of the Government

7. (1) The Government shall have power to inspect, control and superintend the operation of local authorities under this Act.

(2) The Government may from time to time define the powers to be exercised and the duties to be performed by the Director or any member of his staff for the purposes of sub-section (1).

(3) Nothing contained in sub-sections (1) and (2) shall be deemed to affect or derogate from any powers possessed by the Government or the Collector under any other law for the time being in force.

Powers of the Director

8. (1) The Director shall have power to supervise and control all medical and health establishments and all public health services within the territory except those administered by the Central Government.

(2) The Director shall have the power to direct any local authority to provide certain health services in the area or to carry out such measures as may be necessary from time to time to safeguard the health of the people, failing which, the Director shall have also the power to assume such responsibility and carry out such measures himself or through his staff.

(3) The Director may, from time to time as occasion requires, make the services of the Directorate available to local authorities either free of charge or on payment of such fees as may be prescribed in respect of cleaning, execution, construction and supervision of all health matters including sanitary schemes.

(4) In case of emergency arising from outbreak of epidemic or communicable diseases or from any other cause endangering the life or health of the public, the Director shall have power –

- (a) to appoint additional personnel and organise public health services for such periods as he may consider necessary; and
- (b) with the approval of the Government, to assume all or any of the powers and functions of a local authority under this Act;

and in every such case, the Director shall forthwith report the matter to the Government.

Public health establishment of local authorities

9. Save as otherwise provided in this Act, it shall be the duty of every local authority, within its local areas to perform the functions imposed on it, by or under this Act.

Health Officers

10. Every local authority other than a City Corporation shall have such number and types of health officers and staff for the said purpose as the Government may prescribe.

Appointment of persons to carry out the provisions of this Act

11. (1) Notwithstanding anything contained in this Act or in any other Act or Acts governing the local authority or authorities concerned, the Government may, by general or special order, appoint any person or persons to carry out such provisions of this Act and in such areas as may be specified in the order.

(2) The expenses incurred by such person or persons in doing so shall be met from the funds of the local authority or authorities concerned, either wholly or in part and where more than one local authority is concerned in such proportions as may be determined by the Government.

Health Officer's control over public health staff

12. (1) The Health Officer in charge of any local area shall exercise supervision and control over all other members of the public health establishment in such area.

(2) Every local authority shall provide its Health Officer with adequate facilities for the proper conduct of business of such Health Officer.

CHAPTER - III

PRIVATE MEDICAL AND HEALTH INSTITUTIONS **Definitions**

13. (1) For purposes of this act, private Institutions include nursing homes, maternity homes, X-ray institutions, blood banks, laboratories, hospitals, baths and physiotherapy centres.

(2) "Nursing Home" means any establishment or premises used or intended to be used for the reception of, and the providing of medical care including nursing care in any form for, persons suffering from any sickness, injury or infirmity and includes a maternity home, but does not include: -

- (i) any hospital or other establishment/premises maintained or controlled by Government; or any other authority or body constituted by special Act of Parliament or State Legislature;
- (ii) any institution for persons of unsound mind within the meaning of the Indian Mental Act; and
- (iii) any institution, house or home certified or approved by the Ministry of Health under the Indian Mental Act.

(3) "Maternity Home" means an establishment where women are usually received and accommodated for the purpose of confinement and antenatal and post-natal care in connection with child birth.

(4) "Hospital" means any premises used for the reception of the sick and their treatment.

Registration

14. (1) No person shall open or conduct a nursing home or clinical establishment or any other private medical or health institution without being registered in respect thereof and except under the terms and conditions of a licence granted therefor in accordance with the provisions of this Act and the rules framed thereunder.

(2) A registration made under this section shall be in force for a period of one year.

Refusal to register

15. The Director may, by order, refuse to register an application for registration if he is satisfied that the standards laid down or prescribed by the Government have not been complied with.

Cancellation of registration

16. The Director may, by order, cancel the registration in respect of any such institution on any ground which would entitle him to refuse an application for registration in respect of that Institution:

Provided that before making an order under this section, sufficient opportunity shall be given to the licensee to represent his case.

Appeal

17. A person aggrieved by an order of the Director under section 16 may, within a period of one month from the date of receipt by him of a copy of that order, appeal to the Government against that order in such manner as may be prescribed and the decision of the Government on such appeal shall be final.

Entry and inspection

18. The Health Officer or any other Officer authorised by the Director in this behalf may, at all reasonable times, enter and inspect any premises which is used or which the Officer has the reasonable cause to believe to be used for the purposes and inspect the records required to be kept under this Act.

Government's control

19. The Government may, by rules, prescribe the qualifications of the types of staff, their number, the minimum equipments required in the institution, the scale of accommodation, arrangements for water supply, sanitation and other facilities necessary in the institution and also exercise by itself or through any other authority subordinate to such control over them, as may be necessary for the implementation of this Act.

CHAPTER – IV

WATER SUPPLY

Local authority to provide water supply

20. (1) Every local authority may, and if the Government so direct, shall provide or arrange for the provision of a sufficient supply of drinking water for consumption by the inhabitants of the area within its jurisdiction.

(2) The local authority shall, so far as may be practicable, make adequate provision for securing ---

- (a) the sufficiency and wholesomeness of water supply within its area;
- (b) that the water supply is continuous throughout the year and that every house has available within a reasonable distance a sufficient supply of wholesome water for domestic purposes; and
- (c) that the water supplied is at all times wholesome and fit for human consumption.

(3) A local authority shall also provide a supply of water to every part of its area in which danger to health arises from the insufficiency or unwholesomeness of the existing supply and shall also exercise powers for requiring owners of houses to provide a supply of water thereto.

(4) Notwithstanding anything contained in this section, if the Government deems fit and necessary in public interest so to do, it may by notification in the Official Gazette, assume the powers and duties under this section after giving due notice to the local authorities concerned and also after considering their objections, if any.

Power of Government to direct local authority to execute water works

21. (1) For the purposes of providing its area or any part thereof with a supply of water, a local authority may, with the approval of the Government, and subject to the provisions of this chapter –

- (a) construct, lay or erect filters, reservoirs, engines, conduits, pipes or other works within or outside the limits of its local area;
- (b) purchase or take on lease any water work or any water or any right to store or to take or to convey water either within or outside the limits of the local area; and
- (c) contract with any local authority or other person or agency for the supply of water.

(2) If in the opinion of the Government, a local area does not possess a sufficient supply of wholesome water in the houses for consumption of its inhabitants,

they may direct the local authorities concerned, either singly or in combination with the local authority or authorities having jurisdiction over any neighbouring local area which are similarly situated to execute within such time as the Government may fix such works as may be directed by the Government for providing a sufficient supply of wholesome water in the fair human consumption.

(3) The water works constructed or erected or laid under this section shall vest in the local authority and it shall maintain adequate establishments for the working and maintenance of, and repairs to the engines, pipes, pumps and fittings of water works and other appurtenances thereto in the supply of water.

Power of Government to divert water from water main belonging to a local authority

22. The Government shall have power to authorise to use all water from any water main belonging to or in the control of a local authority for supplying water to any other area, subject to such payment being made to the local authorities concerned and subject to also such other conditions as the Government may consider reasonable:

Provided that before taking action under this section, Government shall communicate to the local authority the grounds on which they proposed to do so, fix a reasonable period for the local authority to show cause against the proposal and consider its explanation or objection if any.

Water supply by pipe system

23. (1) In such areas as may be specified by the Government in this behalf, the supply of water for drinking and other domestic purposes shall be effected by pipe system, so that every house has within it or within a reasonable distance an available source of water supply for the use of inmates of the house.

(2) In such areas as may be specified by the Government along with the piped system of water supply, an effective system of drainage shall also be provided.

Supply for non-domestic purpose

24. (1) A local authority may provide for supply of water for non-domestic purposes including water for the uses of animals, for cleaning of house drains and sewers, for street watering and for the fire-fighting purposes on such scale as may be prescribed by the Government.

(2) A local authority may also specify suitable water sources or collection for executive uses for certain purposes.

Contracts for bulk supply

25. A local authority may, with the previous approval of the Government, -

- (a) enter into a contract for supply of water in its area or a part thereof with another local authority or a water supply undertaking, or
- (b) provide a supply of water in bulk to a local authority of an adjoining local area, on such terms as may be agreed;
- (c) provide supply of water by bulk or measure to ---
 - (i) any trade, manufacture or business;
 - (ii) medical or educational institutions, hostels, hotels and restaurants;
 - (iii) ports, ships, railways, cantonments, army and labour camps;
 - (iv) fountains, swimming pools and the like; and
 - (v) gardens and pastures;

on such terms as may be laid down:

Provided that the Government shall not approve any proposal under this section unless it is satisfied that the proposal is not likely to interfere with the supply of water for domestic or other purposes, within the area of the supplying local authority.

Loans

26. Subject to the approval of the Government, a local authority may have the power to raise or take loans for the construction of water works and laying down the pipes, etc. and to pay interest thereof.

Services of Chief Public Health Engineer

27. (1) Any installation of machinery or equipment by a local authority under section 21 shall require the technical approval of the Chief Public Health Engineer; the local authority shall also consult the Chief Public Health Engineer or any other Officer authorised by him in this behalf, in the preparation, execution, maintenance and supervision of any other work under this chapter.

(2) The Chief Public Health Engineer or the other officer shall have access to any water works of the local authority and may inspect them from time to time.

Use of private lands

28. For the purpose of the execution of any work under this chapter, the local authority or the Government or any officer of the Government, may, after giving

previous notice to the owner or occupier, carry any in make, main, branch or supply pipe or channel or any other work of life nature into, across or under any land, building or premises:

Provided that reasonable compensation shall be payable to the owner or occupier of the land, building or premises for any damage sustained by him through or in consequence of any such work.

Other sources of water supply

29. (1) A local authority may, with the previous sanction of the Government, by public notice, declare any lake, stream, spring, well, tank or other source of water-supply, whether within or outside the limits of its local area, other than a source under the control of the Government, the water from which is used for domestic purposes by the public in the local areas, to be a source of public water supply for such purposes and every such source shall thereafter vest in and be under the control of the local authority to the extent necessary for such purposes.

(2) A local authority may, within the written consent of the owner, take over the control and administration of any masonry well, tank or reservoir and reserve it for public water supply; thereafter, it shall be the responsibility of the local authority to keep the source free from pollution and in a clean and good condition.

Private tube-wells

30. The owner of a house or the owners of two adjoining houses may, with the permission of the local authority, sink one or more tube-wells for the supply of water for use of the inmates of the house or houses:

Provided that the local authority shall not grant the permission unless it is satisfied that the water available from the tube-wells is safe from the point of view of public health.

Survey of water sources

31. The Government may have the power to carry out a survey of the existing sources of supply and water supply requirements of the area for the territory or part of the territory for the purposes of supply and conservation of water and to prepare a scheme for the improvement of water supply in the area.

Joint Water Board

32. (1) For the purpose of facilitating co-operation between local authorities in the discharge of their functions under this chapter, the Government may, with the consent

of the local authorities concerned, by order, constitute a Joint Water Board for two or more local authorities with powers to construct and maintain water works and to take all other measures for the provision and improvement of water supply in the areas of the local authorities concerned.

(2) An order made under sub-section (1) may specify the powers and duties of the Board and also provide for all matters incidental, consequential or supplementary thereto.

(3) The Government may, after giving notice to the Joint Water Board and to every local authority concerned, by a subsequent order amend or revoke an order made under sub-section (1); and any such subsequent order may make provision for the adjustment of the accounts of the Board, the apportionment of its liabilities among the local authorities and for all incidental, consequential and supplementary matters.

(4) The expenses incurred by a Joint Water Board shall be apportioned between the local authorities concerned in such manner as the Government may direct.

(5) Any dispute or difference between the local authorities or any of them and the Joint Water Board shall be referred to the Government, whose decision thereon shall be binding on all parties.

(6) The provisions of all the foregoing sections shall apply in relation to a Joint Water Board constituted under this section as they apply in relation to a local authority.

Pollution of water

33. (1) No person shall wilfully or negligently do or cause to be done anything to any pipe, fitting or other work connected with any water supply which is likely to result in the wastage, misuse, undue consumption or contamination of the water.

(2) A Health Officer or a local authority may, by written notice, prohibit any person from throwing, draining, running or otherwise discharging, permitting or suffering to be carried into any declared source of water supply or the sides thereof any trade effluent or refuse, filth or any harmful discharge from any drain, privy or sewer, which is likely to injuriously affect the quality of the water and make it unsuitable for domestic purposes.

(3) The Government may, on its own or on application made in this behalf by the local authority or the local authorities concerned, take steps for the conservation of water in and the prevention of pollution of water of any river, stream, lake, channel or other source of public water supply in the territory.

Rules for protection, examination and maintenance of water supply

34. (1) The Government shall have power to make rules providing for the protection, maintenance and periodical examination of sources of water supply in the Union territory.

(2) The Health Officer shall exercise such powers and discharge such duties as may be prescribed, so that adequate control could be made by him with regard to insanitary sources of water supply.

CHAPTER - V

PREVENTION AND CONTROL OF COMMUNICABLE DISEASES

Communicable or infectious diseases in general

35. For purposes of this Act 'communicable disease' or 'infectious diseases' means: -

- (a) anthrax,
- (b) cerebro spinal fever,
- (c) chicken pox,
- (d) cholera,
- (e) diphtheria,
- (f) enteric group of fevers,
- (g) erysipelas,
- (h) influenzal pneumonia,
- (i) infective hepatitis,
- (j) leprosy,
- (k) measles,
- (l) plague,
- (m) rabies,
- (n) relapsing fever,
- (o) smallpox,
- (p) tuberculosis,
- (q) tetanus,
- (r) malaria,
- (s) typhus,
- (t) virus encephalitis,
- (u) whooping cough, and
- (v) any other disease which the Government may, from time to time, by notification declare to be a communicable disease either generally throughout the territory or part thereof.

Duty of the local authority

36. (1) The local authority shall take steps to prevent the outbreak of a communicable disease and to control it by providing such diagnostic and laboratory facilities, staff, medicine, appliances, equipment, facilities for removal, isolation, accommodation of patients and other facilities may, in the opinion of the Health Officer, be necessary for the purpose.

(2) If the local authority fails to take such steps as are recommended by the Health Officer under sub-section (1) or if, in the opinion of the Director the steps taken by the local authority are insufficient for the purpose, he may take or require or empower any person to take such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons, as he shall deem necessary, to prevent the outbreak of a communicable disease or its spread.

(3) Two or more local authorities may jointly take such steps and provide the necessary facilities as may be recommended by the Health Officer/Officers under sub-section (1) for the purpose of preventing the outbreak of a communicable disease and to control it.

Jurisdiction over boats, vessels, vans, tents, etc.

37. The provision of this chapter shall apply to inland ship, vessel, boat or van lying within the jurisdiction of the local authority and a tent or shed or structure used for human transport or habitation.

Notified communicable diseases

38. For purposes of this Act "notified communicable disease" shall mean and include any disease which the Government may, from time to time, by notification declare to be notified disease either generally throughout the territory or in such parts thereof as may be specified in the notification.

Obligation to notify

39. Every medical practitioner who, in the course of his practice, recognises the existence of any "notified communicable disease" in any private or public dwelling other than a public hospital, and every manager of any factory or public building, keeper of a lodging house, every head of family or in his absence the nearest relative of the patient present in the house or any attendant on the patient in the absence of his relative, every person in charge of or any attendant on the patient and every owner or occupier of a house, or every head of teaching institution who knows or has reason to believe that any person in the premises under his management, control or occupation is suffering from, or has died of a notified communicable disease, shall, if the case has not been already reported, give information of the same with the least practicable delay: -

(a) in Municipal area to the executive authority, the Health Officer or a Sanitary Inspector, and

(b) in non-Municipal areas, to the Health Officer, a Sanitary Inspector or Officer-in-charge of the nearest Health Centre or the nearest local authority.

Prohibition of the use of water from suspected source

40. (1) If it appears to the Health Officer that the water in any tank, well or other place, if used for drinking or any other domestic purpose, is likely to endanger or cause the spread of any communicable disease, he may, by public notice, prohibit the removal or use of the said water generally or for any specified domestic purpose.

(2) No person shall remove or use any water in respect of which any such notice has been issued in contravention of the terms thereof.

Control of patients

41. (1) When, in the opinion of the Health Officer or any other officer duly authorised by him in this behalf any person is suffering from a communicable disease, the Officer may direct –

- (a) that the person be kept in isolation in his home, or
- (b) if the person is without proper lodging or accommodation or is lodged in such manner that he cannot in the opinion of the Officer, be properly isolated in his home, the removal of such person to a hospital or place at which patients suffering from such communicable diseases are received for treatment.

(2) No person who has been ordered to be in home isolation shall leave the home, and no person, who has been removed to a hospital or place shall leave the hospital or place, until he has been permitted to do so by the Health Officer or any other officer duly authorised by him in this behalf.

Exposure of persons and articles

42. A person who –

(a) knowing that he is suffering from a notifiable disease, exposed other persons to the risk of infection by his presence or conduct in any street, public place, place of entertainment or assembly, club, hotel or shop,

(b) having the care of a person whom he knows to be suffering from a notifiable disease, causes or permits that person to expose other persons to the risk of infection by his presence or conduct in any such place as aforesaid, or

(c) gives, lends, sells, transmits or exposes, without previous disinfection, any clothing, bedding or rags which he knows to have been exposed to infection from any such disease or any other article which he knows to have been so exposed and which is liable to carry such infection, shall be guilty of an offence, and

(d) no person having the charge or control of the body of any person who has died from any dangerous disease shall permit or suffer any other person to come necessarily into contact or proximity with the dead body:

Provided that nothing in this section shall apply to any person transmitting with proper precautions any article for the purpose of having it disinfected.

Infected persons not to engage in certain trades and occupations

43. No person shall, while suffering from, or in circumstances in which he is likely to spread, any communicable disease ---

- (a) make, carry or offer for sale, or take any part in the business of making, carrying or offering for sale, any article of food for human consumption; or
- (b) engage in any other occupation without a special permit from the Health Officer of the local authority concerned or otherwise than in accordance with the conditions specified therein.

Prevention of communicable disease transmissible from animals

44. If in any local area any communicable disease transmissible to man breaks out or is in the opinion of the Health Officer likely to break out amongst cattle or other animals, it shall be the duty of the Health Officer to recommend to the local authority the adoption of such measures as he may deem necessary for controlling and preventing the disease.

Powers of Health Officers

45. (1) The Health Officer or any person duly authorised by him in this behalf may, at any reasonable time, enter with or without assistants, inspect any premises in which he has reasons to believe that any person who is suffering or who has recently suffered from any communicable disease is or has recently been present or any inmate of which has recently been exposed to the infections of such disease and medically examine any person in such premises for the purpose of ascertaining whether such person is suffering or has recently suffered from any such disease, and take any action that is likely to prevent danger of spread to other.

(2) If it appears necessary to the Health Officer in order to prevent the spread of any communicable disease he shall have powers to prohibit or restrict by notice the use of water from suspected sources, entry into house occupied by infected persons certain works in affected premises, use of eating places or lodging houses, the presence of infected persons in places of work or any public meetings, libraries, conveyance, etc. and any other such source of danger which may occur for the purpose of this Act.

Destruction of hut or shed to prevent spread of infection

46. (1) If it appears to the Health Officer that the destruction of any hut or shed is necessary to prevent the spread of any communicable disease he may, after giving to the owner and the occupier of such hut or shed such previous notice of his intention as may be in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Such compensation as the local authority may consider reasonable, shall be paid to any person who in its opinion sustains loss by the destruction of any hut or shed under the powers conferred by sub-section (1); but save as provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

Infected clothes not to be sent to laundry

47. No person shall –

(a) send or take to any laundry or public washhouse or any public watercourse, tank or well, for the purpose of being washed, or to any place for the purpose of being cleansed, any clothing, bedding or other article which he knows to have been exposed to infection from any communicable disease, unless such article has been disinfected by, or to the satisfaction of the Health Officer, or a registered medical practitioner, or unless under instructions from such a person, it is sent with proper precautions to a laundry for the purpose of disinfection with notice that it has been exposed to infection; or

(b) place or cause or permit to be placed in any dust-bin or other receptacle for the deposit of refuse any matter which he knows to have been exposed to infection from a communicable disease and which has not been disinfected.

Use of public conveyance

48. (1) No person who knows that he is suffering from a notifiable disease shall –

(a) enter any public conveyance used for the conveyance of persons at separate fares; or

- (b) enter any other public conveyance without previously notifying the owner or driver thereof that he is so suffering.

(2) No person having the care of a person whom he knows to be suffering from a notifiable disease shall permit that person to be carried –

- (a) in any public conveyance used for the conveyance of persons at separate fares; or
- (b) in any other public conveyance without previously notifying the owner or driver thereof that person is so suffering.

(3) The owner, driver or conductor of a public conveyance used for the conveyance of persons at separate fares shall not convey therein any person whom he knows to be suffering from a notifiable disease except in such cases of emergency and subject to such restrictions and safeguards as may be prescribed by the Government.

(4) A local authority when so requested by the person in charge of a public conveyance in which a person suffering from a communicable disease has been conveyed shall provide for its disinfection.

Letting or sub-letting a building occupied by an infected person

49. No person shall, without a special permit from the Health Officer, let or sub-let, or permit or suffer any prospective tenant to enter a building in which he knows or has reason to know that a person has been suffering from a communicable disease, within the three months, immediately preceding.

Prohibition of the exposure of other persons to infection

50. (1) No person who knows that he is suffering from a communicable disease shall expose other persons to the risk of infection by his presence or conduct in ---

- (a) any street or public place, or
- (b) any market, theatre or other place of entertainment or assembly, or
- (c) any school, college, playground or such other place, or
- (d) any hotel, hostel, boarding house, choultry, rest-house or club, or
- (e) any factory or shop.

Explanation. – A person shall be deemed to know that he is suffering from a communicable disease within the meaning of this sub-section if he has been informed by the Health Officer or any other officer of the Public Health Department of the Government or of a local authority, not below the rank of Health or Sanitary Inspector, or a medical practitioner, that he is so suffering.

(2) No person who has the care of a person whom he knows to be suffering from a communicable disease shall cause or permit that person to expose others to the risk of infection by his presence or conduct in any place referred to in sub-section (1).

Forbidding work in infected premises

51. (1) If a case of notified disease occurs on any premises, the Health Officer may, whether the person suffering from the disease has been removed from the premises or not, make an order forbidding any work to which this section applies, to be given out to any person living or working on those premises or in such part thereof as may be specified in the order, and any order so made may be served on the occupier of the factory from which the work is given out or on any contractor employed by such occupier.

(2) An order under this section may be expressed to be operative for a specified time or until the premises or any part thereof specified in the order have been disinfected to the satisfaction of the Health Officer, or may be expressed to be inoperative so long as any other reasonable precautions specified in the order are taken.

(3) This section applies to the making, cleaning, washing, altering, ornamenting, finishing or repairing of wearing apparel and any work incidental thereto, and to such other classes of work as may from time to time be notified by the Director.

Prohibition of use of public library by infected person

52. No person who knows that he is suffering from a communicable disease shall take any book or cause any book to be taken for his use, or use any book taken, from any public place or circulating library.

Disposal of bodies of persons dying while suffering from communicable disease

53. (1) No person having the charge or control of the body of any person who has died while suffering from a communicable disease shall permit or suffer persons to come unnecessarily into contact with, or proximity to, the body.

(2) No person shall, without the sanction in writing of an officer of the Public Health Department of the Government or of the local authority concerned not below the rank of Health or Sanitary Inspector, retain in any premises (elsewhere than in a public

mortuary) for more than twelve hours the body of any person who has died while suffering from any communicable disease.

(3) (a) If any such body (not being a body kept in a mortuary) remains undisposed of for more than twelve hours without the sanction referred to in sub-section (2), or

if the dead body of any person is retained in any building so as to endanger the health of the inmates of such building, or of any adjoining or neighbouring building,

any Magistrate may, on the application of any officer referred to in sub-section (2), order the body to be removed and disposed of within a specified time.

(b) A Magistrate may, in the case of the body of a person who has died while suffering from a notified disease, or in any other case in which he considers the immediate disposal of the body necessary, direct the body to be so disposed of, unless the friends or the relatives of the deceased undertake the disposal of the body within a time specified in the order.

(c) The expenses of the removal and disposal of any body under clause (a) or clause (b) shall be borne by the local authority; but such expenses may be recovered, as if it were a tax due to it, by the local authority from any person who would have been legally liable therefor but for such removal and disposal, unless in the opinion of the local authority he is too poor to do so.

(4) (a) If any person dies in a hospital or a place of temporary accommodation for the sick while suffering from a notified disease, and the Health Officer certifies that in his opinion it is desirable in order to prevent the spread of infection that the body should not be removed from such hospital or place except for the purpose of being taken direct to a burial or burning ground or a crematorium for being buried or cremated, no person shall remove the body from the hospital or place except for such a purpose.

(b) When the body is removed for the purpose aforesaid it shall forthwith be taken direct to a burial or burning ground or a crematorium, and there buried or cremated with the least practicable delay.

(5) Without the permission of the Health Officer, or a Magistrate, no person shall cause or permit to be carried in a public conveyance the dead body of any person who has died while suffering from a communicable disease.

Compulsory immunisation

54. (1) When the Health Officer considers that an area is likely to be affected with any communicable disease, he may arrange for compulsory immunisation or re-immunisation on a mass scale.

(2) All such immunisation or re-immunisation shall be free of charge.

Restriction on movement

55. In the event of the prevalence of any notified disease in the territory or any part thereof the Government may, with a view to prevent the spread of infection of the disease by order notified in the Official Gazette regulate or prohibit –

- (a) the movement within the territory of persons or goods, or
- (b) the influx of persons or the import of goods into the territory.

Closure of certain places

56. If, on the application of the Health Officer, the Magistrate having jurisdiction is satisfied that it is necessary, in the interest of public health and in order to prevent the spread of any communicable disease, to close any dwelling or lodging house or any place where articles of food are sold or prepared, stored, or exposed for sale or distribution, the Magistrate may, by order, direct it to be closed until the expiry of such period as may be specified in the order or until it is certified by the Health Officer that there is no further risk of spread of infection.

Power of Magistrate to prohibit assembly of persons

57. In the event of the prevalence of a notifiable disease in any local area, any Magistrate having jurisdiction not being a Magistrate of the third class, may on the application of the Health Officer, by special order prohibit the assemblage of any number of persons exceeding twenty-five in any place, whether public or private or in any circumstances or for any purpose, if in his opinion such assemblage in such place or in such circumstances or for such purpose is likely to become a means of spreading the disease among the people.

Power of Government to confer special powers on officers to control notified diseases

58. (1) (a) In the event of the prevalence or threatened outbreak of a notified disease in any place or area, the Government may declare that such place or area, is visited by, or threatened with, an outbreak of such disease.

(b) The power conferred on the Government by clause (a) may also be exercised, in the case of a place or area situated in a district, by the Collector of the district subject to the control of the Government.

(c) Any declaration made by the Government under clause (a) or withdrawal thereof in whole or in part shall be published in the Official Gazette and shall come into operation on the date of such publication.

(d) Any declaration made by the Collector under clause (b) or withdrawal thereof in whole or in part shall be published in the Official Gazette, and shall come into operation on the date of such publication.

(2) When a declaration under clause (a) or clause (b) of sub-section (1) comes into operation and until it is withdrawn, the Collector of the District or any person duly authorised by him by general or special order, or if empowered in this behalf by rules made under this Act, the Health Officer or any other officer of the local authority concerned or any officer of the Government other than the Collector may, subject to such exceptions, restrictions, limitations and conditions and to such control as may be prescribed either generally or in the case of the notified disease to which the declaration relates, exercise the following powers, namely: --

- (a) power to order the evacuation of infected houses and houses adjoining them or in their neighbourhood, or generally of all houses in an infected locality;
- (b) power to make vaccination and preventive inoculations compulsory subject to the provisions of sub-section (3);
- (c) power to direct ---
 - (i) that persons arriving from places outside the local area, or residing in any building adjacent to, or in the neighbourhood, of an infected building, shall be examined by any specified medical officer or by any one of a specified class of medical officers;
 - (ii) that the clothing, bedding or other articles belonging to such persons shall be disinfected, if there is reason to suspect that they have been exposed to infection; and
 - (iii) that any such person shall give his address and present himself daily for medical examination at a specified time and place, for a period not exceeding ten days;
- (d) power to take such measures as may be necessary ---
 - (i) in respect of, or in relation to, persons exposed to infection from any notified disease, or likely to infect other persons with any such disease, and
 - (ii) in respect of, or in relation to articles exposed to infection from any notified disease, or likely to infect persons with any such disease,

including, in case (i) the placing of restrictions on the movements of such persons, and in case (ii) the destruction of such articles and the placing of restrictions on their export from, import into, or transport within the local area;

- (e) Power to direct that at any place within or outside the local area, any consignment of grain exported from, or imported into such area by rail, road or otherwise, shall be examined and, if necessary, unloaded and disinfected in any specified manner; and
- (f) power to close all or any existing market and to appoint special places where markets may be held.

(3) (a) If any person who, or a child in whose care, is sought to be vaccinated or inoculated in pursuance of the power referred to in clause (b) of sub-section (2), declares before a Magistrate specially empowered by the Government in this behalf that as a result of a careful inquiry into the subject, he believes that such vaccination or inoculation will be injurious to his health or the health of the child, as the case may be, the Magistrate may, after giving notice to the Health Officer and hearing any representations made by him or on his behalf, exempt such person or child from vaccination or inoculation, on condition of the person aforesaid undertaking to subject himself and the members of his family to isolation of such description and for such period and to such further restrictions, if any, as may be directed by the Magistrate:

Provided that any exemption granted under this clause shall cease to have effect after a conviction under clause (b) and no exemption shall be granted to any person who has been so convicted.

(b) Any person who commits a breach of any undertaking given by him under clause (a) shall be punished with imprisonment which may extend to three months, or with fine, or with both.

(4) The local authority may, in its discretion, given compensation to any person who in its opinion has sustained substantial loss by the destruction of any property under the powers conferred by this section; but save as provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

Destruction of rats, mice, etc.

59. (1) The occupier of every premises, or if the premises are unoccupied, the owner thereof, shall take such steps as may be reasonably practicable for the destruction of rates, mice and other animals susceptible to plague infesting such premises.

(2) Where the Health Officer is of opinion that the occupier or owner of any premises has failed to fulfill the obligation laid on him by sub-section (1), he may either-

- (a) serve a notice on such occupier or owner, requiring him to take such steps and within such time as may be specified in the notice, or

- (b) enter upon such premises and take such steps as may be necessary for the purpose of destroying the rats, mice and other animals susceptible to plague infesting the same, after giving not less than twenty-four hours previous notice to such occupier or owner.

(3) Any expenses incurred under clause (b) of sub-section (2) may be recovered by the local authority concerned from the occupier or owner, as the case may be, as if it were a tax due from him to the local authority.

Special provision for small-pox

60. (1) the Government shall, through the local authority, take such steps as may be prescribed to make adequate arrangements for compulsory vaccination and revaccination of children and persons residing in each locality.

(2) The parent or guardian of every child shall, before it completes three months of age cause the child to be vaccinated unless the child is certified to be unfit for vaccination and shall also get him revaccinated after a period of three years from the date of successful primary vaccination.

Venereal diseases

61. Subject to such rules as may be prescribed and such directions as may be given by the Government, the local authority may, make such arrangements in its local area –

- (a) for the free diagnosis and treatment of persons suffering or suspected to suffer from venereal disease; and
- (b) for the prevention of infection from such diseases.

Rules for prevention, treatment and control of disease

62. The Government shall have power to make such rules as they deem fit for the treatment of persons affected with any epidemic or communicable disease and for preventing the spread of such diseases and the said rules may also specify the authority or authorities who shall enforce and execute such rules.

Maternity and child welfare

63. Every local authority shall be bound to carry out such measures pertaining to maternity and child welfare as may be prescribed.

CHAPTER - VI
COLLECTION AND DISPOSAL OF COMMUNITY WASTES

Local Authority to provide for collection and disposal of community wastes

64. Subject to provisions contained in the Puducherry Sewerage Act, if any, it shall be the duty and responsibility of a local authority to adopt measures for the hygienic collection and disposal of community wastes from all areas within the jurisdiction.

Definitions

65. For the purposes of this Chapter ---

(1) Community wastes shall mean any one or all of the following matters, namely:-

- (i) sullage including overflow water and storm water;
- (ii) sewage, meaning night soil and other contents of privies, urinals, cesspools or drains and including trade effluents and discharges from manufactories, factories and industrial concerns of all kinds;
- (iii) offensive matters, meaning kitchen or stable refuse, dung, dirt, putrid or putrefying substances, sputum, filth of any kind and sewage;
- (iv) rubbish, meaning dust, ashes, sweeping, broken bricks, mortar, glass and refuse from houses, manufactories, factories and industrial concerns of any kind which is not offensive matter or sewage.

(2) Collection and/or disposal of community wastes means any or all of the following measures: --

- (i) drainage including sewage disposal;
- (ii) sewerage, the term drain includes a sewer, a house drain, a drain of any other description, a tunnel, a culvert, a ditch or channel or any other device for carrying off sullage, sewage, offensive matter, trade wastes, polluted water, rain water and sub-soil water;
- (iii) conservancy which means the removal and disposal of sewage, offensive matter and rubbish and includes scavenging.

Joint Water and Drainage Board

66. The Government may, in consultation with the local authority or local authorities concerned, establish a Joint Water and Drainage Board for providing, maintaining, administering the water works and removal of community wastes from the areas of two or more local authorities and may prescribe necessary rules for the purpose.

Improvement or extension of works

67. (1) If, in the opinion of the Government, any local area or part thereof requires to be provided with a system of public drains or sewers or the existing drains or sewers require to be improved or extended, the Government may, by order, direct the local authority to provide or execute such works as it may consider necessary or to prepare a scheme for such purpose, within such time as may be specified in the order.

(2) A local authority shall consult the Chief Public Health Engineer in the preparation of and extension of any scheme for provision or improvement or extension of drains and sewers.

(3) Every scheme prepared under this section shall require the approval of the Government before it is taken up for execution.

Execution of the scheme and maintenance

68. (1) When a scheme prepared under the foregoing sections has been approved by the Government, it shall be the duty and responsibility of the local authority subject to such rules as may be prescribed to execute the scheme as expeditiously as possible subject to the general control and supervision of the Chief Public Health Engineer.

(2) The local authority shall maintain in proper order and in proper state of affairs all works laid down, set up or installed subject to such control and supervision of the Chief Public Health Engineer and of the Government as may be prescribed for the purpose.

Acquisition and use of private lands and buildings

69. (1) The Government may carry any drainage, sewer or channel of any kind across and under any land or building.

(2) The Government may acquire, purchase or take lease of any land or building needed for the purpose of executing works including such land as may be required:

Provided that a reasonable compensation shall be payable to the owner or occupier of the land or building for any damage sustained by him through or in consequence of any such operation.

The control and administration of public drains and sewerage disposal

70. Subject to other special laws provided for the purpose, the control and administration of public drains and sewerage disposal works and of the lands and buildings needed shall vest in the local authority.

Discharge of sewerage or waste water

71. (1) A local authority shall not permit conveying of sewage or any waste water, affluent or filth by any person or persons or cause any of its own drains and sewers to discharge into a stream, channel, water course or lake which is used as a source of water supply or for bathing, washing and other purposes.

(2) Where there is no scope for disposal of sewage into any river, stream, water course or lake, in any inland area, the local authority may discharge and deposit the sewage or refuse in such manner as to make, after settlement, the land suitable for farming purposes.

(3) The Government may use or allow such land to be used either free of charge or on payment of such charges as the Government may fix, for sewage-farming or pisciculture; provided that such land shall not be used for the production of any article of food which is usually consumed raw without cooking or processing.

(4) All sewage farms shall be managed under the direct supervision of an agricultural expert.

Restriction on discharge of trade effluents and waste

72. (1) No trade affluent or waste materials from any trade premises, factory, workshop or work place shall be discharged or put into a public sewer or drain except under permission of and in accordance with the terms and conditions laid down by the Government and in such manner as may be directed by the Director of Health Services.

(2) The local authority shall connect or cause to be connected drains and water carriage system with their main sewer or public drain on such conditions and payment as may be fixed by the local authority.

Permission to construct septic tank and sanitary latrines

73. The local authority may permit an owner or occupier of any house or premises or any factory or business concern to provide a septic tank or sanitary latrines for the disposal of the nightsoil in such manner as may be approved by the local authority.

Common privies

74. (1) A local authority may permit the construction of common privies, urinals and drains from any group of houses or huts.

(2) In any unsewered area, the local authority may require every house either to provide septic tank, dug well or sanitary latrines and/or other methods of hygienic disposal of nightsoil.

Nuisance from offensive matters

75. No person shall allow the water of any sewer, privy, latrine, urinal or cesspool or any liquid offensive matter to run or to be drained into or to be thrown or put upon any street or open space or to leak through any external wall.

Responsibility of the local authority to provide public latrines, urinals and dust bins

76. (1) A local authority shall provide and maintain in proper sanitary condition latrines or urinals at convenient places for the use of the public.

(2) A local authority shall cause public dust-bin or other convenient receptacles to be provided at suitable intervals and in proper and convenient situations; and direct by notice that all sweepings in any house or premises and all rubbish, garbage, offensive matter accumulated therein shall be collected by the occupier of the house or premises and deposited in such receptacle.

Cleaning of roads and roadside drains

77. Every local authority in an urban or semi-urban area shall make arrangements for sweeping of the public roads under its control and for removing the rubbish, dirt and other matter from such roads and from the dust-bins and other receptacles, and for cleansing and flushing of the roadside drains.

Disposal of carcasses

78. The local authority shall secure and set apart place or places away from the inhabited locality, and shall maintain the necessary staff for the removal and disposal of carcasses of dead animals in such manner as not to be a source of nuisance or danger to the people.

The local authority to provide establishment, equipment and control and supervision

79. (1) A local authority shall maintain the personnel and organisation for the removal of the community waste from all areas within its jurisdiction and shall provide and maintain an adequate number of nightsoil and sullage carts, hand carts, equipments and other appliances in proper working order for satisfactory service throughout the year.

(2) Subject to rules framed by the Government the entire establishment, maintenance, control and supervision of the staff and equipment shall be under the direct control and supervision of the Health Officer.

Duties of local authorities

80. The local authority shall discharge its functions and duties entrusted to it under this chapter in such manner as may be prescribed.

Levy of sanitation tax

81. A local authority may, with the permission of the Government, levy a sanitation tax in addition to water rate and other rates.

Combination and control

82. Subject to the approval of the Government and on such terms and conditions as the Government may decide, two or more local authorities may jointly provide for the disposal of community wastes or may enter into contract with a limited company for the purpose.

CHAPTER – VII

SANITATION

Survey of housing and sanitation

83. A local authority may, and when so directed by the Government shall, subject to such rules as may be prescribed, undertake a survey of the housing accommodation of the inhabitants of its area in order to ascertain whether the different kinds of accommodation are suitable and sufficient for the persons living therein and whether they are provided with adequate water supply and essential sanitary conveniences in accordance with the provisions of this Act and shall, so far as is reasonably practicable, take steps to remedy the defects, if any, revealed by such survey.

Notification of residential areas

84. An urban local authority may, subject to the provisions of this Act and rules framed thereunder, notify areas within its jurisdiction which shall be reserved for residential purposes.

Planning of residential area

85. No scheme of planning of new residential areas or of improvement of existing areas shall be approved or executed by a local authority unless the scheme is in accordance with the rules made under this Act and also makes suitable provisions in respect of the following matters, namely: --

- (a) water supply to the inhabitants of the area for drinking and other purposes;
- (b) drainage and sewage disposal including the provision of public sanitary conveniences;
- (c) places for the disposal of carcasses of animals; and
- (d) burning and burial grounds.

Building regulations

86. No building shall be erected in the areas of a local authority unless they are approved by the concerned local authority and such constructions are in accordance with the rules framed in this behalf.

Prohibition of the use of building

87. A local authority may prohibit the use and occupation of any house, building, shed, room, flat, tenement, barrack or any such accommodation or any part thereof, either existing or new for use as human habitation if, in the opinion of the Health Officer or the Public Health Engineer it is not fit for human habitation by reason of defect or deficiency in its water supply, sanitary conveniences or it is in such condition as to be a nuisance or danger to health or life, unless and until the causes are removed to the satisfaction of the Health Officer or Public Health Engineer.

Slum area

88. (1) Where a local authority on/upon the report of Health Officer is satisfied as regards any area that the buildings in that area are in any respect unfit for human habitation or are by reason of overcrowding, faulty arrangement and design or lack of sanitary facilities or a combination of these factors detrimental to safety and public health, it may by notice declare such area to be a slum area.

(2) The local authority may at any time by a written notice require the owner of any area declared to be a slum area under sub-section (1) to carry out all or any of the works of improvement specified in the notice within a specified time.

(3) When any improvements required by a notice under sub-section (1) are not carried out to the satisfaction of the local authority, the local authority shall have the power to carry out/cause to carry out the improvements specified in the notice and all expenses incurred thereby shall be recovered from the owner as tax due to him to the local authority.

Building Regulations Advisory Committee

89. The Government may appoint a committee known as the Building Regulations Advisory Committee for the purpose of advising the Government on the exercise of the powers to make building regulations and on other subjects connected with building regulations.

CHAPTER – VIII FOOD SANITATION

Provisions supplementary to other enactments

90. The provisions of this chapter are in addition and supplementary to the provisions in Central and State enactments, orders, rules and regulations in force and shall not mean or be interpreted to mean anything contrary to or in contravention of any such provision, order, rule or regulation.

Requirement as to licences

91. (1) No person shall, without or otherwise than in conformity with the terms and conditions of a licence granted or renewed by the executive authority in such manner as may be provided in this behalf, --

- (a) keep within the local area any lodging house, eating house, tea shop, coffee house, café, restaurant, refreshment room or any place or mobile structure for the consumption of any food or drink, or for the sale, preparation of any food or drink; or
- (b) slaughter within the local area except in a public or a licensed slaughter house any cattle, horse, sheep, goat or pig for sale as food or skin or cut up in carcass or dry or permit to be dried any skin in such manner as to cause a nuisance; or
- (c) carry on within the local area the trade of a butcher, fishmonger or poulterer; or
- (d) use any place within the local area for the sale of flesh or fish intended for human food; or
- (e) keep or open a dairy; or
- (f) open or run a market:

Provided that the local authority may authorise a person to slaughter without licence any animal for the purpose of a religious ceremony:

Provided further that no licence shall be required for a place used for the selling or storing for sale of preserved flesh or fish contained in air-tight or hermetically sealed receptacles:

Provided also that no licence shall be required for any place included in a public market licensed under the law governing the local authority.

(2) The licence or renewal of the licence granted under sub-section (1) shall expire at the end of the year for which it is granted unless the executive authority, acting on the advice of the Health Officer, considers for special reasons that it should expire at an earlier date, in which case such earlier date shall be specified in the licence as the date of expiry of the licence or renewal of licence.

(3) Where the executive authority is at any time, of opinion that the building, mobile van, vehicle or place in respect of which a licence is granted or renewed under sub-section (1) is kept in contravention of any of the terms or conditions of the licence or of the provisions of the rules made under this Act, he may, without prejudice to any other action, which may be taken in respect of such contravention, cancel or suspend such licence after giving the holder of the licence a reasonable opportunity of showing cause against the proposed cancellation or suspension.

(4) If the executive authority refuses to grant or renew, or cancels or suspends, a licence under this section, he shall deliver to the applicant a statement in writing of the grounds on which his application is refused or his licence is cancelled or suspended.

(5) Any person aggrieved by the refusal to grant or renew, or by the cancellation or suspension of, a licence by an executive authority under this section, may appeal to the local authority and the appeal shall be disposed of in accordance with the rules prescribed by the Government.

Prohibition of sale of unsound food

92. (1) No person shall ---

- (a) sell, expose or hawk about for sale, or keep, store or prepare for sale, any animal intended for human consumption which is diseased or the flesh of any animal, which has died on account of natural causes; or
- (b) sell, expose or hawk about for sale, or keep, store, manufacture or prepare for sale, any food or drug intended for human consumption which is unfit for such purpose or is unwholesome.

(2) In any prosecution under sub-section (1) the Court shall, unless and until the contrary is proved, presume --

- (a) that any animal found in the possession of a person who is in the habit of keeping animals of that class for sale for human consumption, has been kept by such person for sale, and
- (b) that any food or drug found in the possession of a person who is in the habit of keeping, storing, manufacturing or preparing such food or drug for sale for human consumption, has been kept, stored, manufactured or prepared by such person for sale.

Inspecting Officers

93. The Government may empower the Health Officers and the Food Inspectors appointed under the Prevention of Food Adulteration Act, 1954*, or any class of officers in the employ of the Government or of a local authority to enter any place at any time by day or night, with or without previous notice and to inspect and seize any animal of food and any utensil or vessel used for preparing, manufacturing or containing any article of food, during manufacture, store, sale, distribution or in the course of transit of such animal or food.

Seizure and destruction of decomposed and unwholesome food stuff

94. (1) No person shall sell or distribute, either himself or by any other person, any food either cooked or raw and including any fish, meat, vegetable or fruit, which has become decomposed, putrid, rancid or foul-smelling or has been otherwise rendered unwholesome, unfit for human consumption or injurious to health.

* Now, the Food Safety and Standards Act, 2006 (Central Act 34 of 2006).

(2) If, in the opinion of an inspecting officer authorised under section 93 any such article appears to be unwholesome or unfit for human consumption or injurious to health, the inspecting officer may forthwith seize and,

- (a) with the consent of the owner or the person in whose possession it is found, forthwith destroy or cause it to be destroyed in such manner as to prevent its use for human consumption,
- (b) if such consent be not obtained, then –
 - (i) if the article is of a perishable nature, it may, with the approval of any Magistrate or the Health Officer or Medical Officer of Health likewise, be destroyed, and
 - (ii) if the article is not of a perishable nature, it shall be dealt with in accordance with the provisions of section 11 (4) of the Central Act 37 of 1954*.

(3) The expenses incurred in taking any action under sub-section (2) shall be paid by the person who was in possession of such article at the time of seizure.

Flesh of dead animal not to be consumed

95. No person shall knowingly consume the flesh of any animal which has died of natural causes.

Explanation. – It shall be no defence to a prosecution under this section that the flesh was consumed as a matter of custom or as a matter of right on account of services rendered in removing dead cattle or any other ground.

Restrictions on sale of meat from outside

96. (1) No person shall bring into any local area without the permission in writing of the Health Officer, the flesh of any animal slaughtered outside the local area or otherwise than in a slaughter house maintained or licensed by the Government or by a local authority.

(2) Any flesh brought into the local area in contravention of sub-section (1) may be seized by the Health Officer or any officer or servant of the local authority authorised by him in this behalf and sell or otherwise dispose of as the Health Officer may direct; and in the case of sale, the sale proceeds shall be credited to the funds of the local authority.

(3) Nothing in this section shall apply to ---

- (a) cured or preserved meat, or
- (b) flesh or meat carried in course of transit through any local area for consumption outside the limits thereof; or
- (c) flesh or meat brought into the local area for immediate domestic consumption and not for sale:

Provided that the local authority may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought from any specified place.

Rules

97. The Government may make rules for prevention of food infections or food poisoning and for other matters necessary for the effective implementation of the provisions of this chapter.

CHAPTER - IX

NUISANCES AND OFFENSIVE TRADES

What are nuisances

98. Without prejudice to the definition of "nuisance" in clause (23) of section 2, the following shall be deemed specifically to be nuisances for the purposes of this chapter, namely: --

- (a) any premises in such a state as to be prejudicial to health or a nuisance;
- (b) any pond, pool, ditch, gutter, water course, latrines, cesspool, drain or ash pit which is in such a state as to be prejudicial to health or a nuisance;
- (c) any animal kept in such place or manner as to be prejudicial to health or a nuisance;
- (d) any accumulation or deposit of refuse or other matter which is prejudicial to health or a nuisance;
- (e) any factory (not being a factory governed by the Factories Act, 1948), workshop or workplace which is not provided with sufficient means of ventilation or in which sufficient ventilation is not maintained or which is kept clean or free from noxious effluvia or which is so over-crowded while work is carried on as to be prejudicial to the health of persons employed therein;
- (f) any noise, vibration, dust, cinders, smoke, irritating smell or offensive odor produced by a factory, workshop or workplace which is nuisance to the neighbourhood.

Removal of nuisances

99. (1) Subject to the provisions of this Act and the rules framed thereunder, the local authority shall arrange for detection, inspection, allotment and removal of nuisance.

(2) Every owner, lessee or occupier of the premises or other persons responsible for the causation of nuisances shall forthwith comply with the directions given by the local authority, failing which the local authority shall take remedial actions and realise

expenses incurred from the owner, lessee, occupier or persons concerned and may in addition prosecute the offenders.

(3) A local authority may take the remedial measures including closure of any cattle shed, stable, khatal, offensive trade from within or the vicinity of a residential area.

Information regarding nuisance

100. Any person aggrieved by a nuisance in any local area may give information of the same to the Health Officer or any other Officer of the Public Health establishment of the local authority.

Power to Health Officer to abate nuisance

101. If the Health Officer is satisfied, whether upon information given under section 100 or otherwise of the existence of a nuisance, he may, by notice require the person by whose act, default or sufferance the nuisance arises or continues, or if that person cannot be found, the owner or occupier of the premises on which the nuisance arises or continues, to abate the nuisance and to execute such works and take such steps as may be necessary for that purpose:

Provided that ---

- (a) where the nuisance arises from any defect of a structural character, the notice shall be served on the owner of the premises, and
- (b) where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default or sufferance of the owner or the occupier of the premises, the Health Officer may himself forthwith do what he considers necessary to abate the nuisance and to prevent a recurrence thereof.

Restrictions on the use of buildings

102. No person shall use or permit the use, except under permission from the local authority, any premises, building or structure for the purpose of any trade, industry or manufacture or for any other purpose which is dangerous or likely to be dangerous to health or to cause nuisance.

Notification of offensive trade

103. A local authority may, by public notice, and in such manner as may be prescribed specify the offensive trades which, in its opinion, are or are likely to be dangerous to life or health and to which the provisions of section 102 shall apply:

Provided that no notice under this section shall take effect before the expiry of sixty days from the date of publication of the notice or, except with the previous sanction of the Government, in any place outside the limits of the local area.

Licensing of offensive trade

104. (1) After a notice under section 105 has taken effect, no person shall use or permit to be used any premises in the local area for carrying on any offensive trade specified in the notice, except under a licence granted by the executive authority, in accordance with the provisions of this Act and the rules framed thereunder.

(2) On application made to him in this behalf, the local authority may either grant a licence or, for reasons to be recorded, refuse to grant a licence.

(3) Every licence granted under this section shall be subject to such rules framed under this Act and other conditions and restrictions as may be specified therein and shall expire at the end of the year in which it is granted.

(4) If a licensee contravenes any of the terms and conditions of the licence, the local authority may, after giving the licensee an opportunity of being heard, cancel the licence.

Notification of areas for offensive trades, and licensing, for such purposes

105. (1) Every local authority for an urban, semi-urban or rural area may, and if so required by the Government shall, within the time specified by the Government notify in the prescribed manner the locality or localities which shall be reserved for establishment or carrying on any of the offensive trades as may be notified by the Government from time to time and may at any time notify additional localities for the purpose.

(2) No person shall use any land or premises in any urban, semi-urban or rural area for any of the trades or processes so notified, --

- (a) unless such area has been notified under sub-section (1) and
- (b) without obtaining a licence from the local authority.

Local authority to provide sufficient land for such purposes

106. For the purposes aforesaid the local authority may purchase, acquire, take lease of or otherwise provide sufficient lands suitable for the purpose and allot them to the traders on such terms and conditions as the Government may approve.

Removal of offensive trades to reserved areas

107. The local authority may direct the removal of any offensive trade in any area other than a reserved area existing on the date of notification, to a reserved area and the expenses for such removal shall be borne by the local authority. In case of dispute about the removal or the expenses, the matter shall be referred to the Government whose decision shall be final.

Provision for drinking water etc.

108. (1) The local authority shall in accordance with such rules as may be prescribed in this behalf provide or arrange for sufficient supply of safe and potable water for drinking and domestic purposes in all such reserved areas and may also provide and arrange for water for trade purposes on payment of such charges as the local authority may determine with the approval of the Government.

(2) With the permission of the local authority the traders or business concerns may themselves provide or arrange for the supply of water in such quantity and of such quality and purity as may be specified by the Health Officer.

Sanitary conveniences

109. There shall be adequate provision of sanitary conveniences in all premises and houses used for offensive trades and they shall be provided and maintained by the trade or business concerns.

Disposal of trade wastes and levy of charges

110. (1) The local authority may make special provision for drains and sewers in the reserved areas and the wastes and effluents from such offensive trades or business shall be disposed of in such manner and after such treatment as the Chief Public Health Engineer may direct.

(2) The local authority may levy charges for the use of its drains and sewers and for special provision of collection and disposal of trade wastes.

Powers of entry and inspection

111. The executive authority, the Health Officer or any other Officer of the local authority or of the Government duly authorised in this behalf may enter and inspect any premises for the purpose of enforcing any of the provisions of this chapter:

Provided that no entry shall be made between sunset and sunrise except when the nuisance is caused by anything done or omitted to be done in the premises between sunset and sunrise.

Prohibition of the deposit of rubbish etc., in the street etc.

112. (1) No person shall deposit or cause or suffer any member of his family or house-hold to deposit, any carcasses of animals, any dust, dirt, dung, ashes or refuse or filth of any kind, any animal matter, any broken glass, earthenware or other rubbish, or any other thing which is or may be a nuisance, in any drain beside a street, or on any open space (not being private property), or on any quay, jetty or landing place, or on any part of the sea-shore, or on the bank of any water-course, except in such receptacles

as may be provided or at such places, in such manner and at such hours, as may be fixed by the Health Officer.

(2) No person shall ease himself, or cause, permit or suffer any member of his family or house-hold to ease himself, in any such street, arch, drain, open space, quay, jetty, landing place, sea-shore or bank aforesaid.

Rules necessary for implementation

113. The Government may also prescribe by rules the manner under which the grant, refusal and cancellation of licences and the fees chargeable are to be governed, the restrictions of use of houses and premises, the charges for the abatement and removal of nuisances, the notification and reservation of areas for offensive trades, the removal and the compensation if any, for such removal of existing offensive trades in areas other than reserved areas, provision of water supply, drain and sewerage, sanitary conveniences and other amenities and the scale of charges therefor and the disposal of trade wastes and the levy of charges.

CHAPTER – X

FAIRS, FESTIVALS AND PLACES OF PILGRIMAGE

Notification of areas

114. The Government or the local authority with the approval of the Government, may declare any area or areas in which a fair or festival is usually held or is to be held and any place of pilgrimage to be a notified area or areas for the purposes of this chapter for such period as may be specified.

Notice of fair or festival and particulars

115. The persons or authority in charge of any fair or festival shall not less than 60 days before the commencement, intimate to the local authority or the Health Officer of the local authority concerned or if the fair or festival held within the jurisdiction of two or more local authorities, each of the local authorities concerned, the date of commencement of the fair or festival concerned and other particulars as may be required by the local authority or the Health Officer in this connection.

Provision of sanitary arrangements and medical relief arrangements

116. During the period of the fair, festival or pilgrimage, the local authority shall, subject to the rules made in this behalf, make special arrangements, provide adequate sanitary facilities regarding water supply, collection and disposal of community wastes and detection, segregation and treatment of cases of communicable disease, prevention of the introduction and the spread of any communicable disease and medical relief arrangements both for diseases and accidents as may be directed by the health authority.

Power of supervision of arrangements

117. Subject to the provisions of this Act and Rules, a local authority and the Health Officer concerned shall have the power to supervise and control all the special arrangements mentioned in section 116.

Power of entry and seizure of food

118. The Health Officer or any officer authorised by the local authority or of any of the local authorities concerned may enter and inspect any building or shop in the fair, festival or pilgrimage centre which is a source of food supply and may seize any food prepared or offered for sale or stored or in the course of transit which he has reason to believe is unwholesome or unfit for human consumption and destroy the same forthwith in accordance with such rules framed in this regard.

Power of acquisition of building for an emergency

119. In case of any emergency the local authority may with the sanction of the District Magistrate depute any person to enter, occupy and use any land or building in the notified fair, festival or pilgrimage area which in the opinion of the Health Officer is required for any purposes connected with the fair, festival or pilgrimage and the owner or the lessee of the land or building shall be entitled to such compensation for any damage or expense incurred during the period as may be laid down by the local authority.

Power of Director of Health Services

120. In case of an emergency including the outbreak of any notified communicable disease and in case section 116 is not fully complied with by the local authority, the Director of Health Service shall have the power to direct and take or require to be taken or empower any person to take such measures as he shall deem necessary and the expenses incurred thereby shall be recovered from the local authority under such terms and conditions as prescribed by the Government.

Power of Government

121. The Government may, also by rules prescribed in this behalf, entrust the local authorities to make other arrangement for sanitation ,water supply, compulsory immunisation, inoculation etc., so as to empower the local authority to deal with situations that may arise during the periods of fairs or festivals.

CHAPTER - XI

HEALTH RESORTS, HOLIDAY CAMPS, SETTLEMENTS AND LABOUR CAMPS

Notification

122. The Government or the local authority with the approval of the Government may, subject to the provisions of this Act and Rules framed thereunder, declare for the purpose of this Chapter any place or area as a health resort, holiday camp, settlement or labour camp.

Licence

123. No person other than the Government or the local authority can run a holiday camp, health resort, settlement or labour camp without obtaining written permission and licence from the local authority.

Control of such notified places

124. Accommodation, water, sanitary conveniences, food hygiene and control, collection and disposal of community wastes, restriction of visitors suffering from any communicable disease, medical relief facilities and compulsory immunisation at such notified places and the grant, issue and cancellation of licence and the charges made from the visitors will be such as may be prescribed.

CHAPTER - XII

MISCELLANEOUS INSTITUTIONS

Registration and licensing

125. No person shall own and run a place of entertainment or recreation centre without the written permission and licence of the local authority and the local authority shall have the power to revoke or cancel the said licence for violation of any of the terms and conditions of the licence or for infringement of any of the rules or bye-laws.

Power of entry

126. The Health Officer and the Public Health Engineer shall have the power to enter and inspect any such place at any time with or without notice to the owner, manager or keeper of such place and to give necessary direction for the rectification of defects and deficiencies.

Conditions for grant of licence etc.

127. The standards of sanitation of public waiting or halting rooms, cinemas, theatres, music halls, public libraries and other places of public entertainments, the provision for sleeping or seating accommodation and other condition for granting or renewing such licences shall be such as may be prescribed.

Local authority to provide place for recreation, sports field, pasture land, etc.

128. The local authority may, subject to the provisions of this Act and Rules framed thereunder, provide as far as possible, ---

(1) Open spaces, parks, playgrounds, common swimming tanks and other amenities for use and enjoyment of the people and may frame bye-laws regulating their use;

(2) Let out any park or land for sporting fields and may permit erection of tents, sheds or galleries on such terms and conditions as the local authority may prescribe;

(3) Provide pasture lands for use of domestic cattle.

Acquisition of land and disposal

129. A local authority may purchase or take on lease or otherwise acquire land and water areas for purposes of this Chapter and dispose of any disused and abandoned park, playground or pasture or any water collection belonging to the local authority in any manner the local authority may deem fit.

For purposes of this Chapter, 'Insects' includes mosquitoes, flies, fleas, lice, mite, sandfly, tick and any other insect detrimental to health.

Competent authority

130. The Director or any local authority constituted under any Act shall be deemed to be the "competent authority" to conduct anti-insect operations in accordance with the rules that may be prescribed from time to time by the Government.

Duties of competent authorities

131. (1) Every competent authority shall take steps to eliminate places where the insects are breeding or likely to breed and to control or destroy the insects.

(2) The Government or the local authority shall maintain special staff and equipment for the purpose and such staff may have the right to enter upon any land or any premises, house or room, after giving sufficient notice to the residents who shall give all facilities to such men and inspecting officers.

Insecticidal spraying

132. (1) The Government/or the local authority shall provide facilities of insecticidal spraying of houses or shops and such places as may be considered necessary and on payment of such charges prescribed from time to time.

(2) The Government or the local authority shall take measures, engineering or otherwise or the prevention, control and removal of any cause or causes of breeding of insects.

Duties and responsibilities of owners and occupiers

133. (1) Every owner or occupier of lands or premises shall take measures to prevent the breeding of insects and when directed, such measures as may be specified by the competent authority.

(2) No person shall put any structure or construction or any building or barrier across any stream, channel or drain so as to obstruct the flow of water.

(3) No person shall put any embankment for roads or any other purpose which is likely to interfere with the natural drainage of the area, and

(4) No person shall interfere with any work on land or any building already undertaken by the Government or by the competent authority or by the owner under the direction of the Government or the local authority for the purpose of preventing the breeding of insects.

Power of local authority/Government

134. In the event of any person or persons failing to comply with the directions of the competent authority or the Government in respect of any matter under this chapter, the competent authority or the Government may itself execute the work and take necessary measures and may realise either whole or a portion of the cost, incurred from the person or persons concerned in such manner as the Government or the competent authority may determine.

Information regarding any insect-borne disease in epidemic form

135. In the event of any outbreak of malaria and any other insect-borne disease in epidemic form in any locality, the local authority shall immediately arrange for remedial action and report the matter to the Director of Health Services who may render to the local authority such assistance as may be deemed necessary.

CHAPTER – XIII**BURIAL AND BURNING GROUNDS****Local authorities to provide burial and burning grounds**

136. A local authority may, subject to such rules as may be prescribed in this behalf and if so required by the Government shall provide a suitable place or places for burying, burning or otherwise disposing of the dead bodies according to different religious customs at reasonable distances from the inhabited areas. Two or more local authorities may, and if so required by the Government, shall jointly provide burial or burning grounds or other places for disposal of dead bodies.

Private burning and burial ground licensing of

137. A local authority may, subject to such terms and conditions as the local authority may determine, grant licences for private burial and burning grounds, and the issue, renewal and revocation of such licences, shall be subject to such rules as may be prescribed.

Certification of death

138. The care-taker in charge of or the owner of a burning or burial ground or a crematorium or a burial tower, shall not permit a dead body to be burnt or buried or otherwise disposed therein except on the production of a certificate of death issued by a registered medical practitioner or such a person in such manner as may be specified by the bye-laws or rules.

Registration of deaths

139. The local authority, subject to the rules framed in this behalf, shall arrange for proper registration of all dead bodies buried or burnt or otherwise disposed of.

Prohibition of use of other places

140. No person shall bury, burn or otherwise dispose of any dead body except in a place which has been registered or provided under this chapter or the rules framed thereunder.

Disposal of unclaimed bodies

141. A local authority may arrange for the disposal at its expense, of unclaimed dead bodies or dead bodies of persons whose friends and relatives are too poor to meet the expenses of burial or burning.

Government to control by rules

142. The Government may also restrict or control burials or the establishment or maintenance of such grounds by such rules as may be prescribed in this behalf.

CHAPTER – XIV**MISCELLANEOUS**
Power to make rules

143. (1) The Government shall, in addition to the rule making powers conferred on them by any other provision contained in this Act, have power subject to pre-publication, to make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

- (i) the manner in which quorum of the meeting of the Board is to be fixed and the mode of the transaction of business of the meeting of the Board or Committees thereof;
- (ii) the manner of filling casual vacancies among the members of the Board or the Committee as the case may be, the travelling and other allowances payable to such members;
- (iii) the powers and functions of the Officers subordinate to the Director of Health Services;
- (iv) the advice or assistance to be given by officers of the Government to local authorities for carrying out the purposes of this Act;
- (v) the manner in which the Director shall discharge or cause to be discharged the functions entrusted to him or delegated by him, as the case may be;
- (vi) the procedure for registration and for renewal of registration of private institutions and the forms to be used and fees to be collected in connection therewith;
- (vii) the manner of preferring appeals to the Government;
- (viii) the manner in which private institutions are to be controlled or regulated under the provisions of this Act;
- (ix) the quality and quantity of water for drinking and domestic purposes and for protection and for periodical examination thereof;
- (x) providing places for use by washermen and for the use of such ghats;
- (xi) regulating the supply of water for purposes referred to in section 20;
- (xii) location and construction of tube-wells for public or private supply;
- (xiii) providing necessary number of closed reservoirs for the use of persons living beyond a distance of 100 yards from the supply main;

- (xiv) making pipe connections from the supply main for the purposes of feeding water to houses within such distance of supply main on payment of such fees as may be specified;
- (xv) for levy of water rate to be paid by local authority to a Joint Water Board for supply of water;
- (xvi) levy of water rate by local authorities and the manner of expanding the proceedings thereof;
- (xvii) providing meters in the premises to which water is supplied;
- (xviii) levying hire charges for the meter;
- (xix) provide bathing places, swimming pools etc., and licensing, maintaining and closure of such bathing places or swimming pools;
- (xx) exercising the powers of the local authority with respect to the constructing of water works and the arrangements for supply of water;
- (xxi) regulating diversion of water works, purchase of water works or rights thereon and arrangements for protected supply of water;
- (xxii) settlement of disputes and difference between the Water Board or between the local authorities *inter se*;
- (xxiii) restriction of entry into houses occupied by patients suffering from communicable disease before disinfection is carried out;
- (xxiv) restriction of certain avocation by carriers and persons infected with certain diseases;
- (xxv) provision of certain works in regard to the affected premises and restriction in regard to the disposal of dead bodies;
- (xxvi) provisions regarding precautions to be taken for disinfection and destruction of infected articles;
- (xxvii) the records and registers to be kept by the local authorities with regard to communicable and notifiable diseases;
- (xxviii) provisions of diagnostic and laboratory facilities, staff, medicine, disinfection, facilities for removal, association and accommodation of patients;
- (xxix) powers and duties of the Health Officers, vaccinators, etc.;
- (xxx) the provisions regarding grant, renewal and cancellation of licences to vaccinators and the collection of fees thereof;
- (xxxi) the manner and procedure for vaccination, re-vaccination and inoculation and the inspection of results thereof;
- (xxxii) the forms, notices, memoranda and the other registers to be maintained under this Act;
- (xxxiii) supply, storage, sale and transit of vaccines;
- (xxxiv) standards for discharge of sewage or effluents from septic tanks, treated wastes, determination of sufficiency, of sewage

- treatment plant, hygienic collection and removal of night-soil, offensive matters, scavenging, conservancy and disposal of such matters and carcasses;
- (xxxv) schemes for improvement or extension of sewerage or drainage system and execution thereof;
 - (xxxvi) standards for water closets, pipes, ventilators, and flourishing arrangements of water carriage system;
 - (xxxvii) house connection for drains and sewage standards of septic tanks, latrines, urinals, sanitary conveniences and arrangements to be made at specified places, areas or occasion;
 - (xxxviii) employment, registration and displaying of scavenging and other establishments;
 - (xxxix) levy of fees or charges for any services rendered under the provisions of this Act;
 - (xl) the standards of regulations that are to be observed in constructing buildings or in making alterations or extension of buildings and spacing sanitation and ventilation in and outside thereof;
 - (xli) sanitary convenience in the building;
 - (xlii) giving of notices and the deposit of plans, specification, etc.;
 - (xliii) inspection of work, testing of drains and sewers and testing of samples;
 - (xliv) relaxation of building regulations in appropriate cases;
 - (xlv) laying down standards for general sanitation of lodging houses, eating houses, tea-shops, coffee houses, refreshment-rooms, biscuit-factories, dairies and other such places where food articles are kept for storage, sale or otherwise;
 - (xlvi) the powers and duties of competent authority under the Act;
 - (xlvii) the manner of conducting anti-insect and anti-larval measures;
 - (xlviii) regulations and procedure for registering of burial and burning grounds, issue and cancellation of licences thereof and other sanitary precautions to be taken with regard to the burial of dead body or corpses;
 - (xlix) the manner in which appeals are to be filed from the orders made under any of the provisions of this Act and the authorities to whom such appeals are to be filed;
 - (l) the procedure in hearing such appeals by the appellate authorities;
 - (li) fees or charges to be collected from individuals for issue of licences or permits;
 - (lii) the fee to be given in respect of appeals or applications;
 - (liii) regulating the situation in which sanitary convenience for the use of the public shall be constructed by a local authority;

- (liv) with reference to all matters expressly required or allowed by this Act to be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Puducherry while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or the Legislative Assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

General power to make bye-laws

144. (1) A local authority may make bye-laws, not inconsistent with the provisions of this Act or of any rule made thereunder:-

- (a) for all matters, which are required or allowed by this Act to be provided for bye-laws; and
- (b) generally for carrying out all or any of the purposes of this Act.

(2) Bye-laws made under this Act may provide that a breach of any of them shall be punishable with fine which may extend to fifty rupees and in the case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach.

Provisions with respect to bye-laws

145. (1) Any power to make bye-laws conferred by this Act is conferred subject to the condition of the bye-laws being made after previous publication.

(2) No bye-laws shall take effect until the same has been approved by the Government and published in the Official Gazette.

(3) The Government in approving a bye-law may make any change therein which appears to it to be necessary.

(4) The Government may, after previous publication of its intention, cancel and bye-law which it has approved, and thereupon, the bye-law shall cease to have effect.

Bye-laws to be available for inspection

146. A copy of all bye-laws made under this Act shall be kept at the office of the local authority and shall, during office hours, be open free of charge to inspection by any inhabitant of the local area.

Service of notices

147. When any notice is required to be given under this Act or by any rule or bye-law made thereunder to any person, the notice shall be given –

- (a) by giving or tendering it to such person, or
- (b) if such person is not found, by leaving it at his known place of abode or business, or by giving or tendering it to some adult member or servant of his family, or
- (c) if such person does not reside in the local area and his address elsewhere is known, by sending the same to him by registered post, or
- (d) if none of the means aforesaid is available, by affixing the notice in some conspicuous part of such place of abode or business.

Publication of notices and orders

148. Every notice or order which by or under this Act is to be given or served as a public notice or order or as a notice which is not required to be given to any individual specified therein shall be deemed to be sufficiently given or served if a copy of such notice or order is affixed on the notice board of the office of the local authority or in such other public place or is published in such local newspaper or in such other manner as the local authority may direct.

Power of entry and inspection

149. The executive authority or any person authorised by him in this behalf may enter into or on any building or land with or without assistants or workmen in order to make any inquiry, inspection, test, examination, survey, measurement or valuation or for the purpose of lawfully placing or removing pipes or meters or to execute any other work which is authorised by the provisions of this Act or of any rule or bye-law made thereunder or which it is necessary for any of the purposes of this Act or in pursuance of any of the said provisions to make or execute:

Provided that ---

- (a) except when it is, in this Act, otherwise expressly provided, no such entry shall be made between sunset and sunrise;
- (b) except when it is, in this Act, otherwise expressly provided, no dwelling house and no part of a public building used as a dwelling place shall be entered into without the consent of the occupier thereof unless the said occupier has received at least six hours previous notice of the intention to make such entry;
- (c) sufficient notice shall be given in every case even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to women to move to some part of the premises where their privacy may be preserved;
- (d) due regard shall be paid so far as may be compatible with the exigencies of the purpose of the entry to the social and religious usages of the occupants of the premises.

Power to give direction

150. For the purpose of carrying into effect any provision of this Act, the Government may, in writing, give to any local authority such directions as it thinks fit and it shall be the duty of the local authority to comply therewith.

Delegation

151. The Government may, by notification and subject to such restrictions, limitations and conditions as may be specified therein, authorise any person to exercise any one or more of the powers conferred on it by this Act:

Provided that nothing contained in this section shall apply to any power of the Government to make rules or regulations or to issue directions.

Employees of local authorities to be public servants

152. Every officer or other person employed by a local authority in connection with the public health services under this Act shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken under Act

153. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or bye-law made thereunder.

Effect of Act

154. The provisions of this Act shall, save as otherwise expressly provided, have effect notwithstanding anything inconsistent therewith contained in any other law; and if any provision relating to public health contained in any other law is inconsistent with any provision of this Act the latter shall prevail and the former shall, to the extent of the inconsistency, be void.

Removal of difficulties

155. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion requires by order do anything not inconsistent with this Act which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that every order made under this section shall be laid before the Legislature.

Repeal

156. (1) Any corresponding law inconsistent with the provisions of this Act shall stand repealed.

(2) Notwithstanding such repeal, any notification, rule, regulation, bye-law, order or notice issued or any appointment or declaration made or any licence, permission or exemption granted or any other thing done or any other action taken under the repealed enactment shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been issued, made, granted, done or taken under the corresponding provision of this Act.

Penalties

157. (1) Any person who contravenes or fails to comply with any provision of this Act or of any rule made thereunder or of any notice or order, or direction issued under any of the said provision shall be punishable for the first offence with fine which may extend to rupees two hundred and for a second or any subsequent offence with fine which may extend to rupees four hundred.

(2) Any person, after having been convicted for any offence under sub-section (1) continues to commit such offence, he shall be punished for each day after the first, during which he continues so to offend with fine which may extend to rupees twenty-five for every such day.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.5 OF 1974

No doubt certain provisions do exist in some of the Ex-French Decrees and Arretes for the protection and preservation of Public Health. Certain powers in this regard were also entrusted with the Municipality as per the Municipal Decree of 1880. The Government has already taken action for bringing comprehensive legislation with regard to the administration of municipalities and commune panchayats. The same is the case with regard to public health. The existing provisions are found to be inadequate and insufficient especially in the changed set up. Hence it is considered necessary to have a separate and consolidated legislation for the advancement and administration of public health in the Union territory more or less on the lines of similar legislation existing in other States like Tamil Nadu and also based on a model Bill circulated by the Government of India as early as 1963. The proposed legislation *inter-alia* deals with the constitution of Public health and the powers that are to be vested in the Government and other local bodies for proper maintenance of water supply, sanitary conveniences and other such allied matters. It also contains provisions for the prevention, notification and treatment of communicable diseases, food sanitation and the precautions to be taken by appropriate authorities with respect to the sanitation in ordinary circumstances and also in connection with fairs, festivals etc. It is felt that only with such statutory backing the Government can clothe itself with sufficient powers for maintaining public health in all its respects. The Bill seeks to achieve the objects referred to above.

THE PUDUCHERRY HOUSING BOARD ACT, 1973

(No.7 of 1974)

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THE PUDUCHERRY HOUSING BOARD ACT, 1973

(No.7 of 1974)

(25-7-1974)

AN ACT

to provide for the execution of housing and improvement schemes, for the establishment of a Housing Board and for certain other matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-fourth Year of the Republic of India as follows: -

CHAPTER - I

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Housing Board Act, 1973.

(2) It extends to the whole of the Union territory of Puducherry.

+ (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different regions of the Union territory of Puducherry and any reference in this Act to the commencement of this Act shall, in relation to any region, means the date on which this Act comes into force in that region.

Definitions

2. In this Act, unless the context otherwise requires, --

(1) "betterment fee" means the fee declared to be payable under section 63 in respect of an increase in the value of land resulting from the execution of a housing or improvement scheme;

(2) "Board" means the Puducherry Housing Board established under section 3;

(3) "Board premises" means any premises belonging to, or vesting in, the Board or taken on lease by the Board or any premises which is entrusted to, or in the possession or control of, the Board for the purposes of this Act;

(4) "Chairman" means the Chairman of the Board;

+ This Act came into force w.e.f 26-05-1975 vide Notification published in EG No. 49 dt. 21.05.1975.

(5) "Committee" means any committee appointed under section 16;

(6) "competent authority" means any person or authority authorised by the Government, by notification in the Official Gazette to perform the functions of a competent authority under Chapter VIII;

(7) "Government" means the Administrator appointed by the President under article 239 of the Constitution;

(8) "housing or improvement scheme" means a scheme framed in accordance with the provisions of Chapter V;

(9) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(10) "member" means the member of the Board;

(11) "Planning Authority" means a Planning Authority constituted under the Puducherry Town and Country Planning Act, 1969;

(12) "premises" means any land or building or part of a building and includes-

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(13) "region" means any one of the regions known as Puducherry, Karaikal, Mahe or Yanam of the Union territory;

(14) "regulations" means the regulations made under this Act;

(15) "rules" means the rules made under this Act;

(16) "Town Planning Act" means the Puducherry Town and Country Planning Act, 1969;

(17) "Union territory" means the Union territory of Puducherry.

CHAPTER - II

CONSTITUTION AND WORKING OF THE BOARD

Establishment and constitution of the Board

3. (1) With effect from such date as the Government may by notification in the Official Gazette specify in this behalf, there shall be established for the purpose of this Act, a Board to be called the Puducherry Housing Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

- (3) The Board shall consist of the following members, namely: -
- (a) a Chairman to be appointed by the Government;
 - (b) the Secretary to Government incharge of Housing;
 - (c) the Secretary to Government, Finance Department;
 - (d) the District Collector;
 - (e) the Director of Public Works Department;
 - (f) the Director of Health and Family Planning Services;
 - (g) the Senior Town Planner;
 - (h) three non-official members to be appointed by the Government, one of whom shall be an Engineer or Architect who possesses experience in housing and who is not in the employment of the Government or of a local authority or of any corporation owned or controlled by the Government; and one shall be a resident of any one of the outlying areas of Karaikal, Mahe or Yanam.

Appointment of the Chairman and Members to be notified

4. The appointment of Chairman and non-official members shall be notified in the Official Gazette.

Term of office and conditions of service of the Chairman and members of the Board

5. (1) The term of office and the conditions of service of the Chairman and members shall be such as may be prescribed by rules and they shall be entitled to receive such salary or allowances as may be fixed by the Government.

(2) The Chairman or any member may resign his membership of the Board by giving notice in writing to the Government and on such resignation being accepted by the Government, he shall cease to be a member.

(3) Any vacancy created in the Board shall be filled by fresh appointment by the Government.

Disqualifications for appointment as a member of the Board

6. (1) A person shall be disqualified for being appointed as, and for being a member of the Board, if he –

- (a) has been convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside;
- (b) is an undischarged insolvent;
- (c) is of unsound mind;
- (d) is an officer or servant under the Board;
- (e) has directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with, by or on behalf of, the Board;
- (f) is a director or a secretary, manager, or other officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board;

(2) A person shall not, however, be disqualified under clause (e) or clause (f) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of those clauses, by reason only of his, or the incorporated company of which he is a director, secretary, manager or other officer, having a share or interest in ---

- (i) any sale, purchase, lease or exchange of immovable property or any agreement for the same;
- (ii) any agreement for the loan of money or any security for the payment of money only;
- (iii) any newspaper in which any advertisement relating to the affairs of the Board is inserted;
- (iv) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one year, of any article in which he or the incorporated company regularly trades.

(3) A person shall not also be disqualified under clause (e) or clause (f) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a share-holder of such company:

Provided that such person discloses to the Government the nature and extent of the shares held by him.

Explanation:- For the purposes of clause (d) of sub-section (1), the Chairman shall not be deemed to be an officer or other employee under the Board.

Power of Chairman

7. The Chairman shall not undertake any work unconnected with his office without the previous sanction of the Government.

Appointment of an acting Chairman

8. Whenever there is a temporary vacancy in the office of the Chairman or when the Chairman is on leave, the Government may appoint a person to act as Chairman during the period of such vacancy or leave, as the case may be, and shall pay to such person such salary and allowances as may be fixed by the Government and the person so appointed shall be deemed, for purposes of this Act, to be the Chairman.

Removal of Chairman and other non-official members

9. (1) If at any time it appears to the Government that Chairman has shown himself to be unsuitable for his office, or has been guilty of any misconduct or neglect which renders his removal expedient, it may, by notification in the Official Gazette, remove the Chairman from office.

(2) The Government may, by notification in the Official Gazette, remove any non-official member from office –

(a) if he has, without the permission of the Board, been absent from the meetings of the Board for any period exceeding three consecutive months; or

(b) if he, being a legal practitioner, acts or appears on behalf of any person other than the Board in any civil, criminal or other legal proceedings in which the Board is interested, either as a party or otherwise; or

(c) if he has, in the opinion of the Government, contravened the provisions of section 17; or

(d) if he, in the opinion of the Government, is unsuitable or has become incapable of acting as a member or has so abused his position as a member as to render his continuance as such member detrimental to the public interest.

(3) A non-official member removed under the provisions of clause (a) or clause (b) of sub-section (2), shall be disqualified for appointment as a member for such period as may be prescribed by rules.

(4) A non-official member removed under clause (d) of sub-section (2) shall not be eligible for reappointment until he is declared by an order of the Government to be no longer ineligible.

Staff of the Board

10. Subject to rules made in this behalf, the Board may appoint such officers and other employees as may be necessary for the efficient performance of its functions and may determine their designations and grades.

Conditions of service of the staff of the Board

11. The officers and other employees of the Board shall be entitled to receive such salaries and allowances, as may be fixed by the Board and shall be governed by such other terms and conditions of service as may be prescribed by regulations.

Control and delegation by Chairman

12. The Chairman shall exercise supervision and control over the acts and proceedings of all officers and other employees of the Board, and may subject to rules made in this behalf, by general or special order, delegate to any officer of the Board, any of his powers, duties or functions under this Act or the rules or regulations made thereunder other than those specified in sections 14 and 85.

Housing unit

13. (1) The Board may, whenever, it is necessary or expedient so to do, establish a housing unit in such area as may be specified by it by notification in the Official Gazette for the efficient performance of its functions in that area.

(2) The housing unit shall form part of the establishment of the Board and shall consist of such officers and other employees as may be considered necessary by the Board.

(3) The housing unit shall be in charge of an officer who shall be under the administrative control of the Chairman and shall also exercise such powers and perform such duties and functions as may be delegated to him by the Chairman under section 12.

No disqualification in certain cases

*[13.A. No person shall be disqualified for being chosen as, or for being a member of Legislative Assembly by virtue only of the fact that he is a Chairman or a member of the Board].

CHAPTER - III

CONDUCT OF BUSINESS OF THE BOARD AND ITS COMMITTEES

Meetings of the Board

14. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be prescribed by regulations:

Provided that the Board shall meet at least once in every month:-

(2) The Chairman or in his absence such other member as may be chosen by the members present from among themselves shall preside at a meeting of the Board.

* Substituted vide Act No.12 of 1980 published in the Extraordinary Gazette of Puducherry No.5 dated 9.1.81 and these have come into force w.e.f 23.12.1980.

(3) All questions at any meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman, or in his absence the person presiding, shall have a second or casting vote.

(4) The Board shall, within seven days of every meeting, cause a copy of the proceedings of the meeting to be forwarded to the Department of the Government in charge of housing.

Temporary association of persons with the Board for particular purposes

15. (1) The Board may associate with itself in such manner and for such purpose as may be prescribed by rules, any person whose assistance or advice it may desire for the purpose of carrying into effect any of the provisions of this Act:

Provided that the number of persons so associated shall not be more than five.

(2) A person associated with the Board under sub-section (1) for any purpose shall have the right to take part in the discussions of the Board relevant to that purpose, but shall not have the right to vote and shall not be named as a member for any other purpose.

(3) The Government may, by order, depute one or more officers of the Government to attend any meeting of the Board and to take part in the discussions of the Board, but such officer or officers shall not have the right to vote.

Appointment and functions of Committees

16. (1) The Board may, from time to time, appoint Committees consisting of such member of persons as it may think fit for the purpose of discharging such duties or performing such functions, and on such terms and conditions as may be prescribed by regulations.

(2) The Chairman or such other person as he may nominate in this behalf shall be the President of the Committee and the Committee shall observe such rules of procedure in regard to transactions of business at its meetings as may be prescribed by regulations.

(3) All proceedings of the Committee shall be subject to confirmation by the Board.

Prohibition to take part proceedings

17. Save as otherwise provided by rules, no member of the Board or of a Committee or any person associated with the Board shall vote or otherwise take part in any proceeding of the Board or Committee relating to a matter in which he is personally interested.

Acts of the Board or Committee not to be invalidated by vacancy, etc.

18. No act done or proceeding taken under this Act by the Board or any Committee shall be invalidated merely on the ground –

(a) of any vacancy or defect in the constitution of the Board or of the Committee; or

(b) of any defect or irregularity in the appointment of a person acting as a member thereof; or

(c) of any defect or irregularity in such act or proceeding not affecting the merits of the case.

CHAPTER – IV

POWERS OF BOARD AND CHAIRMAN TO INCUR EXPENDITURE ON SCHEMES AND ENTER INTO CONTRACTS

Powers of Board and Chairman to incur expenditure

19. Subject to budget provision and availability of funds, expenditure may be incurred on any single work or scheme for carrying out any of the purposes of this Act –

(a) by the Chairman, if such expenditure does not exceed fifty thousand rupees;

(b) by the Board, in other cases:

Provided that the Board shall not, without the previous approval of the Government, incur any such expenditure exceeding ten lakhs of rupees:

Provided further that the Chairman shall report the expenditure incurred by him under this section to the Board at its next meeting for ratification.

Powers of Board and Chairman to approve estimates

20. The Board or the Chairman may accord approval to estimates for incurring expenditure on any work or scheme for carrying out any of the purposes of this Act subject to the like restrictions and conditions imposed on the Board or the Chairman, as the case may be, by section 19.

Emergency powers of Chairman

21. The Chairman may, in cases of emergency, direct the execution of any work or the doing of any act which requires the sanction of the Board and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public and may also direct that the expenses of executing the work or of doing the act shall be paid from the funds of the Board.

Provided that –

(a) he shall not act under this section in contravention of any direction of the Board or the Government prohibiting the execution of any particular work or the doing of any particular act;

(b) he shall report the action taken by him under this section and the reasons therefor to the Board at its next meeting and shall also submit a copy of his report to the Government and the Board or the Government may issue such directions as it may deem fit on such report.

Power to make and perform contracts

22. The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out the purposes of this Act.

Agreements and security deposits

23. (1) Every contract shall be made on behalf of the Board by the Chairman or any officer of the Board authorised in writing by the Board in this behalf.

(2) The Chairman shall take sufficient security deposit for the due performance of the contract from every person with whom the contract is entered into.

(3) Written agreements shall be executed for all contracts, the value of which exceeds five hundred rupees.

(4) Every contract made under sub-section (1), the value of which exceeds ten thousand rupees, shall be reported to the Board at its next meeting.

Further provisions as to the execution of contracts and agreements

24. Subject to the provisions of sections 22 and 23, the contracts or agreements shall be made or executed in accordance with the rules made in that behalf.

Contract made in contravention of Act, etc., not binding on Board

25. A contract or agreement made or executed in contravention of the provisions of this Act or the rules or regulations made thereunder shall not be binding on the Board.

Registration of instruments

26. (1) Notwithstanding anything contained in the Registration Act, 1908, it shall not be necessary for the Chairman or an officer of the Board referred to in sub-section (1) of section 23 to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Chairman or any officer of the Board for information respecting the same and shall, on being satisfied of the execution thereof, register, the instrument.

CHAPTER – V

HOUSING OR IMPROVEMENT SCHEMES

Power of the Board to undertake housing or improvement schemes and incur expenditure

27. (1) Subject to the provisions of this Act, the Board may, from time to time, incur expenditure and undertake works for the framing and execution of such housing or improvement schemes as it may consider necessary.

(2) The Government may, on such terms and conditions as may be agreed upon between the Government and the Board, transfer to the Board the execution of any housing or improvement scheme not provided for by this Act, and the Board shall thereupon undertake the execution of such scheme as if it had been provided for by this Act.

(3) The Board may, on such terms and conditions as may be agreed upon, between the Board and the local authority or planning authority as the case may be, take over for execution any housing or improvement scheme undertaken by a local authority or planning authority and the Board shall execute such scheme as if it had been provided for by this Act.

Power of Government to transfer any land belonging to or vested in it or acquired under the Slum Areas (Improvement and Clearance) Act, 1956

28. Whenever the Government consider it expedient or necessary, for the purpose of clearance or improvement of any slum area, to transfer any land in such area belonging to, or vested in it, or acquired under the provisions of the Slum Areas (Improvement and Clearance) Act, 1956, it may do so on such terms and conditions as may be agreed upon between the Government and the Board and direct the Board to undertake the clearance or improvement of that area and to frame and execute such housing or improvement scheme under this Act as the Government may specify and the Board shall thereupon undertake the same for execution as if it has been provided for by this Act.

When housing or improvement schemes may be made by the Board

29. (1) A housing or improvement scheme under this Act may be made by the Board of its own motion, or at the instance of the Government or by any local authority.

(2) Where any local authority requests the Board to execute any housing or improvement scheme, the Board shall do so only if it is satisfied that, --

- (a) the funds at its disposal are sufficient to execute the scheme; and
- (b) the scheme is necessary and capable of being executed.

(3) Where any local authority is aggrieved by the decision of the Board not to execute its scheme, it may appeal to the Government which may pass such order on appeal as it may think fit and every such order passed by the Government shall be binding on the Board.

Matters to be provided by housing or improvement schemes

30. Notwithstanding anything contained in any other law for the time being in force, a housing or improvement scheme may provide for all or any of the following matters, namely: -

- (a) the acquisition by purchase, exchange, or otherwise of any property necessary for or affected by the execution of the scheme;
- (b) the laying or re-laying out of any land comprised in the scheme;
- (c) the distribution or redistribution of sites belonging to owners of the property comprised in the scheme;
- (d) the closure or demolition of dwellings or portions of dwellings unfit for human habitation;
- (e) the demolition of obstructive buildings or portions of buildings;
- (f) the construction and reconstruction of buildings;
- (g) the sale, lease or exchange of any property comprised in the scheme;
- (h) the construction and alteration of roads, streets, back lanes, bridges, culverts and causeways;
- (i) the draining, water-supply and lighting of the streets included in the scheme;
- (j) the provision of roads, parks, playing fields, and open spaces for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing fields, open spaces and approaches;
- (k) the provision of sanitary arrangements required for the area comprised in the scheme including the conservation of and prevention of injury or contamination to rivers or other sources and means of water supply;
- (l) the provision of accommodation for any class of inhabitants;
- (m) the advance of money for the purposes of the scheme;
- (n) the provision of facilities for communication and transports;

(o) the collection of such information and statistics as may be necessary for the purposes of this Act;

(p) the reclamation or reservation of lands for markets, gardens, playing fields and afforestation;

(q) the provision of schools, parks, swimming pools, restaurants, shops, markets, fuel depots, laundries, hair dressing saloons and other amenities in the scheme; and

(r) any other matter for which, in the opinion of the Government, it is necessary or expedient to provide for house accommodation or for the improvement of any area comprised in the scheme or such other area as the Government may, by notification in the Official Gazette, declare to be an area surrounding or adjoining to the area comprised in the scheme.

Types of housing or improvement schemes

31. Any housing or improvement scheme shall be of one of the following types, or combination of any two or more such types or of any special features thereof, that is to say –

- (a) a house accommodation scheme;
- (b) a rebuilding scheme;
- (c) a rehousing or rehabilitation scheme;
- (d) a city or town or village expansion scheme;
- (e) a street scheme;
- (f) a deferred street scheme;
- (g) a land development scheme; and
- (h) a general improvement scheme.

House accommodation scheme

32. Whenever the Board is of opinion that it is expedient or necessary to meet the need for housing accommodation in any area, the Board may frame a house accommodation scheme for that area, –

- (a) specifying the lay-out of the area where houses will be constructed;
- (b) providing for roads, streets, drainage, water supply, street lighting and other amenities;
- (c) providing for the construction of houses and the disposal thereof by sale or by lease or on hire-purchase basis.

Rebuilding scheme

33. (1) Whenever it appears to the Board that the circumstances specified in clause (a) or clause (b) of section 39 exist in any area and that having regard to the comparative value of the building in such area and of the sites on which they are erected, the most satisfactory method of dealing with the area or any part thereof is to frame a rebuilding scheme, the Board may frame a rebuilding scheme for the whole or any part of that area in accordance with the provisions of this section.

(2) A rebuilding scheme may provide for, --

(a) the reservation of roads, street, lanes and open spaces and the enlargement of the existing roads, streets, lanes and open spaces to such extent as may be necessary for the purpose of the scheme;

(b) the re-laying out of the sites of the area upon roads, streets, lanes and open spaces so reserved or enlarged.

(c) the payment of compensation in respect of any such reservation or enlargement and the formation of roads, streets, lanes and open spaces so reserved or enlarged;

(d) the reconstruction, alteration or demolition of the existing buildings and their appurtenances by the owners or by the Board in default of the owners, and the erection of buildings in accordance with the scheme by the said owners, or by the Board in default of the owners, upon the sites as defined under the scheme;

(e) the advances to the owners, upon such terms and conditions as to interest, sinking fund, and other matters as may be provided under the scheme, of such sums as may be necessary to assist them to reconstruct or alter existing buildings or to erect new buildings in accordance with the scheme; and

(f) the acquisition by the Board of any site or building comprised in the area included in the scheme.

Rehousing or rehabilitation scheme

34. Whenever the Board is of opinion that it is necessary for persons who –

(a) are displaced by the execution of any housing or improvement scheme; or

(b) are likely to be displaced by the execution of any housing or improvement scheme which it is intended to frame under this Act; or

(c) are surplus in any scheme area, the Board may frame a re-housing scheme for the construction, maintenance and management of such number of dwelling houses and shops as may be required, or may frame a rehabilitation scheme for providing such number of open plots with roads, streets and open spaces as may be necessary.

City or town or village expansion scheme

35. (1) Whenever the Board is of opinion that it is expedient to control and provide for the future expansion or development of a city, town or village, the Board may frame an expansion scheme and specify the time-limit for the execution of such scheme.

(2) The expansion scheme may be framed in respect of an area which is wholly within or wholly outside the limits of city, town or village or in respect of an area which lies partly within and partly outside the city, town or village.

(3) Such scheme shall specify the proposed layout of the area to be developed and the purposes for which particular portions thereof are to be utilised.

(4) After any such scheme has come into force, no person shall, without the previous permission of the Board, erect, re-erect, add to, or alter any building or wall within the area comprised in the scheme.

(5) Where the Board refuses to grant permission to any person to erect, re-erect, add to, or alter any building or wall on his land in the area aforesaid, and does not proceed to acquire such land within one year from the date of such refusal, the Board shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal.

Street scheme

36. (1) Whenever the Board is of opinion that for the purpose of –

- (a) providing building sites, or
- (b) remedying defective ventilation, or
- (c) creating new or improving existing means of communication and facilities for traffic, or
- (d) affording better facilities for conservancy, it is expedient to lay out new streets or alter existing streets (including bridges, causeways and culverts) in any area, the Board may frame a street scheme for such area.

(2) A street scheme may, within the limits of the area comprised in the scheme, provide for the following matters, namely: -

- (a) the acquisition of any land which, in the opinion of the Board, is necessary for the street scheme;
- (b) the re-laying out of all or any of the lands so acquired including the construction and reconstruction of buildings, by the Board or by persons authorised by the Board in that behalf and laying out, construction and alteration of streets and thoroughfares;
- (c) the draining, water supply and lighting of streets and thoroughfares so laid out, constructed or altered;
- (d) the raising, lowering, or reclamation of any land vested in, or to be acquired by, the Board for the purposes of the scheme;
- (e) the provision of open spaces for the better ventilation of the area comprised in the scheme; and
- (f) the acquisition of any land adjoining any street, thoroughfares, or open space to be formed under the scheme.

Deferred street scheme

37. (1) Whenever the Board is of opinion that it is necessary to provide for the ultimate widening of any street by altering the existing alignments of such street to improved alignments to be prescribed by the Board but that it is not necessary immediately to acquire all or any of the properties lying within the proposed alignments, the Board may frame a deferred street scheme prescribing an alignment on each side of the street and specify the time limit for the execution of such scheme.

(2) A deferred street scheme shall provide for the following matters, namely: -

(a) the acquisition of the whole or any part of any property lying within the prescribed street alignments within the time-limit specified in the scheme which may be extended by the Board from time to time:

Provided that such time-limit including the extensions granted by the Board shall in no case exceed twenty years from the date of sanction of the scheme;

(b) the re-laying out of all or any such property including the construction of buildings by the Board or by any other person, and the formation and alignment of the street;

(c) the drainage, water supply and lighting of the streets so formed or altered.

(3) After a deferred street scheme has been notified in the Official Gazette as required by section 45,

(a) no person shall, except, with the written permission of the Board, erect, re-erect, add to, or alter any building or wall so as to make the same project into the prescribed alignment of the street;

(b) if the Board fails to acquire, or to initiate proceedings for the acquisition of, any property within the prescribed alignment of any street within the time limit specified in the scheme or extended by it, the owner of such property may, at any time thereafter, give the Board notice requiring it to acquire, or to initiate proceedings for the acquisition of, such property before the expiration of six months from the date of such notice, and thereupon the Board shall acquire the property, or initiate such proceedings and acquire the property accordingly; and if the Board fails to do so, it shall pay reasonable compensation to the owner for any damage sustained by him in consequence of such failure;

(c) before proceeding to acquire any property lying within the prescribed alignment of the street other than the property in respect of which it has received a notice under clause (b), the Board shall give six month's notice to the owner of its intention to acquire such property;

(d) the local authority or planning authority or the Public Works Department shall not have power to prescribe any alignment of the street within the limits of the scheme, and any such alignment previously prescribed within such limits shall cease to be the alignment of the street.

Land development scheme

38. Whenever the Board is of opinion that it is expedient or necessary to provide building sites in any area, the Board may frame a land development scheme for that area, -

(a) specifying the lay-out of the area to be developed and the purposes for which different portions thereof shall be utilised;

(b) providing for roads, streets, open spaces, drainage, water supply, street lights and other amenities;

(c) providing for the disposal of house sites by sale or on hire-purchase basis.

General Improvement scheme

39. Whenever it appears to the Board ---

(a) that in any area, any buildings used or intended or likely to be used as dwelling houses are unfit for human habitation, or

(b) that danger to the health of the inhabitants of buildings in any area, or to buildings in the neighbourhood of such area is likely to be caused by ---

(i) the narrowness, closeness or bad arrangement or condition of streets or buildings or groups of buildings in such areas, or

(ii) the want of light, air, ventilation, or proper conveniences in such area, or

(iii) any other sanitary defects in such area,

the Board may frame a General improvement scheme in respect of such area.

Preparation, publication and transmission of notice as to housing or improvement schemes and supply of documents to applicants

40. (1) When any housing or improvement scheme has been framed, the Board shall prepare a notice to that effect and specify –

(a) the boundaries of the area comprised in the scheme;

(b) the place or places at which particulars of the scheme, a map of the area, and details of the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment fee, may be seen at reasonable hours.

(2) The Board shall ---

(a) cause the said notice to be published weekly for three consecutive weeks in the Official Gazette and in leading daily newspapers specifying the period upto which the objections will be received; and

(b) send a copy of the notice to the local authority or planning authority concerned.

(3) The Chairman shall cause copies of all documents referred to in clause (b) of sub-section (1) to be delivered to any applicant on payment of the fee fixed by the Board.

Transmission to the Board of representation by the concerned local authority or planning authority as to housing or improvement scheme

41. The local authority or planning authority to which a copy of a notice has been sent under clause (b) of sub-section (2) of section 40 shall, within a period of sixty days from the date of receipt thereof forward to the Board, any representation which the local authority or planning authority as the case may be, may wish to make regarding the scheme.

Notice regarding proposal to recover betterment fee

42. (1) Within the three weeks following the day on which any notice is first published under section 40 in respect of any housing or improvement scheme, the Board shall serve a notice in such form as may be prescribed by rules on every person whose name appears in the assessment list of the local authority or planning authority concerned as being primarily liable to pay property tax on any building or land in regard to which the Board proposes to recover betterment fee.

(2) A copy of the notice shall also be affixed in every such premises.

(3) Every such notice shall be signed by the Chairman or a person duly authorised by him in that behalf.

(4) Any person on whom a notice under sub-section (1) has been served may, within thirty days from the service of the notice make a representation in writing to the Board stating his objections to the scheme.

Furnishing of copies or extracts from the assessment book of the local authority or planning authority

43. The Executive Officer of any local authority or planning authority shall, at the request of the Chairman, furnish him with a copy of, or an extract from, the assessment list.

Abandonment, modification or sanction of a housing or improvement scheme

44. (1) After considering the objections and representations, if any, received in pursuance of sub-section (2) of section 40, section 41 and sub-section (4) of section 42 and after hearing the persons who, having raised any such objection or made any such representations, desire to be heard, the Board may either abandon or modify or sanction the scheme, or apply to the Government for sanction with such modifications, if any, as the Board may consider necessary if the cost of the scheme exceeds ten lakhs of rupees.

(2) The Government may sanction with or without modification, or may refuse to sanction or may return for reconsideration any housing or improvement scheme, costing over ten lakhs of rupees submitted to it under sub-section (1).

(3) If the scheme returned for reconsideration under sub-section (2) is modified by the Board, the notice of the fact that the scheme has been modified shall be published in accordance with section 40 ---

(a) in every case in which the modification affects the boundaries of the area comprised in the scheme, or involves the acquisition of any land not previously proposed to be acquired; and

(b) in every other case, where the modification is in the opinion of the Board of sufficient importance to require publication.

Publication of sanction of housing or improvement scheme

45. (1) Whenever the Board or the Government sanctions a housing or improvement scheme, the scheme as so sanctioned shall be notified in the Official Gazette:

Provided that whenever the Board sanctions a scheme with modifications, if any, it shall cause notice to that effect to be published weekly for two consecutive weeks in the Official Gazette and in leading daily newspapers.

(2) The publication of the scheme or notice under sub-section (1) shall be conclusive evidence that the scheme has been duly framed and sanctioned.

(3) Any person aggrieved by the sanctioning of a housing or improvement scheme may, within thirty days from the date of the last publication in the Official Gazette of the said scheme, appeal to the Government and the decision of the Government on such appeal shall be final and shall not be liable to be questioned in any court of law.

(4) The scheme shall come into force and shall have effect –

(a) where no appeal is preferred under sub-section (3) on and from the expiry of the thirty days referred to in that sub-section; and

(b) where such appeal is preferred, on and from the date of the decision of the Government on such appeal.

The Board to execute housing or improvement scheme soon after sanction

46. As soon as may be after a housing or improvement scheme (other than an expansion scheme or a deferred street scheme) has come into force, the Board shall proceed to execute the same.

Alteration of a housing or improvement scheme after sanction

47. At any time after a housing or improvement scheme has been sanctioned by the Board or the Government, as the case may be, but before it has been carried into execution, the Board may alter or cancel it:

Provided that –

(a) if any alteration is likely to increase the estimated net cost of executing the scheme by more than ten per cent of the total cost, or if any altered scheme is likely to cost more than ten lakhs of rupees, the alteration shall not be made without the previous sanction of the Government;

(b) if any alteration involves the acquisition otherwise than by agreement of any land not previously proposed to be acquired in the original scheme, the procedure prescribed in the foregoing sections of this Chapter shall, so far as it may be applicable, be followed so if the alteration were a separate scheme;

(c) if, owing to any alteration, any land not previously liable under the scheme to the payment of betterment fee, becomes liable to such payment, the procedure laid down in sections 40, 41 and 42 shall, so far as it may be applicable, be followed in regard to such land:

Provided further that no scheme, costing over ten lakhs of rupees; shall be cancelled under this section without the previous sanction of the Government.

Explanation.-- For the purposes of this section, the expression "alteration" includes a combination of two or more schemes framed or proposed to be framed and the expression "altered scheme" includes any scheme so combined.

Transfer to Board for purposes of improvement scheme building or land vested in local authority or planning authority

48. (1) Whenever any building or land or any part thereof, which is situated within the jurisdiction of a local authority or planning authority and is vested in such local authority or planning authority is covered by any housing or improvement scheme, the Board shall give notice to that effect to the local authority or planning authority, as the case may be, and such building or land or part thereof shall thereupon vest in the Board.

(2) Where any land situated within the jurisdiction of a local authority or planning authority vests in the Board under sub-section (1) and the Board makes a declaration that such land will be retained by the Board only until it reverts in the local authority or planning authority, as the case may be, as part of a street or an open space under section 51, no compensation shall be payable by the Board to the local authority or planning authority, as the case may be, in respect of that land.

(3) Where any land or building vests in the Board under sub-section (1) and no declaration is made under sub-section (2) in respect of the land, the Board shall pay to the local authority or planning authority, as the case may be, as compensation a sum equal to the market value of such land or building as on the date on which the scheme comes into force under section 45 and where any building situated on the land in respect of which a declaration has been made by the Board under sub-section (2) is vested in the Board under sub-section (1), like compensation shall be payable in respect of such building by the Board.

(4) Where contrary to the declaration made in respect of any land under sub-section (2), the Board retains or disposes of the land, the Board shall pay to the local authority or planning authority, as the case may be, compensation in respect of such land in accordance with the provisions of sub-section (3).

(5) If any question or dispute arises as to whether the compensation is payable under sub-section (3) or sub-section (4), or, as to the quantum of compensation payable or as to whether any building, land or any part thereof, is required for the purposes of a scheme, the matter shall be referred to the Government, whose decision thereon shall be final.

Transfer of private street or square to Board for purpose of housing or improvement scheme

49. (1) Whenever any private street or square or part thereof is required for executing any housing or improvement scheme, the Board shall cause to be affixed in a conspicuous place in or near such street or square or part thereof, a notice signed by the Chairman –

(a) stating the purpose for which the street or square or part thereof is required and;

(b) declaring that the Board will, on or after a date to be specified in the notice, take over charge of such street or square, or part from the owner thereof,

and shall simultaneously send a copy of such notice to the owner of such street or square or part.

(2) After considering the objections (if any), received in writing before the date specified in the notice under sub-section (1), the Board may take over possession of such street or square or part, and the same shall thereupon vest in the Board.

(3) Upon the vesting of any private street, square or part thereof in the Board under sub-section (2), the Board shall pay to the person who owned such street, square or part, an amount equal to the amount which he would have been entitled to if such street, square or part had been acquired under the Land Acquisition Act, 1894 (Central Act 1 of 1894).

(4) If the Board makes any alteration in such street, square or part thereof or closes access thereto and such alteration or closure causes damage or substantial inconvenience to owners of property adjacent thereto, or to residents in the neighbourhood, the Board shall forthwith provide some other reasonable means of access for the use of such owners or residents and shall also pay them reasonable compensation for any damage or substantial inconvenience so caused.

Repairs of streets vested in the Board

50. Whenever the Board allows any street vested in it to be used for public traffic it shall keep the street in good repair and do all things necessary for the safety and convenience of persons using it.

Transferring streets laid out or altered and open spaces provided by the Board under a housing or an improvement scheme

51. (1) The Board may hand over any street to a local authority or planning authority concerned after giving a month's notice, when --

(a) any such street laid out or altered by the Board has been duly levelled, metalled, flagged, channeled, sewered and drained in the manner provided in the scheme sanctioned by the Board or the Government under section 44;

(b) lamp posts necessary for the lighting of such streets have been provided by the Board; and

(c) water and other sanitary conveniences have been duly provided in such streets.

(2) (a) The local authority or planning authority concerned may, after receiving the notice from the Board under sub-section (1), declare the street to be a public street;

(b) The street shall thereupon vest in the local authority or planning authority, as the case may be, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the local authority or planning authority concerned.

(3) When any open space for the purposes of ventilation or recreation has been provided by the Board in executing any housing or improvement scheme, it shall, on completion, be transferred to the local authority or planning authority concerned by a resolution of the Board and it shall thereupon vest in the local authority or planning authority concerned and thereafter be maintained by that local authority or planning authority at its expense:

Provided that the local authority or planning authority, as the case may be, may require the Board before any such open space is so transferred, to enclose, level, turf, drain and layout such space and provide foot-path therein, and, if necessary, to provide lamps and other apparatus for lighting it.

Prevention or restriction of traffic in street vested in the Board

52. (1) When any work is being lawfully executed by the Board in any street vested in it, the Board may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

(2) When any such direction has been given, the Board shall set up, in a conspicuous position in or near the street, an order prohibiting traffic to the extent so directed, and fix such bars, chains, or posts across or in the street as it may think proper for preventing or restricting traffic therein.

Provision of facilities when work is executed by the Board in public streets vested in it

53. (1) When any work is being executed by the Board in any public street vested in it, the Board shall, so far as may reasonably be practicable, make adequate provision for ---

(a) the passage or diversion of traffic;
 (b) securing access to all premises approached from such street; and
 (c) any drainage, water supply, or means of lighting which is interrupted by reason of the execution of the work.

(2) The Board shall pay reasonable compensation to any person who sustains special damage by reason of the execution of any such work.

Power of the Board to turn or close public street or square vested in it

54. (1) The Board may ---

(a) turn, divert or discontinue the public use of, or permanently close, any public street vested in it or any part thereof; or
 (b) discontinue the public use of, or permanently close, any public square vested in it or any part thereof.

(2) Whenever the Board discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall pay reasonable compensation to every person who was entitled, otherwise than as a member of the public, to use such street or part as means of access, and has suffered damage from such discontinuance or closure.

(3) Whenever the Board discontinues the public use of, or permanently closes, any public square vested in it or any part thereof, it shall pay reasonable compensation to every person who was entitled, otherwise than as a member of the public, to use such square or part as a means of access.

(4) When any public street or square vested in the Board, or any part thereof, is permanently closed under sub-section (1), the Board may sell or lease out such portion thereof as is no longer required.

Power of the Board to retain lanes not meant for vehicular traffic

55. The Board may retain any lane (not meant for vehicular traffic) and may enter into an agreement with the local authority or planning authority concerned or any other person for the supervision, repair, lighting any general management of any such lane so retained.

Other duties of the Board

56. It shall also be the duty of the Board to take measures with a view ---

(a) to plan and coordinate all housing activities in the Union territory, and to ensure expeditious and efficient implementation of housing or improvement schemes in the Union territory;

(b) to provide technical advice and scrutinise all projects under housing or improvement schemes sponsored or assisted by the Central Government or the Government of the Union territory;

(c) to maintain, allot, lease and otherwise use plots, buildings, and other properties of the Board or the Government and to collect rents from the properties under the control and management of the Board, and repay loans to the Government and Central Government;

(d) to set up a research section for the purpose of expediting the construction of, and reducing the cost of buildings; and

(e) to organise and run workshops and stores for manufacture, sale, stockpiling and supply of building materials, required for housing or improvement schemes.

Supervision and centage charges

57. The Board may include in the cost of any housing or improvement scheme framed by it or any other work undertaken by it, supervision and centage charges at such rates as may be fixed by it:

Provided that the rate so fixed shall not be more than twelve and a half per cent of the cost of the scheme or work.

Power of Government to call for the records of the Board and to modify, annual, etc., of housing or improvement schemes

58. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the Government may at any time, in the case of any housing or improvement scheme, proposed to be framed or framed by the Board or being executed by it, call for the records of the Board relating to such scheme and if, after examining the same and considering the representations, if any, of the Board and local authority of planning authority concerned, it appears to the Government that such scheme should be

modified, annulled or remitted for consideration to the Board or that such scheme should be executed with modifications, it may pass orders accordingly.

(2) The Government may stay the execution of any such scheme pending the exercise of its powers under sub-section (1) in respect thereof.

(3) (a) Any housing or improvement scheme which has already come into force but has been modified by the Government under sub-section (1) shall have effect as if it had been duly sanctioned by the Board under section 44.

(b) The scheme as modified shall be published in accordance with the provisions of section 45 and on such publication the scheme so modified shall come into force and shall have effect.

Power to exempt

59. The Government, may, by notification, in the Official Gazette, exempt, subject to such conditions and restrictions as may be specified in the notification, any housing or improvement scheme or class of housing or improvement schemes from all or any of the provisions of this chapter.

CHAPTER – VI

ACQUISITION AND DISPOSAL OF LAND

Power to acquire land under the Land Acquisition Act, 1894

60. Any land or any interest therein required by the Board for any of the purposes of this Act shall be deemed to be required for a public purpose and may be acquired under the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

Power to purchase or lease by agreement

61. The Board may enter into agreement with any person for the acquisition from him by purchase, lease or exchange, of any land or any interest therein which may be required for any of the purposes of this Act:

Provided that if the value of such land or interest exceeds ¹[three lakh rupees], the Board shall not enter into such agreement without the previous approval of the Government.

Power to dispose of land

62. The Board may, subject to such rules as may be made in this behalf, retain or may lease, sell, exchange or otherwise dispose of any land vested in or acquired by it, under this Act.

1. Amended vide Act No.11 of 1987 and published in the Extra - ordinary Gazette No.43 dated 31.12.87.

CHAPTER – VII**LEVY, ASSESSMENT AND RECOVERY OF BETTERMENT FEE****Payment of betterment fee**

63. (1) When by the execution of a housing or improvement scheme any land in the area comprised in the scheme which is not required for the execution thereof will, in the opinion of the Board, be increased in value, the Board, in framing the scheme, may declare that betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.

(2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of buildings, exceeds the value of the land prior to the execution of the scheme estimated in the like manner; and the betterment fee shall be one-third of such increase in value.

(3) The Board may, with the previous approval of the Government, declare that such betterment fee shall also be payable in respect of any land not comprised in the scheme but is adjacent to the area comprised in the scheme if such land will be increased in value consequent on the execution of a housing or improvement scheme in the area comprised in the scheme:

Provided that the Board shall, before declaring that any betterment fee shall be payable under this sub-section, serve a notice in such form as may be prescribed, on every person whose name appears in the assessment list of the local authority or planning authority concerned as being primarily liable to pay property tax on any building or land in regard to which the Board proposes to declare that such betterment fee shall be payable and thereupon the provisions of sub-section (2), (3) and (4) of section 42 shall apply to every notice served under this proviso.

Assessment of betterment fee by the Board and notice to persons liable to such fee

64. (1) Whenever it appears to the Board that a housing or improvement scheme is sufficiently advanced to enable the amount of the betterment fee to be assessed, the Board shall, by a resolution passed in this behalf, declare that for the purpose of assessing such fee, the execution of the scheme shall be deemed to have been completed and shall thereafter give notice in writing to every person on whom a notice in respect of land to be assessed has been served under sub-section (1) of section 42, or to the successor in interest of such person, as the case may be, that the board proposes to assess the amount of the betterment fee payable in respect of the land under section 63.

(2) The Board shall then assess the amount of betterment fee payable by each person concerned, after giving such person an opportunity of being heard, and such person, shall, within one month from the date of receipt of notice in writing of such assessment from the Board, inform the Board in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (2), such assessment shall be final.

(4) If the person concerned does not accept the assessment made by the Board or fails to inform the Board as required under sub-section (2) within the period specified therein, the matter shall be referred to the Government..

(5) The Government shall, after holding an inquiry, and after hearing the person concerned, assess the amount of betterment fee payable by the person.

Board to give notice to persons liable to payment of betterment fees

65. When the amount of all betterment fees payable in respect of land in the area comprised in the scheme and in respect of land not comprised in the scheme area but is adjacent to the area comprised in the scheme referred to in sub-section (3) of section 63 has been assessed under section 64, the Board shall, by a notice in writing to be served on all persons liable to such payment, fix a date by which such payment shall be made, and interest at the rate of four and a half per cent per annum upon any amount outstanding shall be payable from that date:

Provided that any person liable as aforesaid may make payment, if he so chooses, in such number of annual instalments not exceeding ten as the Board may determine.

Recovery of betterment fees

66. All moneys payable as betterment fees in respect of any land by any person shall, together with interest due up to the date of realization, be recoverable by the Board from the said person or his successor-in interest in such land, as an arrear of land revenue.

Levy of betterment fee not bar to acquisition

67. Levy or payment of betterment fee with respect to a land under the provisions of this Chapter shall not be deemed to prevent the acquisition of the land under the Land Acquisition Act, 1894 (Central Act 1 of 1894).

CHAPTER - VIII

POWER TO EVICT PERSONS FROM BOARD PREMISES

Power to evict certain persons from Board premises

68. (1) If the competent authority is satisfied. --

(a) that the person authorised to occupy any Board premises, –

- (i) has not paid rent lawfully due from him in respect of such premises for a period of more than two months; or
- (ii) has sub-let, without the permission of the Board, the whole or any part of such premises; or
- (iii) has otherwise acted in contravention of any of the terms, expressed or implied, under which he is authorised to occupy such premises; or

(b) that any person is in unauthorised occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served by registered post, or by affixing a copy of it on the outer door or some other conspicuous part of such premises, or in such other manner as may be prescribed by rules, order that the person authorised to occupy as well as any other person who may be in occupation of the whole or any part of the premises shall vacate them within one month of the date of the service of the notice.

(2) Before an order under sub-section (1) is made against any person, the competent authority shall inform the person, by notice in writing and served in the manner provided for service of notice under sub-section (1), of the grounds for which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made within a period to be specified in such notice.

(3) The competent authority may, on application, grant extension of the period specified in such notice on such terms as to payment and recovery of the amount claimed in the notice as he deems fit.

(4) Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the records of the case, and such person shall be entitled to appear in the proceeding either in person or by pleader.

(5) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may evict that person from and take possession of, the premises and may for that purposes use such force as may be necessary.

(6) If a person, who has been ordered to vacate any premises under sub-clause (i) or sub-clause (iii) of clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (5), cancel its order made under sub-section (1), and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

Explanation. – For the purposes of this section and section 69, the expression "unauthorised occupation" in relation to any person authorised to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.

Power to recover rent or damage as arrears of land revenue

69. (1) (a) Subject to any rules made by the Government in this behalf and without prejudice to the provisions of section 68, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served by registered post, or by affixing a copy of it on the outer door or some other conspicuous part of such premises, or in such other manner as may be prescribed by rules, order that person to pay the same within such time not being less than ten days as may be specified in the notice.

(b) In such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as an arrear of land revenue.

(2) (a) Where any person is in unauthorised occupation of any Board premises, the competent authority may, assess damages on account of the unauthorised use and occupation of the premises as it may deem fit in the manner prescribed by rules, and may by notice served in the manner provided for service of notice under sub-section (1), order that person to pay the damages within such time as may be specified in the notice.

(b) If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as an arrear of land revenue.

(3) No order shall be made under sub-section (2) until after the issue of a notice in writing to the person calling on him to show cause, within such period as may be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the competent authority.

Appeal

70. (1) Any person aggrieved by an order of the competent authority under section 68 or section 69 may, within one month from the date of receipt of such order by him, prefer an appeal to the Government:

Provided that the Government may entertain the appeal after the expiry of one month, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Government may, after calling for a report from the competent authority and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the Government shall be final.

(3) On such appeal being preferred, the Government may stay the execution of the order of the competent authority for such period and on such conditions as it may think fit.

Rent to be recovered from deductions from salary or wages in certain cases

71. (1) Subject to the provisions of section 68, any person who is an employee of the Government or a local authority and who has been allotted any Board premises may execute an agreement in favour of the Board providing that the Government or the local authority, as the case may be, under or by whom he is employed shall be competent to deduct from the salary or wages payable to him, such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

(2) On the execution of such agreement, the Government or the local authority, as the case may be, shall, if so required by the Board by requisition in writing, make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

Bar of jurisdiction of courts

72. No order made by the Government or the competent authority in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

CHAPTER - IX

FINANCE

Funds of the Board

73. (1) The Board shall have and maintain its own fund to which shall be credited, --

(a) all moneys received by the Board from the Government by way of grants, loans, advances, donations, gifts or otherwise or from any other source;

(b) all moneys received by or on behalf of the Board under this Act including the sale proceeds of lands and other kinds of property sold by the Board, all rents and all interests, profits, or other moneys accruing to the Board under this Act.

(2) The Board may keep in current account of the State Bank of India or any other Bank approved by the Government in this behalf such sum of money out of its funds as may be prescribed by rules and any money in excess of the said sum shall be invested in such manner as may be approved by the Government.

(3) The Government may make such grants, advances and loans to the Board as it may deem necessary for the performance of the functions under this Act and all grants, loans and advances so made shall be on such terms and conditions as the Government may determine.

Power of the Board to borrow and lend

74. Subject to the provisions of this Act and subject to such conditions and limitations as may be prescribed by rules and with the previous approval of the Government, the Board may, --

(a) borrow money required for the purposes of this Act, from the public or from any corporation owned or controlled by the Government;

(b) take credit from any Bank or any corporation owned or controlled by the Government on a cash account to be kept in the name of the Board and mortgage all or any of the properties vested in the Board by way of security for such credit;

(c) for the promotion and execution of any housing or improvement schemes under this Act, enter into any financial arrangements with any Bank or other financial institutions approved by the Government or with the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (Central Act 31 of 1956);

(d) grant loans and advances out of its funds on such terms and conditions as it may determine, to any co-operative society registered or deemed to be registered under the law relating to co-operative societies for the time being in force in the Union territory or to any other person for the construction of houses.

Issue of debentures

75. (1) Whenever money is borrowed by the Board on debentures, the debentures shall be in such form as the Board may, with the previous sanction of the Government, determine.

(2) All debentures shall be signed by the Chairman and by one of the members of the Board or by any other officer empowered by the Board in this behalf.

(3) The holder of any debenture in any form determined under sub-section (1) may obtain in exchange therefor a debenture in any other form determined under the said sub-section and on such terms as may be specified by the Board.

(4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer is specified therein.

(5) All coupons attached to debentures issued under this Act shall bear the signature of the Chairman; and such signature may be engraved, lithographed or impressed by any mechanical process.

Payments to survivors of joint payees

76. When any debenture or security issued or granted under this Chapter is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything contained in section 45 of the Indian Contract Act 1872 (Central Act 9 of 1872), the debenture or security shall be payable to the survivors of such persons:

Provided that nothing in this section shall affect any claim by the representative of the deceased person against such survivor or survivors.

Receipt by joint holder for interest or dividend

77. Where two or more persons are joint holders of any debenture or security issued or granted under this Chapter, any payment made to the first mentioned person therein of any dividend or interest payable in respect of such debenture or security shall be a full discharge of the liability of the Board in respect of such dividend or interest.

Priority of payments for interest and re-payment of loans

78. In making payment of dues from the Board, the Board shall give priority to repayment of loans borrowed by it and of interest thereon over all other dues from the Board.

Repayment of loans

79. Every loan taken by the Board shall be repaid by the Board within the period agreed upon by the Board and subject to such restrictions and conditions as may be prescribed by rules in that behalf, by such of the following methods as may be approved by the Government, namely:-

- (a) from a sinking fund established under section 80 in respect of the loan; or
- (b) by paying in equal yearly or half-yearly instalments of principal or of principal and interest, throughout the said period; or
- (c) if the Board has, before borrowing money on debentures, reserved by public notice, a power to pay off the loan by periodical instalments and to select by lot the particular debentures to be discharged at particular periods then, by paying such instalments at such periods; or
- (d) from money borrowed for the purpose; or
- (e) partly from the sinking fund established under section 80 in respect of the loan, and partly from money borrowed for the purpose.

Establishment and maintenance of sinking fund

80. (1) Whenever a loan has to be repaid from a sinking fund, the Board shall establish such fund and shall pay into it every year until the loan is repaid, a sum so calculated that if regularly paid throughout the period agreed upon by the Board, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the end of that period.

(2) The rate of interest on the basis of which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed by rules.

Power to discontinue payments into sinking fund.

81. Notwithstanding anything contained in section 80, if at any time the sum standing at credit of the sinking fund established for repayment of any loan is of such amount that if allowed to accumulate at the rate of interest prescribed by rules under sub-section (2) of that section, it will be sufficient to repay the loan at the end of the period agreed upon by the Board, then the Board may discontinue further annual payment into such fund.

Investment of sinking fund

82. All moneys paid into the sinking fund shall, as soon as possible, be invested by the Board in ---

- (a) Government securities; or
- (b) securities guaranteed by the Government.

Application of sinking fund

83. The sinking fund or any part thereof, shall, from time to time, be applied in or towards the discharge of the loan or any part of the loan for which such sinking fund was established; and until such loan is wholly discharged, it shall not be applied for any other purpose.

Annual examination of sinking fund

84. (1) The Pay and Accounts Officer, Puducherry, shall examine the sinking fund of the Board every year and ascertain whether the cash and current value of the securities at credit of such funds are actually equal to the amount which would have accumulated, had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The Board shall forthwith pay into the sinking fund any amount which the Pay and Accounts Officer may certify to be the deficiency therein after examination as aforesaid, unless the Government specially sanctions a gradual readjustment.

Estimates of income and expenditure to be laid before the Board

85. (1) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and expenditure of the Board for the next ensuing year.

(2) Every such estimate shall make provision for the due fulfilment of all liabilities of the Board, and for the efficient administration of this Act.

(3) Every such estimate shall differentiate capital and revenue funds and shall be prepared in such form, and shall contain such details, as the Government may, from time to time, prescribe by rules.

(4) Every such estimate shall be compiled and printed and a copy thereof sent, by post or otherwise, to each member at least ten clear days before the date of the meeting at which the estimate is to be laid before the Board.

(5) A revised estimate, if any, including all the expenditure not covered in the original estimate, shall be laid before the Board at a special meeting to be held in the month of December in each year.

Sanction of estimates

86. The Board shall consider every estimate so laid before it and shall sanction the same, either without modification or with such modification as it may think fit.

Approval of Government to estimates

87. (1) Every such estimate, as sanctioned by the Board, shall be submitted to the Government which may, at any time within three months after receipt of the same -

(a) approve the estimate, or

(b) disallow the estimate or any portion thereof and return the estimate to the Board for amendment.

(2) If any estimate is so returned to the Board, it shall forthwith proceed to amend it and shall resubmit the estimate as amended to the Government for approval.

Supplementary estimate

88. (1) The Chairman may, at any time, during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared, and laid before the Board at a special meeting.

(2) The provisions of sub-section (3) and (4) of section 85 and of section 86 and 87 shall apply to every such supplementary estimate.

Adherence to estimate and maintenance of closing balance

89. (1) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by the estimate approved by the Government or can be met by reappropriation or by drawing on the closing balance.

(2) The closing balance shall not be reduced below such limit as may be fixed in this behalf by the Government, from time to time.

(3) The following items shall be exempted from the provisions of sub-sections (1) and (2) namely: -

(a) refund of moneys belonging to contractors or other persons held in deposit, and of moneys collected by, or credited to, the Board by mistake;

(b) sums payable under a compromise of any suit or other legal proceedings or claim effected under this Act;

(c) sums payable under this Act by way of compensation; and

(d) payments required to meet any pressing emergency.

(4) Whenever any sum exceeding ten thousand rupees is expended under clause (d) of sub-section (3), the Chairman shall forthwith report the circumstances to the Board explaining how it is proposed to cover the expenditure.

Keeping of accounts

90. (1) The Board shall keep a capital account and a revenue account.

(2) Such sums as may be received by the Board under the provisions of this Act shall be divided and credited to the capital account or the revenue account, as the case may be, in such manner as may be prescribed by rules.

(3) Appropriation of amounts out of two different accounts referred to in sub-section (1) shall be specifically provided in the rules made in this behalf.

Change from one account to the other

91. (1) The Board may, with the previous approval of the Government; advance to the Revenue account any sum from the moneys standing in the Capital account or from the Revenue account to the Capital account, in either case, for the purpose of meeting any expenditure relatable to the account to which money is advanced.

(2) Any deficit in the Revenue account at the end of any year may be made good by an advance from the Capital account after obtaining the approval of the Government.

Budget of the Board

92. The Board shall prepare in such form and at such time every year as may be prescribed by rules, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Board in respect of the administration of this Act and shall forward to the Government such number of copies thereof as may be prescribed by such rules.

Accounts and Audit

93. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed by rules.

(2) The accounts of the Board shall be audited annually by the Pay and Accounts Officer, Puducherry or any other officer authorised by him in this behalf subject to the super-imposed audit of the Accountant-General to the extent necessary.

(3) The Pay and Accounts Officer, Puducherry or any person appointed by him in connection with the audit of accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Accountant-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Board.

(4) The accounts of the Board as certified by the Pay and Accounts Officer, Puducherry or any person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Government.

Annual reports

94. The Board shall prepare every year a report of its activities containing an abstract of the accounts of its receipts and expenditure during that year and submit the report to the Government in such form on or before such date as may be prescribed by rules.

CHAPTER - X

PENALTIES AND PROCEDURE

Penalty for removing fence, etc., in street

95. If any person, without lawful authority infringes any lawful order given by an authority under this Act, or removes any bar, chain or post fixed under sub-section (2) or section 52, he shall be punishable with fine which may extend to fifty rupees.

Penalty for building within street alignment or building line without permission

96. If any person, without the permission of the Board, erects, re-erects, adds to, or alters, any wall or building so as to make the same project into the street alignment or beyond the building line prescribed by any deferred street scheme, development scheme or town expansion scheme, he shall be punishable –

(a) with fine which may extend, in the case of a wall or masonry building, to five hundred rupees and in any other case, to fifty rupees; and

(b) where the offence is continued, with further fine which may extend, in the case of a wall or masonry building, to one hundred rupees and in any other case, to ten rupees for every day after the first during which the projection continues.

Penalty for failure to comply with requisition made by auditor

97. If any person fails to comply with any requisition made by the auditor under section 93, he shall be punishable –

(a) with fine which may extend to one hundred rupees; and

(b) in case of a continuing failure, with an additional fine which may extend to fifty rupees for every day after the first during which he has persisted in the failure.

Penalty for obstructing contractor or removing mark

98. If any person, --

(a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Board, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule or regulation made or scheme sanctioned thereunder; or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act or any rule or regulation

made or scheme sanctioned thereunder, he shall be punishable with fine which may extend to two hundred rupees.

Penalty for breach of the provisions of the Act, etc.

99. Whoever contravenes any of the provisions of this Act or of any rule or regulation made or scheme sanctioned thereunder shall, if no other penalty is provided for such contravention, be punishable –

- (a) with fine which may extend to one hundred rupees; and
- (b) in case of a continuing contravention, with an additional fine which may extend to fifty rupees for every day after the first during which he has persisted in the contravention.

Compensation to be paid by offenders for damage caused by them

100. (1) When any person is convicted of any offence under this Act or any rule or regulation made or scheme sanctioned thereunder, the magistrate convicting such person may, on application made to him in this behalf by the Board or by its officer or servant authorised by it in this behalf, call upon such person forthwith to show cause as to why he should not pay compensation to the Board for the damage caused by his act or omission in respect of which he is convicted.

(2) The magistrate shall record and consider any cause which such person may show and if the magistrate, after making such inquiry as he may think fit, is satisfied that such person is liable to pay compensation, may direct that compensation of such amount not exceeding one thousand rupees as he may determine, be paid by such person to the Board.

(3) The amount of compensation directed to be paid under sub-section (2), shall, if it be not paid forthwith, be recovered as if it were a fine imposed by the magistrate on such person.

Composition of offences

101. (1) The Board, the Chairman or any person authorised by the Board in this behalf, by general or special order, may either before or after the institution of the proceedings compound any offence punishable under this Act.

(2) When the offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

Fine realised to be paid to Board

102. All fines realised in connection with prosecution under this Act shall be paid to the Board.

Cognizance of offence under this Act

103. (1) No court shall take cognizance of any offence punishable under this Act or any rule or regulation made of scheme sanctioned thereunder unless a complaint of such offence is made by the Chairman within six months, next after the commission thereof.

(2) No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

Duty of police officers

104. It shall be the duty of every police officer –

(a) to co-operate with the Chairman for carrying into effect and enforcing the provisions of this Act or any rule or regulation made or scheme sanctioned thereunder;

(b) to communicate without delay to the proper officer or servant of the Board any information which he receives of a design to commit or of the commission of any offence punishable under this Act; and

(c) to assist the Chairman or any officer or servant of the Board reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or in such officer or servant under this Act or any rule or regulation made or scheme sanctioned thereunder.

Arrest of offenders

105. (1) Any police officer not below the rank of a head constable may arrest any person who commits in his presence, any offence punishable under this Act or any rule or regulation made or scheme sanctioned thereunder, if the name or address of such person be unknown to him and if such person on demand declines to give his name or address, or gives a name or address which such officer has reason to believe to be false.

(2) (a) No person so arrested shall be detained in custody after his true name and address are ascertained, or for any longer time than is necessary for bringing him before a magistrate.

(b) In no case shall such detention exceed twenty-four hours from the time of arrest without the orders of a magistrate.

Powers of Chairman as to institution, etc., of legal proceedings and obtaining legal advice

106. The Chairman may, subject to the control of the Board –

(a) institute, defend or withdraw any legal proceeding under this Act or any rule or regulation made or scheme sanctioned thereunder;

(b) admit, compromise or withdraw any claim made under this Act or any rule or regulation made or scheme sanctioned thereunder.

(c) obtain such legal advice and assistance as he may, from time to time, think it necessary or expedient to obtain, or as may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in, or imposed upon, the Board or any officer or servant of the Board.

Protection of action taken in good faith

107. No suit, prosecution or other legal proceeding shall lie against the Government, the Board or any Committee or member thereof or any officer or other employee of the Government or of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or regulation made or scheme sanctioned thereunder.

Notice of suit against Board etc.

108. No suit shall be instituted against the Board, or any member, or any officer or other employee of the Board, or any person acting under the direction of the Board, or of the Chairman in respect of any act done or intended to be done under this Act or any rule or regulation made or scheme sanctioned thereunder until the expiration of sixty days next after written notice has been delivered or left at the Board's office or the place of abode of such officer, employee or person, stating the cause of action, the name and the place of abode of the intending plaintiff, and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

Proof of consent, etc., of Board or Chairman or officer or servant of the Board

109. Whenever, under this Act or any rule or regulation made or scheme sanctioned thereunder, the doing or the omission to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion, or satisfaction of ---

(a) the Board or the Chairman, or

(b) any officer or servant of the Board, a written document signed in case (a) by the Chairman, and in case (b) by the said officer or servant, conveying or setting forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

**Power of Chairman to direct removal of unauthorised erections, etc.,
within street alignment, etc.**

110. (1) The Chairman may, by a written notice, require the owner for the time being of a wall or building referred to in section 96 to stop further work on such wall or building and to alter or demolish the same in such manner and within such time as may be specified in the notice.

(2) Where the alteration or demolition directed by any such notice is not carried out as directed therein the Chairman may cause the wall or building or portion thereof to be altered or demolished, as the case may be, and he may recover the expenses incurred in so doing from the owner for the time being in such manner as may be prescribed by rules.

General power of the Board to pay compensation

111. In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested in the Board or the Chairman or any officer or employee of the Board by or under this Act.

Public notice how to be made known

112. (1) Every public notice required to be given under this Act or any rule or regulation made or scheme sanctioned thereunder shall be in writing and signed by the Chairman and shall be given publicity in the locality likely to be affected thereby, by any one or more of the following modes, namely: -

- (i) by affixing copies thereof in conspicuous public places in the said locality, or
- (ii) by beat of drum in the said locality, or
- (iii) by publishing the notice in leading daily newspapers in circulation in the said locality, or
- (iv) by any other mode which the Chairman may deem fit.

(2) Every notice under sub-section (1) shall also be affixed on the notice board of the Board's head office or sub-office.

Publication in leading daily newspapers

113. Whenever it is provided by this Act or any rule or regulation made or scheme sanctioned thereunder that any notice, scheme, notification or any other document shall be published in leading daily newspapers, such notice, scheme, notification or other document shall be published, as far as possible, in at least one English daily newspaper and in two daily newspapers in Tamil in circulation in the area to which such notice, scheme, notification or other document relates.

Stamping signature on notices or bills

114. Every notice or bill, which is required by this Act or by any rule or regulation made or scheme sanctioned thereunder to bear the signature of the Chairman or any other member or of any officer or other employee of the Board, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such other member or of such officer or other employee, as the case may be, stamped thereupon.

Service how to be effected

115. Except where any specific mode of service is provided in this Act, any notice, bill or other document required by this Act or any rule or regulation made or scheme sanctioned thereunder to be served upon or issued or presented to any person, shall be served, issued or, as the case may be, presented --

- (a) by giving or tendering such notice, bill or other document to such person; or
- (b) if such person is not found, by leaving such notice, bill or other document at his last known place of abode, or by giving or tendering the same to some adult member of servant of his family; or
- (c) if his address elsewhere is known, by forwarding such notice, bill or other document to him by registered post under cover bearing the said address; or
- (d) if none of the means aforesaid be available, by causing a copy of such notice, bill or other document to be affixed on some conspicuous part of the building or land, if any, to which the notice, bill or other document relates.

Power to make surveys, or contribute towards their cost.

116. The Board may ---

- (a) cause the survey of any land to be made, whenever it considers that a survey is necessary or expedient for carrying out any of the purposes of this Act; or
- (b) contribute towards the cost of any such survey made by any other local authority.

Power of entry

117.(1) The Chairman or any officer of the Board either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order --

- (a) to make any inspection, survey, measurement, valuation or inquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set out boundaries and intended lines of work;
- (e) to mark such levels, boundaries and lines by placing marks and cutting trenches; or
- (f) to do any other thing;

whenever it is necessary to do so for any of the purposes of this Act or any rule or regulation made or scheme sanctioned thereunder or any scheme which the Board intends to frame thereunder.

Provided that –

(a) no such entry shall be made between sunset and sunrise;

(b) no dwelling house, or public building or hut which is used as a dwelling place, shall be entered into, except with the consent of the occupier thereof, or after giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry;

(c) sufficient notice shall in every case be given, to enable the inmates of any apartment appropriated to women to remove themselves to some part of the premises where their privacy will not be disturbed;

(d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made to the social and religious usages of the occupants of the premises entered into.

(2) The Chairman or the officer authorised under sub-section (1) shall, at the time of such entry, pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered; he shall at once refer the dispute to the decision of the Board, and such decision shall be final.

CHATER – XI

MISCELLANEOUS

Powers of the Board for facilitating movement of the population

118. With a view to facilitating the movement of the population in and around any city, town or village, the Board may from time to time, ---

(a) subject to any condition it may think fit to impose ---

- (i) guarantee the payment, from the funds at its disposal, of such sums as it may think fit, by way of interest on capital expenditure on the construction, maintenance or working of means of locomotion; or
- (ii) make such payments as it may think fit from the said funds, by way of subsidy to persons, undertaking to provide, maintain and work means of locomotion; or

(b) either singly or in combination with any other person, construct, maintain and work any means of locomotion, under the provisions of any law applicable thereto; or

(c) construct or widen, strengthen or otherwise improve bridges:

Provided that no guarantee or subsidy shall be made under clause (a), and no means of locomotion shall be constructed, maintained or worked under clause (b), without the sanction of the Government.

Members and Officers to be public servants

119. Every member and every officer of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

Sanction of prosecution

120. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Board or any officer authorised by the Board in this behalf.

Board and Chairman to exercise powers and functions of local authority

121. In any area in respect of which a housing or improvement scheme is in force, the Government may, by notification in the Official Gazette, direct that subject to such restrictions and conditions as may be specified in the notification, the Board and the Chairman shall exercise such of the powers and discharge such of the duties of a local authority having jurisdiction over the said area as may be specified in the notification.

Supply of documents, etc., to Government

122. The Government may direct the Chairman to forward to it any papers laid before the Board for consideration at any meeting thereof or to furnish any return, statement, estimate, statistical or other information, report or any document regarding any matter under the control of the Board and thereon it shall be the duty of the Chairman to comply with such directions.

Submission of administration report to Government

123. (1) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Government, the Board shall submit to the Government a detailed report of its administration during the preceding year in such form as the Government may direct.

(2) The Chairman shall prepare such report and the Board shall consider the report and forward the same to the Government with its resolutions thereon, if any.

Power of Government to give directions to the Board and local authorities

124. (1) The Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act, after giving an opportunity to the Board to state its objections, if any, to such directions and after considering the said objections; and it shall thereupon be the duty of the Board to comply with such directions.

(2) The Government may give any local authority such directions as in its opinion are necessary or expedient for enabling the Board to carry out the purposes of this Act, after giving an opportunity to the local authority concerned to state its objections if any, to such directions, and after considering the said objections; and it shall thereupon be the duty of such local authority to comply with such directions.

Supersession of the Board

125. (1) If the Government is of opinion that the Board is unable to perform, or has persistently, made default in the performance of, the duty imposed on it by or under this Act or has exceeded or abused its powers, it may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification.

Provided that before issuing a notification under this sub-section, the Government shall by notice require the Board to show cause within such period as may be specified in the notice why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board ---

(a) the Chairman and all the members of the Board shall, as from the date of supersession, vacate their offices as such;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board and the Chairman, shall, during the period of supersession, be exercised and performed by such authority or person as the Government may direct;

(c) all funds and other property vested in the Board shall, during the period of supersession vest in the authority or person referred to in clause (b); and

(d) all liabilities legally subsisting and enforceable against the Board, shall be enforceable against the authority or person referred to in clause (b) to the extent the funds and properties vested in it or him.

(3) If, before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government considers that the supersession of the Board should be continued for a further period, the Government may, by notification in the Official Gazette, extend the supersession for such further period as may be specified in the notification.

(4) If the period of supersession is not extended under sub-section (3), the Government may, on the expiration of the period of supersession specified in the notification issued under sub-section (1), reconstitute the Board in the manner provided in section 3.

Dissolution of the Board

126. (1) If the Government is of opinion that the Board has failed to carry out its functions under this Act or that for any other reason it is not necessary to continue the Board, it may, by notification in the Official Gazette, dissolve the Board from such date as may be specified in the notification.

(2) Upon the publication of the notification under sub-section (1) dissolving the Board ---

(a) the Chairman and all the members of the Board shall, as from the date of dissolution, vacate their offices as such;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised and performed by or on behalf of the Board and the Chairman shall, as from the date of dissolution, be exercised and performed by the Government or such authority or person as it may appoint in this behalf;

(c) all funds and other property vested in the Board shall vest in the Government; and

(d) all liabilities, legally subsisting and enforceable against the Board, shall be enforceable against the Government to the extent of the funds and properties vested in it.

The Board to be a local authority under Central Act 1 of 1894 and Central Act 9 of 1914

127. The Board shall be deemed to be a local authority for the purposes of the Land Acquisition Act, 1894 (Central Act 1 of 1894), and the Local Authorities Loans Act, 1914 (Central Act 9 of 1914).

Finality of orders

128. Save as otherwise expressly provided in this Act, every order passed or direction or notice issued by the Government or the Board under this Act shall be final and shall not be questioned in any suit or other legal proceedings.

Power to make rules

129.(1) The Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

(a) the term of office and conditions of service of the Chairman and members of the Board, under sub-section (1) of section 5;

(b) the period for which a non-official member shall be disqualified for appointment as a member, under sub-section (3) of section 9;

(c) the regulation of appointments by the Board of its officers and employees, under section 10;

(d) the regulation of delegation by the Chairman of his powers, duties and functions under section 12;

(e) the manner in which and the purpose for which the Board may associate with itself any person, under sub-section (1) of section 15;

(f) the regulation of taking part, by any member of the Board or of a Committee or by any person associated with the Board, in any proceeding of the Board, or Committee under section 17 relating to a matter in which he is personally interested;

(g) the manner of making or executing contracts or agreements, under section 24;

(h) the form of notice, under sub-section (1) of section 42;

(i) the regulation of the disposal of land by the Board, under section 62;

(j) the other manner of serving notice, under sub-section (1) of section 68 or sub-section (1) of section 69;

(k) the manner of assessing damages by the competent authority, under section 69;

(l) the sum to be kept by the Board in current account of a bank, under sub-section (2) of section 73;

(m) the conditions and limitations subject to which the Board may borrow money or grant loan, under section 74;

(n) the restrictions and conditions subject to which loans taken by the Board shall be repaid by it, under section 79;

(o) the rate of interest, under sub-section (2) of section 80;

(p) the form and particulars of estimate, under sub-section (3) of section 85;

(q) the manner of crediting to the capital and revenue accounts the sums received by the Board and the appropriation of amounts, under sub-sections (2) and (3) of section 90;

(r) the form in which and the time within which the budget showing the estimated receipts and expenditure of the Board should be prepared, under section 92 and the number of copies thereof to be forwarded to the Government;

(s) the form of annual statement of accounts including the balance sheet to be prepared by the Board, under sub-section (1) of section 93;

(t) the form of annual report to be submitted by the Board and the date before which it shall be submitted under section 94;

(u) the manner of recovering expenses, under sub-section (2) of section 110;

(v) any other matter which has to be, or may be, prescribed by rules.

(3) All rules made under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published in the Official Gazette.

(4) Every rule made under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly, Puducherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make regulations

130. (1) The Board may, by notification, in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder, for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provided for:-

(a) the terms and conditions of service of officers and other employees of the Board, under section 11;

(b) the times and places of meetings of the Board including the quorum and the procedure in regard to transaction of business at such meetings, under sub-section (1) of section 14;

(c) the duties to be discharged and the functions to be performed by Committees and the terms and conditions subject to which such duties shall be so discharged or functions performed, under sub-section (1) of section 16;

(d) the procedure in regard to transactions of business at the meetings of Committees, under sub-section (2) of section 16;

(e) the duties and conduct of officers and other employees of the Board and of other persons employed by the Board;

(f) the welfare and recreation of the staff of the Board and the contributions to be made therefor;

(g) the fees payable for the copies of documents, estimates and plans furnished by any of its officers and other employees under this Act;

(h) the management, use and regulation of dwellings constructed under any housing or improvement scheme;

(i) the efficient conduct of the affairs of the Board;

(j) any other matter which has to be, or may be prescribed by regulations.

(3) No regulation on its cancellation or modification shall have effect until the same shall have been approved and confirmed by the Government.

Power to remove difficulties

131. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

Amendment of section 11 of Act 13 of 1970

132. (1) In section 11 of the Puducherry Town and Country Planning Act, 1969 (Act 13 of 1970), for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Every Planning Authority constituted under sub-section (1) shall consist of the following members, namely: --

- (i) A Chairman, being the Chairman of the Housing Board established under sub-section (3) of section 3 of the Puducherry Housing Board Act, 1973, to be appointed by the Government;
- (ii) the members of the Housing Board referred to in clauses (b) to (h) (both inclusive), of sub-section (3) of section 3 of the said Act holding offices as such for the time being; and
- (iii) a member to be nominated by the Government from amongst persons elected as members of the local authority or authorities having jurisdiction over the planning area."

(2) The provisions of sub-section (1) shall take effect from the date on which the Housing Board is established under sub-section (1) of section 3 of this Act.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.7 OF 1974

In the Union territory of Puducherry the construction of houses under the various Housing Schemes is at present being carried out by the Public Works Department, in the absence of a separate agency to carry out these schemes. The Housing problem has assumed such serious dimensions that it is felt, that the problem should be tackled by constituting a Housing Board equipped with the necessary statutory powers of unifying activities relating to Housing, Town Planning and allied matters.

This Bill conceived on the lines of the Tamil Nadu Act on the subject, provides for the execution of housing and improvement schemes, for the constitution of a statutory Housing Board with a view to plan and co-ordinate all housing activities in the State, to ensure expeditious and efficient implementation of housing or improvement schemes in the State, to provide technical advice and to scrutinise all projects under housing or improvement schemes in the State to provide technical advice and to scrutinise all projects under housing or improvement schemes sponsored or assisted by the Central or State Government.

The Bill seeks to achieve the aforesaid objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.12 OF 1980

The Puducherry Housing Board Act enables non-officials to be appointed as Chairman and Members of the Board. It is felt desirable to include suitable provision in the Act to prevent disqualification of such chairman and members for being chosen as the members of the Legislative Assembly by way of abundant caution.

According to the proviso to section 14 of the Puducherry Housing Board Act, the Board shall meet at least once in every month. It has been decided that it would suffice if the Board meets at least once in three months. The proviso to section 14 is proposed to be amended accordingly.

The present Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.11 OF 1987

By virtue of the proviso to section 61 of the Puducherry Housing Board Act, 1973, the Puducherry housing Board is conferred with the power to purchase, lease or exchange without the previous approval of the Government, any land by negotiation and agreement with the owner of that land, if the value of such land does not exceed ten thousand rupees.

Since the cost of the land escalated manifold in the part few years, it is not practically possible for the Board to exercise its powers to purchase lands within the above limit by negotiation and agreement. It is therefore proposed to enhance the monetary limit prescribed in the proviso to section 61 of the said Act from ten thousand rupees to five lakh rupees.

The Bill seeks to achieve the above object.

**THE PUDUCHERRY OCCUPANTS OF KUDIYIRUPPU (CONFERMENT
OF OWNERSHIP) ACT, 1973**

(No. 8 of 1974)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
2. Act not to apply in certain cases
3. Definitions
4. Occupant of kudiyiruppu to become owner
- 4.A. Provision of alternative site in certain cases
5. Decision by authorised officer
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7. Right to receive amount
8. Amount
9. Appeal
10. Apportionment of amount
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12. Second Appeal to High Court in certain cases
13. Power of authorised officer to call for information
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20. Service of notices and orders
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23. Offences by companies
24. Prosecution and trial of offence
25. Bar of jurisdiction of Civil Courts
26. Authorised officer, etc., to be public servants
27. Protection of action taken in good faith
28. Act to override other laws
29. Power to make rules

THE SCHEDULE

**THE PUDUCHERRY OCCUPANTS OF KUDIYIRUPPU (CONFERMENT
OF OWNERSHIP) ACT, 1973**

(No. 8 of 1974)

(21-8-1974)

AN ACT

to provide for the conferment of ownership rights on occupants of kudiyiruppu in certain regions in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-fourth Year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Occupants of Kudiyiruppu (Conferment of Ownership) Act, 1973.

(2) It extends to the regions known as Puducherry, Karaikal and Yanam in the Union territory of Puducherry.

+ (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Act not to apply in certain cases

2. Nothing in this Act shall apply to the lands belonging to or vested in the Government of the Union territory of Puducherry, the Government of India, the Government of any State in India, a local authority or a corporation owned or controlled by any of the said Governments or authority.

Definitions

3. In this Act, unless the context otherwise requires, --

(1) "agricultural labourer" means a person whose principal means of livelihood is the income he gets as wages for his manual labour on agricultural land;

+ This Act came into force in the regions known as Puducherry, Karaikal and Yanam in the Union Territory of Puducherry w.e.f 01.12.1974 vide Notification published in the EG. No.150 dt. 28.11.1974.

(2) "agricultural land" means any land used for any of the following purposes, namely:-

- (a) horticulture;
- (b) the raising of crops, grass or garden produce;
- (c) grazing;
- (d) the raising of manure crops;
- (e) dairy farming;
- (f) poultry farming;
- (g) livestock breeding;
- (h) growing of trees; and

(i) includes any land used for any purposes subservient to the above purposes, any forest land, pasture land, plantation, orchard and tope, but

(ii) does not include house-site or land used exclusively for non-agricultural purposes;

(3) "agriculturist" means a person who cultivates agricultural land by the contribution of his own manual labour or of the manual labour of any member of his family;

(4) "authorised officer" means any Gazetted Officer authorised by the Government by notification in the Official Gazette to exercise the powers conferred on, and discharge the duties imposed upon, the authorised officer under this Act, for such area as may be specified in the notification;

(5) "Court" means the Court of Subordinate Judge having jurisdiction and if there are more than one such Court, the Court of the Principal Subordinate Judge;

(6) "Government" means the Administrator of the Union territory of Puducherry appointed under article 239 of the Constitution;

(7) "kudiyiruppu" means the site of any dwelling house or hut occupied, either as tenant or as licensee, by any agriculturist or agricultural labourer and includes such other area adjacent to the dwelling house or hut as may be necessary for the convenient enjoyment of such dwelling house or hut.

⁺[*Explanation-I.* -- It shall be presumed that any person occupying the kudiyruppu is an agricultural labourer or an agriculturist, until the contrary is proved.

Explanation-II. – For the purpose of determining whether any area adjacent to the dwelling house or hut is necessary for the convenient enjoyment of such dwelling house or hut, the area which the agriculturist or agricultural labourer had been enjoying immediately before the 27th day of March 1972, and such other factors as may be prescribed shall be taken into account].

(8) "person interested", in relation to any kudiyruppu or superstructure thereon, includes any person claiming, or entitled to claim, an interest in the amount payable on account of the vesting of that kudiyruppu or superstructure in the occupant of the kudiyruppu;

(9) "prescribed" means prescribed by rules made under this Act;

⁺[(9-A) "rural area" means any area declared by the Government, by notification in the Official Gazette, to be a rural area having regard to its population, development and such other relevant factors as the circumstances of the case may require].

(10) "Schedule" means the Schedule appended to this Act;

(11) "tenant" means any person who has paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under an agreement, express or implied, and includes his heirs and legal representatives;

⁺[(11-A) "urban area" means any area other than a rural area];

(12) "vested kudiyruppu or superstructure" means the kudiyruppu or the superstructure which has vested absolutely in the occupant of the kudiyruppu ⁺[under the provisions of this Act].

Occupant of kudiyruppu to become owner

4. +[(1) Subject to the provisions of section 4A, any agriculturist or any agricultural labourer, who was occupying any kudiyruppu on the 27th day of March, 1972, either as tenant or as licensee, shall, with effect from the commencement of this Act, be deemed to have become the owner thereof and such kudiyruppu shall vest in him free from all encumbrances:

Provided that such agriculturist or agricultural labourer does not already own, within any area to which this Act extends, a dwelling house or hut erected on a site, or a housesite, which is eighty-four square metres or more in extent:

Provided further that the extent of the kudiyruppu which shall so vest in any agriculturist or agricultural labourer shall be such (which in no case shall exceed three ares in rural areas and two ares in urban areas) as may be determined by the authorised officer after giving a reasonable opportunity to the occupant of the kudiyruppu and the person interested, of being heard in the matter].

(2) Where, in the case of an occupant of kudiyruppu referred to in sub-section (1), the superstructure belongs to any person other than such occupant, such superstructure shall also, with effect from the date of commencement of this Act, vest in such occupant absolutely free from all encumbrances.

Provision of alternative site in certain cases

+ [4-A. (1) (a) Where on application by the owner of any land, the authorised officer is satisfied that the kudiyruppu referred to in sub-section (1) of section 4 (hereinafter referred to as the original kudiyruppu) is so located as to cause inconvenience for the convenient enjoyment of the land as a whole by such owner, the authorised officer, may, by order, permit the shifting of the kudiyruppu to another part of such land or to an alternative site possessed by such owner, within such distance and within such period as may be prescribed.

(b) The alternative site shall satisfy the following conditions, namely:-

(i) it shall be fit for erection of a dwelling house or hut, if there is not already any dwelling house or hut on the site,

- (ii) its extent shall not be less than the extent of the original kudiyruppu, subject to a maximum of three ares in rural areas and two ares in urban areas, and
- (iii) such other conditions as may be prescribed.

(2) The authorised officer, while granting permission under sub-section (1), shall also direct the payment, by the owner to the agriculturist or agricultural labourer occupying the original kudiyruppu, within such period as may be prescribed, of such costs as may be considered by the authorised officer to be reasonable for shifting of the residence to the alternative site including the cost for erecting a superstructure on the said site and the authorised officer shall, before granting permission under sub-section (1), satisfy himself that the conditions specified in clause (b) of sub-section (1) are complied with:

Provided that before granting such permission, the authorised officer shall give an opportunity of being heard to the agriculturist or agricultural labourer concerned.

(3) If such owner fails to provide the alternative site as permitted by the authorised officer within the prescribed period or if such owner fails to comply with any direction given under sub-section (2) in regard to payment of costs, the agriculturist or agricultural labourer shall continue to be the owner of the original kudiyruppu under sub-section (1) of section 4.

(4) In such owner provides an alternative site in pursuance of the permission granted under sub-section (1), the agriculturist or agricultural labourer concerned shall be given an opportunity to occupy the alternative site within such period as may be prescribed and he shall be deemed to have become the owner of such kudiyruppu from the date on which he so occupies the same and such alternative kudiyruppu shall with the superstructure thereon, if any, with effect from such date, be deemed to have vested in him absolutely free from all encumbrances and the site of the original kudiyruppu shall revert to the owner.

(5) The amount payable under clause (a) of sub-section (2) of section 8 shall be determined for the kudiyruppu deemed to have vested under sub-section (4) and in case payment has already been made for the original kudiyruppu, the difference, if any, between the amount already paid for the original kudiyruppu and the payable for the kudiyruppu deemed to have vested shall be paid to, or collected from, the owner, as the case may be.

(6) (a) Where any agriculturist or agricultural labourer fails or refuses to shift to the alternative site provided by the owner in pursuance of a permission granted under sub-section (1) within such period as may be prescribed, such agriculturist or agricultural labourer shall not be entitled to the benefits of this Act but shall continue to be entitled to the protection under the Puducherry Occupants of Kudiyiruppu (Protection from Eviction) Act, 1970 (Puducherry Act 11 of 1971).

(b) The amount, if any, paid by the owner to such agriculturist or agricultural labourer under sub-section (2) shall, on his failure to shift the original kudiyiruppu to the alternative site, be recovered from him as if it were an arrear of land revenue and shall be refunded to the owner within such period and in such manner as may be prescribed].

Decision by authorised officer

5. + [(1) If any dispute arises as to whether---

(a) any person is an agriculturist or an agricultural labourer; or

(b) any land is an agricultural land; or

(c) any site is a kudiyiruppu; or

(d) any area adjacent to a dwelling house or hut is necessary for the convenient enjoyment of such dwelling house or hut; or

(e) any agriculturist or agricultural labourer was occupying any kudiyiruppu on the 27th day of March, 1972; or

(f) any agriculturist or agricultural labourer is having any house or housesite or hut of his own,

such dispute shall be decided by the authorised officer].

(2) In deciding the dispute under sub-section (1) the authorised officer shall follow such procedure as may be prescribed.

Appeal

6. (1) Any person aggrieved by the decision of the authorised officer + [under section 4A or section 5] may, within such period as may be prescribed, appeal to the Collector, or such other officer as may be authorised by the Government in this behalf.

(2) In deciding the appeal under sub-section (1), the Collector, or the officer referred to in sub-section (1), shall follow such procedure as may be prescribed.

Right to receive amount

7. Every person having any interest in any vested kudiyruppu or superstructure shall be entitled to receive and be paid the amount as provided hereunder.

Amount

8. (1) The amount payable in respect of any vested kudiyruppu or superstructure shall be as specified in the Schedule.

(2) (a) The authorised officer shall, after holding an inquiry in the prescribed manner, determine by order the amount payable under sub-section (1) and publish the said order in the Official Gazette.

(b) A copy of the said order shall be communicated to the person who immediately before the date of commencement of this Act owned the kudiyruppu or superstructure and to every person interested therein.

(3) Where the owner of the kudiyruppu and the owner of the superstructure on such kudiyruppu are different, the authorised officer shall apportion the amount between the owner of the kudiyruppu and the owner of the superstructure.

+ Amended by Act 5 of 1983 and shall be deemed to have come into force w.e.f 01.12.1974.

Appeal

9. Any person who does not agree to the amount as determined by the authorised officer under sub-section (2) of section 8 may prefer an appeal to the Court within such period as may be prescribed.

Apportionment of amount

10. (1) Where several persons claim to be interested in the amount determined under sub-section (2) of section 8, the authorised officer shall determine:-

- (a) the persons who, in his opinion, are entitled to receive such amount; and
- (b) the amount payable to each of the persons referred to in clause (a).

(2) If any dispute arises as to the apportionment of the amount or any part thereof or as to the persons to whom the same or any part thereof is payable, the authorised officer may refer such dispute to the decision of the Court and the Court shall, in deciding any such dispute, follow as far as may be the provisions of Part III of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

Payment of amount

11. +[(1) After the amount has been determined, the Government shall, pay it to the persons entitled thereto].

(2) If the persons entitled to the amount do not consent to receive it or if the authorised officer is satisfied that the Kudiyruppu or superstructure in respect whereof the amount is to be awarded belonged to any person who had no power to alienate the same, or if there is any dispute as to the title to receive the amount, or as to the apportionment of it, the authorised officer shall deposit the amount in the Court, and the Court shall deal with the amount so deposited in the manner laid down in section 32 and section 33 of the Land Acquisition Act, 1894.

Second Appeal to High Court in certain cases

12. Subject to the provisions of the Code of Civil Procedure, 1908 applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, a second appeal shall only lie to the High Court from any decision of the Court under this Act, if the amount as determined by the authorised officer exceeds such amount as may be prescribed.

Power of authorised officer to call for information

13. (1) The authorised officer may, for the purpose of carrying out the provisions of this Act, by order require any person to furnish such information in his possession relating to any vested kudiyruppu or superstructure.

(2) The authorised officer shall, while holding an inquiry under this Act, have all the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely: --

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for the examination of witness.

Mode of payment of amount

14. (1) The amount as finally determined under this Act shall, within such period as may be prescribed, be paid either in cash or in bonds or partly in cash and partly in bonds as the Government may prescribe.

(2) (a) The bonds shall be issued on such terms and carry such rate of interest as may be prescribed.

(b) The interest shall be paid in the case of any kudiyruppu or superstructure with effect from the date of vesting *[under the provisions of this Act].

+ [15. Omitted]

Issue of title deed

16. + [The authorised officer shall issue a title deed in such form and imposing such conditions as may be prescribed to every occupant of Kudiyruppu in whom the kudiyruppu and the superstructure, if any, has vested under the provisions of this Act].

Prohibition of transfer of kudiyruppu or superstructure

17. + [(1) The rights of a person in whom the kudiyruppu or superstructure has vested under the provisions of this Act are heritable but not alienable:

Provided that such person or his heir or legal representative may surrender at any time, the kudiyruppu with or without superstructure, as the case may be, free from all encumbrances to the Government.

(2) Any transfer made in contravention of sub-section (1) shall be void and the kudiyruppu with or without superstructure, as the case may be, so transferred shall vest in the Government free from all encumbrances from the date of such transfer and no claim from the transferee shall lie as against Government in respect of such kudiyruppu with superstructure, if any.

(3) Where any kudiyruppu with or without any superstructure, as the case may be, is surrendered under the proviso to sub-section (1), any amount which the original occupant or heir or legal representative or such person has already paid to the Government before the date of publication of the Puducherry Occupants of Kudiyruppu (Conferment of Ownership) (Amendment) Act, 1982 shall be refunded within such period and in such manner as may be prescribed to the person entitled to receive it.

* Amended by Act 5 of 1983 and shall be deemed to have come into force w.e.f 01.12.1974.

+ Amended by Act 5 of 1983 which came into force w.e.f 04.06.1983.

(4) The kudiyiruppu with or without superstructure, as the case may be, surrendered to or vesting in the Government, under the proviso to sub-section (1) or under sub-section (2) may be allotted to any agriculturist or agricultural labourer by the Government and on such allotment, the kudiyiruppu with or without superstructure, as the case may be, shall vest in such agriculturist or agricultural labourer and the provisions of this Act shall apply to such vesting.

(5) In the event of the death of any person in whom the kudiyiruppu, with superstructure, if any, had vested under the provisions of this Act, the person to whom the title of the deceased may be transferred as heir or other-wise shall give notice of such transfer to such officer and in such form as may be prescribed, within three months from the date of death of the deceased.

(6) The person to whom the title passes shall, if so required, be bound to produce before the officer prescribed under sub-section (5) any document evidencing such succession].

Transitional provision in regard to certain liabilities

18. (1) All claims and liabilities in respect of the kudiyiruppu or the superstructure enforceable immediately before the date of commencement of this Act +[or the date of vesting of the kudiyiruppu or the superstructure, as the case may be] against any person interested shall, on or after that date, be set off against the amount payable to the person interested under this Act to the same extent to which such claims and liabilities were enforceable against such person immediately before such date.

(2) (a) A court shall, on or after the date of commencement of this Act +[or the date of vesting of the kudiyiruppu or the superstructure, as the case may be] order or continue execution in respect of any decree or order passed against the person interested in conformity with the provisions of sub-section (1) only as against the amount payable to such person.

(b) No court shall, in enforcing any claim or liability against the person interested in respect of any kudiyiruppu or superstructure, allow interest at a rate exceeding six per cent per annum simple interest for any period after the date of the commencement of this Act.

Power to acquire land used for common purposes

19. (1) Where the Government is satisfied that any land is used by the occupants of kudiyruppu immediately before the date of commencement of this Act for a common purpose, it may acquire the land by publishing in the Official Gazette a notification to the effect that it has decided to acquire the land in pursuance of this section:

Provided that, before publishing a notification, the Government may call upon the owner or any other person, who, in the opinion of the Government, may be interested in such land, to show cause why it should not be acquired; and after considering the cause, if any, shown by the owner or any other person interested in the land, the Government may pass such orders as it deems fit.

(2) When a notification under sub-section (1) is published in the Official Gazette, the land to which the said notification relates shall, on and from the date on which the said notification is so published, vest absolutely in the Government free from all encumbrances.

(3) The Government shall make available the land acquired under this section to be used by the occupants of kudiyruppu for the same common purpose for which it was used immediately before the date referred to in sub-section (2).

(4) Every person having any interest in any land acquired under this section shall be entitled to receive and be paid an amount as specified in the Schedule.

(5) Save as otherwise provided in this section, the provisions contained in sections 9 to 14 (both inclusive), 18, 20 to 22 (both inclusive) shall apply to the land acquired under this section as they apply to the vested kudiyruppu or superstructure.

Explanation. – For the purposes of this section, "common purpose" includes the use of land for road, pathway, threshing-floor and cattle stand.

Service of notices and orders

20. (1) save as otherwise provided in this Act and subject to the provisions of this section and of any rule made in this behalf, every notice issued or order made under this Act shall :-

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette;

(b) in the case of any notice or order affecting any company or other body corporate or any firm, be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908; and

(c) in the case of any notice or order affecting an individual person (not being a company or other body corporate or firm), be served on such person –

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to the head of the office in which such person is employed, or to any adult male servant of such person, or to any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(iii) failing service by any of the means aforesaid, by post or by affixing a copy of the said notice or order on some conspicuous part of the kudiyruppu or superstructure to which it relates.

(2) Where the notice or order cannot be served without undue delay, due to any dispute in the ownership of the kudiyruppu or the superstructure or due to the person to whom the notice or order is intended being not readily traceable, the notice or order may be served by publishing it in the Official Gazette, and where possible by affixing a copy thereof on some conspicuous part of the kudiyruppu or superstructure to which it relates.

Power of entry

21. It shall be lawful for any person authorised by the authorised officer in this behalf to enter into or upon any kudiyruppu or superstructure with or without assistants for purposes of giving effect to the provisions of this Act.

Penalties

22. Any person who obstructs any officer or person authorised by the authorised officer to enter into or upon any kudiyruppu or superstructure or molests such officer or person after such entry, shall be punishable with fine which may extend to one thousand rupees.

Offences by companies

23. (1) If a person committing an offence under this Act is a company, every person, who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section,--

(a) "Company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Prosecution and trial of offence

24. (1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the authorised officer.

(2) No court inferior to that of a salaried magistrate of the first class shall try any offence punishable under this Act.

Bar of jurisdiction of Civil Courts

25. Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government or the authorised officer is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Authorised officer, etc., to be public servants

26. The authorised officer and any person authorised by him under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith

27.(1) No suit, prosecution or other legal proceeding shall lie against the Government or any person exercising any power or discharging any functions or performing any duties under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

Act to override other laws

28. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage, or contract or decree or order of a court or other authority.

Power to make rules

29. (1) The Government may make rules for carrying out all or any of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: --

+[(a) the distance from the existing kudiyruppu and the period within which an alternative site may be provided under sub-section (1) of section 4A, the other conditions that such site shall satisfy and the period within which costs determined by the authorised officer under sub-section (2) of that section shall be paid, the period within which the agriculturist or agricultural labourer shall shift to the alternative site and the period within which and the manner in which refund shall be made under sub-section (6) of that section];

(aa) the procedure to be followed by the authorised officer in deciding a dispute under sub-section (1) of section 5;

(b) the period within which an appeal may be preferred under sub-section (1) of section 6 to the Collector or such other officer as may be authorised by the Government in this behalf and the procedure to be followed by such Collector or other officer in deciding such appeal;

(c) the manner in which an inquiry may be held by the authorised officer under section 8;

(d) the period within which an appeal may be preferred to the Court under section 9;

(e) the maximum amount in respect of which a second appeal may lie to the High Court under section 12;

(f) the period within which, and the terms and the rate of interest at which, amount is payable under section 14 to the persons interested;

+[g) omitted]

+[h) omitted]

(i) the form of title deed to be issued under section 16 and the conditions governing it;

++[(j) the period within which and the manner in which the amount shall be refunded under sub-section (3) of section 17 and the form in which and the officer to whom a notice is to be given under sub-section (5) of that section].

(k) the fee payable in respect of any appeal, application or statement under this Act;

(l) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly of Puducherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that any such rule should not be made, that rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

+ Amended by Act 5 of 1983 which came into force w.e.f 04.06.1983.

++ Amended by Act 5 of 1983 which came into force w.e.f 1.12.1974.

THE SCHEDULE

[See sections 8 (1) and (19) (4)]

1. The amount payable in respect of the kudiyruppu or the land shall be one hundred times the survey assessment on the kudiyruppu or the land, as the case may be:

Provided that where the kudiyruppu or the land forms part of a survey field and is not separately assessed to revenue, the amount payable for such kudiyruppu or land shall be deemed to be one hundred times such proportion of the survey assessment as the part bears to the entire survey field:

Provided further that where the survey field in which the kudiyruppu or land exists is unassessed, the amount shall be determined with reference to the highest rate of survey assessment of the village, and where no such rate exists, the highest rate of survey assessment of the village situated nearest to the kudiyruppu, or land, as the case may be.

Explanation. --- For the purposes of this paragraph, "survey assessment" means the land tax levied in accordance with the Deliberation of the Council General dated the 24th December, 1933 enforced by the Arrete dated the 22nd August, 1934 and includes fifty per cent surcharge levied pursuant to the Deliberation dated the 20th September, 1950 enforced by the Arrete dated the 4th December, 1950.

2. The amount payable in respect of the superstructure shall be the market value of such superstructure.

Explanation.—For the purpose of this schedule, —

- (i) "kudiyruppu" means the kudiyruppu vested in the occupant of kudiyruppu +[under the provisions of this Act];
- (ii) "land" means the land acquired under section 19, and
- (iii) "superstructure" means the superstructure on the kudiyruppu vested in the occupant of kudiyruppu +[under the provisions of this Act].

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.8 OF 1974

The Puducherry Occupants of Kudiyiruppu (Protection from Eviction) Act, 1970 (Act 4 of 1971) is already in force in Puducherry, Karaikal and Yanam regions of this Union Territory. The Act provides for prevention from eviction of homestead lands by the landlords, pursuant to the policy of this Government to bring forward progressive Land Reforms Measures with a view to usher in a socialist society, the Chief Minister, during the Budget Speech of the Legislative Assembly on 27-3-72, announced, among others, the proposal to confer rights of ownership to the occupants of kudiyiruppu in Puducherry, Karaikal and Yanam regions on the pattern of the Tamil Nadu Occupants of Kudiyiruppu (Conferment of Ownership) Act, 1971. Under the proposal, any agriculturist or agricultural labourer who not having a dwelling house or house site or a hut of his was occupying on 27-3-72 any kudiyiruppu either as tenant or as licensee, shall, with effect from the date of commencement of the Bill, be the owner of such kudiyiruppu and such kudiyiruppu shall vest in him free from all encumbrances.

The present Bill seeks to achieve the above object.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.5 OF 1983

The Puducherry Occupants of Kudiyiruppu (Conferment of ownership) Act, 1973 was intended to make the agriculturists and agricultural labourers the owners of the houses occupied by them as on 27-3-1972 provided that they do not have any house or hut of their own. The principal Act permits by implication alienation of kudiyiruppu. But on the instructions from the Home Ministry and also in accordance with the recommendations of the State Housing Ministers' Conference held at Srinagar in 1973, a policy decision was taken to prohibit alienation of kudiyiruppu.

The Tamil Nadu Government had also introduced certain amendments to its kudiyiruppu (Conferment of ownership), Act. Since our Act is also based on the Tamil Nadu Act, such amendments are also sought to be incorporated in our Act. The Government of India also have agreed to the proposal of this Administration for waiving the amount to be collected from the beneficiaries. All these measures have been incorporated in the draft Bill. This consolidated amendment thus seeks to achieve the following objects: --

(i) to enable the landowner to provide alternative site where the vesting of any kudiyruppu in any kudiyrupputar may cause inconvenience for the convenient enjoyment of the land as a whole by the landowner subject to the conditions that the alternative site should be of the same extent of the existing site and that a reasonable cost for shifting and for erecting the superstructure in the alternative site as fixed by the Authorised Officer should be borne by the landowner;

(ii) to recover the amount under the Revenue Recovery Act if the kudiyrupputar refuses or fails to move to the alternative site after having received amount from the owner and to make him not eligible to get the benefit of this Act, but continue to be entitled to the protection under the Puducherry Occupants of Kudiyruppu (Protection from Eviction) Act, 1970;

(iii) to amplify section 5 of the Act to enable the Authorised Officer to decide whether a person is an agriculturist agricultural labourer, whether any land is an agricultural land, etc.;

(iv) to enable the Government to define the terms "rural area" and "urban area" by notifications issued from time to time;

(v) to define the term owning a house-site as "owing a house site of 84 square metres or more in extent within any area to which the Act applies";

(vi) to delete section 15 of the Act so as to issue the title deed to the beneficiary under the Act, free of cost;

(vii) to amend section 17 of the Act so as to make the conferment of ownership under the Act heritable but not alienable;

(viii) to permit the kudiyrupputar or his heir to surrender the kudiyruppu to Government and to receive back the amount if any already paid to Government;

(ix) to enable the Government to take the kudiyruppu on violation of conditions without refunding any amount paid to the Government and to regrant it to such person as may be prescribed; and

(x) to provide a period of three months to give notice to the specified officer about the death of any person in whom the kudiyruppu had vested under the Act.

**THE PUDUCHERRY LAND REFORMS (FIXATION OF CEILING ON LAND)
ACT, 1973**

(No.9 of 1974)

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SCHEDULE – II

**THE PUDUCHERRY LAND REFORMS (FIXATION OF CEILING ON LAND)
ACT, 1973**

(No.9 of 1974)

(22-9-1974)

AN ACT

to provide for the fixation of ceiling on agricultural land holdings and for certain other matters connected therewith in the regions of Puducherry and Karaikal.

BE it enacted by the Legislative Assembly of Puducherry in the Twenty-fourth Year of the Republic of India as follows: -

CHAPTER - I

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Land Reforms (Fixation of Ceiling on Land) Act, 1973.

(2) It extends to the regions of Puducherry and Karaikal of the Union territory of Puducherry.

+ (3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires, --

(1) "agriculture" includes --

- (a) horticulture;
- (b) the raising of crops, grass or garden produce;
- (c) the use by an agriculturist of land held by him, or part thereof, for grazing;
- (d) the use of any land for the purpose of raising manure crops;
- (e) dairy farming;
- (f) poultry farming;

- (g) livestock breeding;
- (h) growing of trees;

and "agricultural" shall be construed accordingly;

(2) "agricultural company" means any company formed for the purpose of carrying on any business that has for its main object the acquisition of gain by the company from agricultural land;

(3) "agricultural year" means the year commencing on the 1st April in any year and ending with the 31st March of the year next succeeding, provided that the Collector may, in respect of any crop, area or category of land, by notification, specify the year between such other dates, as he may deem fit, as an agricultural year;

(4) "appointed day" means the 24th day of January, 1971;

(5) "authorised officer" means any Gazetted Officer authorised by the Government by notification to exercise the powers conferred on, and discharge the duties imposed upon, the authorised officer under this Act for such area as may be specified in the notification:

(6) "ceiling area" means the extent of land which a person is entitled to hold under section 4.

(7) "company" means a company as defined in section 3 of the Companies Act, 1956;

(8) "creditor" means a secured creditor and includes any decree-holder who has obtained an attachment of land in execution of a decree or order;

(9) "cultivating tenant" except in Chapter VI means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under an agreement express or implied on condition of paying rent therefor in cash or in kind or delivering or receiving a share of the produce and includes –

- (i) any such person who continues in possession of the land after the determination of the agreement;
- (ii) the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land;

- (iii) a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land;
- (iv) any such sub-tenant who continues in possession of the land notwithstanding that the person who sub-let the land to such sub-tenant ceases to have the right to possession of such land; and
- (v) a person who cultivates the land on payment of warm;

but does not include a mere intermediary or his heir;

(10) "family" in relation to a person, means the person, the wife or husband, as the case may be, of such person and his or her minor sons and unmarried daughters;

(11) "forest land" includes any waste land containing trees or shrubs;

(12) "full owner" means a person entitled to the absolute proprietorship of land;

(13) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;

(14) "to hold land" with its grammatical variations and cognate expressions means to own land as owner or to possess or enjoy land as possessory mortgagee or as tenant or as intermediary or in one or more of those capacities;

(15) "intermediary" means any person who, not being an owner or a possessory mortgagee, has an interest in land, and is entitled, by reason of such interest, to possession thereof, but has transferred such possession to others:

(16) "land" means agricultural land, that is to say, land which is used or capable of being used for agricultural purposes or purposes subservient thereto and includes forest land, pasture land, orchard and tope, but does not include house site or land used exclusively for non-agricultural purposes;

(17) "Land Commissioner" means the Secretary to Government, Revenue Department;

(18) "land owner" means the owner of the land let for cultivation by a tenant and includes the heirs, assignees, legal representatives of such owner or persons deriving rights through him;

(19) "Land Tribunal" means a Land Tribunal constituted under section 44;

(20) "limited owner" means any person entitled to a life estate in any land and includes persons deriving rights through him;

Explanation. – A person who has a right to enjoy the land during his life time shall be deemed to be a limited owner notwithstanding that he has no power to alienate the land.

(21) "member of the Armed forces" means a person in the service of the Air force, Army or Navy of the Union of India:

Provided that if a question arises whether any person is a member of the Armed Forces, such question shall be decided by the Government and its decision thereon shall be final;

(22) "non-agricultural company" means a company other than an agricultural company;

(23) "notification" means a notification published in the Official Gazette;

(24) "notified date" means the date specified in the notification issued by the Government under sub-section (1) of section 7:

(25) "owner" means any person holding land severally or jointly or in common or in any way subject to the payment of revenue direct to the Government and includes full owner or limited owner.

(26) "person" includes any company, family, firm, society or association of individuals, whether incorporated or not or any private trust or public trust;

(27) "possessory mortgagee" means a mortgagee entitled to the possession of the whole or part of the mortgaged property and to receive the rents and profits accruing from such property or any part of such rents and profits and to appropriate the same in lieu of interest or in payment of the mortgaged money or partly in lieu of interest or partly in payment of the mortgage money and "possessory mortgage" and "possessory mortgagor" shall be construed accordingly;

(28) "prescribed" means prescribed by rules made under this Act;

(29) "private trust" includes a trust under which the beneficiaries are persons, who are ascertained or capable of being ascertained;

(30) "public trust" means a trust for a public purpose of a religious, charitable or of an educational nature;

Provided that where the income from a public trust is substantially appropriated for the benefit of the founder of the trust or his heirs or of the family of the founder or of his heirs, such a trust shall be deemed to be a private trust notwithstanding the terms of the trust;

(31) "religious institution" means any ---

- (i) temple;
- (ii) math;
- (iii) mosque; or
- (iv) church;

which is dedicated to, or for the benefit of, or used as of right by, the public as a place of religious worship;

(32) "standard hectare" means ---

(a) in the case of wet land, -

- (i) 1.0 hectare of wet land assessed to land revenue at a rate exceeding ₹ 15 per hectare;
- (ii) 1.2 hectares of wet land assessed to land revenue at a rate exceeding ₹ 10 but not exceeding ₹ 15 per hectare;
- (iii) 1.4 hectares of wet land assessed to land revenue at a rate exceeding ₹ 7 but not exceeding ₹ 10 per hectare;
- (iv) 1.6 hectares of wet land assessed to land revenue at a rate exceeding ₹ 4 but not exceeding ₹ 7 per hectare;
- (v) 1.8 hectares of wet land assessed to land revenue at a rate exceeding ₹ 4 per hectare;

(b) in the case of dry land, -

- (i) 2.0 hectares of dry land assessed to land revenue at a rate exceeding ₹ 9 per hectare;
- (ii) 2.5 hectares of dry land assessed to land revenue at a rate exceeding ₹ 7 but not exceeding ₹ 9 per hectare;
- (iii) 3.0 hectares of dry land assessed to land revenue at a rate exceeding ₹ 3 but not exceeding ₹ 7 per hectare;
- (iv) 3.6 hectares of dry land assessed to land revenue at a rate not exceeding ₹ 3 per hectare;

Explanation – I – For the purposes of this Act –

(a) "dry land" means the land classed as waste or uncultivated;

(b) "wet", "dry" and "waste or uncultivated" respectively mean lands referred to as, "Terres A Nelly (Rizieres)" "Terres A Menus Grains" and "Terres Boisees Ou Incultes (Terres Vagues)" in the Deliberation of the Conseil General, dated the 24th December, 1933 enforced by the Arrete dated the 22nd August, 1934; and

(c) "land revenue" means the land tax levied only in accordance with the Deliberation referred to in clause (b).

Explanation – II – Where the land held by a person consists of more than one of the kinds of land specified in this clause, the extent of the land held by him shall, for the purposes of this Act, be reduced to standard hectares calculated according to the proportions specified therein;

(33) "surplus land" means the land held by a person in excess of the ceiling area and declared to be surplus land under section 11, section 12 or section 13;

(34) "tenant" means any person who has paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under a tenancy agreement, express or implied, and includes –

- (i) any such person who continues in possession of the land after the determination of the tenancy agreement;
- (ii) the heirs, assignees, legal representatives of such person, or persons deriving rights through such persons;
- (iii) a cultivating tenant;

(35) "trust" means a private trust or a public trust.

Act to override other laws, contracts, etc.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage or contract or decree or order of a Court or other authority.

CHAPTER – II

FIXATION OF CEILING ON LAND HOLDINGS

Ceiling area

4. (1) (a) Subject to the provisions of Chapter VI, the ceiling area in the case of every person and in the case of every family consisting of not more than five members, shall be 6 standard hectares.

(b) The ceiling area in the case of every family consisting of more than five members shall, subject to the provisions of Chapter – VI, be 6 standard hectares together with an additional 1.2 standard hectares for every member of the family in excess of five;

Provided that the total extent of land held by any family shall in no case exceed twice the ceiling area referred to in clause (a).

(2) For the purposes of this section, all the lands held individually by the members of a family or jointly by some or all of the members of such family shall be deemed to be held by the family.

(3) (a) In calculating the extent of land held by a member of a family or by an individual person, the share of the member of the family or of the individual person in the land held by an undivided Hindu family shall be taken into account.

(b) In calculating the extent of land held by a family or by an individual person, the share of the family or of the individual person in the land held by a firm, society or association of individuals (whether incorporated or not) or by a company (other than a non-agricultural company) shall be taken into account.

Explanation.– For the purposes of this section –

(a) the share of a member of a family or of an individual person in the land held by an undivided Hindu family, and

(b) the share of a family or of an individual person in the land held by a firm, society or association of individuals (whether incorporated or not), or by a company (other than a non-agricultural company), shall be deemed to be the extent of land –

(i) which, in case such share is held on the appointed day would have been allotted to such member, person or family had such land been partitioned, or divided in proportion to the share held by such member, person or family, as the case may be, on such day; or

(ii) which, in case such share is acquired in any manner whatsoever after the appointed day would be allotted to such member, person or family if a partition, or division in proportion to the share held by such member, person or family, were to take place on the date of the preparation of the draft statement under sub-section (1) of section 9.

(4) In calculating the extent of land held by any person, any land which was transferred by sale, gift or otherwise or partitioned by that person after the appointed day but before the commencement of this Act, shall be taken into account as if such land had not been transferred or partitioned, as the case may be.

(5) (a) The land held by the public trust referred to in the proviso to clause (30) of section 2 shall be deemed to be held by the founder of the trust or his heirs or the family of the founder or of his heirs.

(b) In calculating the extent of land held by such founder or his heirs or such family, the extent of the land held by the public trust shall be taken into account.

(6) In calculating the extent of land held by any person, the extent of land which may revert to such person immediately after the death of any limited owner shall, during the lifetime of the limited owner, be excluded.

**Basis of calculation of the extent of land held by the founder
of a public trust**

5. (1) Where under the terms of a public trust any interest either in the land in respect of which the public trust is created or in the income from such land is reserved in favour of the founder of such public trust, the authorised officer shall declare the extent of land which bears to the total extent of land held on the appointed day in respect of which the public trust is created, the same proportion as such interest bears to the total interest in such land or the income therefrom.

(2) The extent of the land so declared under sub-section (1) –

- (a) shall, with effect from the date of such declaration, be deemed to be held by the founder;
- (b) shall be taken into account in calculating the extent of land held by him; and
- (c) shall cease to be the public trust property from the date of such declaration;

but shall be subject to any other liability that may be subsisting on such land;

Provided that the extent of such liability shall bear the same proportion to the entire liability as the extent so declared bears to the total extent.

Ceiling on holding land

6. On and from the appointed day, no person shall, except as otherwise provided in this Act, but subject to the provisions of Chapter-VI, be entitled to hold land in excess of the ceiling area:

Provided that in calculating the total extent of land held by any person, the authorised officer may, for reasons to be recorded in writing permit any person to hold land in excess of the ceiling area if the extent of excess of land does not exceed 0.2 hectare in the case of wet land and 0.4 hectare in the case of dry land.

Furnishing of return by persons holding land in excess of ceiling area

7. (1) Within thirty days from such date as may be specified in the notification issued by the Government in this behalf, every person, who, on the appointed day, held land in excess of the ceiling area shall, in respect of all land held by such person on such day, furnish to the authorised officer within whose jurisdiction the holding of such person or the major part thereof is situated, a return containing the following particulars, namely:-

- (i) particulars of all the land;
- (ii) particulars of the members of the family and of the land held by each member of the family;
- (iii) particulars of any interest either in the land held by a trust or in the income from such land reserved in his favour or in favour of any member of his family;
- (iv) particulars of the encumbrances, if any, over the land together with the name and address of the creditor;
- (v) particulars of any pending litigation respecting the land or part thereof;
- (vi) particulars of the land which such person desires to retain within the ceiling area and the land which he desires to be declared as surplus land;

(vii) particulars of land held by tenant, if any, and the name and address of such tenant;

(viii) such other particulars as may be prescribed.

Explanation-I - In the case of a member of the Armed Forces, the reference to thirty days shall be deemed to be a reference to one year.

Explanation-II - Where land is held by –

(a) an individual, the return shall be furnished by him or any person authorised by him in writing in this behalf.

(b) a person who is a minor, lunatic, idiot, or is subject to a like disability, the return shall be furnished by the guardian, manager or other person in charge of such person or of the property of such person.

(c) a company or other corporate body, the return shall be furnished by any person competent to act for such company or body in this behalf.

Explanation-III - Where land is held by a family, the return shall be furnished by the person in management of such family or of the property of such family and the return so furnished shall be binding on the other members of the family;

+ [Omitted]

Explanation-IV – Where in a family both husband and wife hold land separately and the aggregate of such land exceeds the ceiling area; the extent of land to be declared surplus by each of them shall bear the same proportion to the extent of land held by them.

(2) The notification referred to in sub-section (1) shall contain such particulars and shall be published in such manner as may be prescribed.

Collection of information

8. (1) If any person who has held land in excess of the ceiling area fails to furnish the return under section 7 or furnishes an incorrect or incomplete return under that section, the authorised officer may, by notice, require such person to furnish the return or the additional particulars, as the case may be, within the time specified in the notice, or within such further time not exceeding thirty days as the authorised officer may allow.

(2) (a) Where any person, on whom notice under sub-section (1) has been served, fails to furnish the return, or the additional particulars, as the case may be, within the time specified in that notice, or within the further time allowed by the authorised officer under sub-section (1), the authorised officer may obtain in such manner as may be prescribed the necessary information either by himself or through such agency as he thinks fit.

(b) + [omitted]

Preparation and publication of draft statement as regards land in excess of the ceiling area

9. (1) (a) On the basis of the return furnished under sub-section (1) of section 7 +[omitted] or on the basis of the return furnished under subsection (1) of section 8 and the additional particulars, if any furnished under that sub-section, or on the basis of the information obtained by the authorised officer under clause (a) of sub-section (2) of section 8 +[omitted] as the case may be, the authorised officer shall, subject to the provisions of sub-sections (2), (3) and (4) and after making such inquiry as he deems fit, prepare a draft statement in respect of each person holding or deemed to have held land in excess of the ceiling area.

(b) The draft statement prepared under clause (a) shall contain the following particulars namely: -

- (i) the name and address of the person;
- (ii) particulars of all land held by such person and the total extent of such land;

- (iii) particulars of the members of the family and of the stridhana land held by each female member of the family;
- (iv) particulars of any interest either in the land held by a trust or in the income from such land reserved in his favour or in favour of any member of his family;
- (v) particulars of encumbrances, if any, over the land together with the name and address of the creditor;
- (vi) particulars of the land which such person desires to retain within the ceiling area;
- (vii) the extent of the ceiling area of the person;
- (viii) particulars of the land which may be comprised within the ceiling area;
- (ix) particulars of the land held by tenant, if any, and the name and address of such tenant;
- (x) particulars of the land proposed to be declared as surplus land;
- (xi) such other particulars as may be prescribed.

(2) (a) For the purpose of calculating after the appointed day the ceiling area of a family holding land on the appointed day in excess of 6 standard hectares, the authorised officer shall take into account only those members of that family who are alive on the notified date.

(b) For the purpose of calculating after the appointed day, the ceiling area of any other family, the authorised officer shall take into account only those members of that family who are alive on the date of the preparation of the draft statement under sub-section (1).

(3) If any person fails to specify the particulars of the land which he desires to retain within his ceiling area, the authorised officer shall, as far as practicable, specify in the draft statement, the land which is capable of easy and convenient enjoyment as the land to be retained by such person within his ceiling area.

(4) If any person has specified the particulars of the land which he desires to retain within his ceiling area, the authorised officer shall, as far as practicable, declare the same land as comprised within his ceiling area;

Provided that where in the opinion of the authorised officer, the utility of any land or part thereof held by any person has been diminished by any wilful act of such person, after the appointed day, the authorised officer shall declare such land or any part thereof as comprised within his ceiling area;

Provided further that the authorised officer shall, subject to such conditions as may be prescribed, declare the share of any person in the land held by an agricultural company, a co-operative society or a land mortgage bank, or any part of such share as comprised within the ceiling area;

Provided also that subject to the above provisions, the land which the authorised officer proposed to declare as surplus land under clause (x) of sub-section (1) shall, as far as practicable, be such as is capable of easy and convenient enjoyment.

(5) The draft statement shall be published in such manner as may be prescribed and a copy thereof shall be served on the persons concerned, the tenants, creditors and all other persons who in the opinion of the authorised officer are interested in the land to which such draft statement relates, together with a notice stating that any objection to the draft statement shall be preferred within + [fifteen] days from the service of such notice.

(6) (a) The authorised officer shall duly consider any objection received within the time specified in the notice referred to in sub-section (5) from the persons on whom a copy of the draft statement has been served or any objection received within + [fifteen] days from the date of the publication of the draft statement from any other person.

(b) The authorised officer shall, after giving the objector a reasonable opportunity of being heard and of adducing evidence, if any, and subject to such rules as may be made under this Act, pass such orders as he deems fit.

Authorised officer to decide question of title in certain cases

10. (1) If while considering the objections received under sub-section (5) of section 9 or otherwise, the authorised officer finds that any question has arisen regarding the title of a person to any land and such question has not already been finally determined by, or is not pending before, a competent court, the Land Tribunal or other authority, the authorised officer may, subject to the provisions of sub-section (2), decide such question summarily in such manner as may be prescribed and may pass such order as he deems fit.

(2) Where in the opinion of the authorised officer the decision of a question under sub-section (1) involves a substantial question of law or of fact, he shall, for reasons to be recorded in writing, refer the question to the Land Tribunal.

(3) The order of the authorised officer under sub-section (1) shall not be subject to any appeal or revision, but any party may, within three months from the date of service of a copy of such order, institute a suit in the Land Tribunal within whose jurisdiction the land or the major part thereof is situated to have the order set aside or modified but subject to the final result of such suit, if any, the order of the authorised officer shall be final.

Publication of final statement

11. (1) After the disposal of the objections, if any, preferred under sub-section (5) of section 9, and after passing the order, if any, under sub-section (1) of section 10, the authorised officer shall, subject to the provisions of this Act and the rules made thereunder, make necessary alterations in the draft statement in accordance with the order passed on the objections aforesaid and the order, if any, passed under sub-section (1) of section 10, and shall declare the surplus land held by each person.

(2) The authorised officer shall thereafter publish in such manner as may be prescribed a final statement specifying therein the entire land held by each person, the land to be retained by him within the ceiling area and the land declared to be surplus land and such other particulars as may be prescribed and cause a copy thereof to be served on the persons referred to in sub-section (5) of section 9.

(3) The statement referred to in sub-section (2) shall, subject to the provisions of section 13, be conclusive evidence of the facts stated therein.

Exclusion of certain land from calculating of ceiling area

12. (1) Notwithstanding anything contained in sections 10 and 11, the authorised officer shall, in calculating the extent of land held by any person, exclude the land in respect of which any question of title is pending before a competent court, or the Land Tribunal or other authority and where after such exclusion the land held by such person is in excess of the ceiling area, he shall declare the land in excess to be surplus land.

(2) The land so declared as surplus land shall be incorporated in the final statement published under section 11.

Amendment of final statement in certain cases

13. (1) As soon as may be, after the final disposal of the suit or other proceeding or suit relating to the question of title of any land excluded under section 12, the authorised officer shall –

- (i) amend the final statement published under section 11, or
- (ii) where there is no such final statement, prepare a final statement, if necessary, under section 11.

in accordance with the decision of the court or the Land Tribunal or other authority, as the case may be.

(2) The final statement amended or prepared under sub-section (1), shall be published in such manner as may be prescribed and the authorised officer shall cause a copy of the final statement as so amended or prepared to be served on the persons referred to in sub-section (5) of section 9.

Powers to rectify *bona fide* mistakes and clerical errors

14. Notwithstanding anything contained in section 11 and 12, the authorised officer may, either of his own motion or on the application of any of the parties, -

(a) if he is satisfied that a *bona fide* mistake has been made in regard to any entry in the final statement published under section 11 or section 13, make the necessary corrections therein;

(b) at any time, correct any clerical or arithmetical mistake in regard to any entry in such final statement.

**Possession of and held by possessory mortgagee to
revert to the possessory mortgagor in certain cases**

15. (1) Where any land held by any person as possessory mortgagee is in excess of the ceiling area of such person, the possession of the land in such excess shall, with effect from the date of publication of the final statement under section 11 or section 13 –

(a) in any case where the total holding of the possessory mortgagor is not in excess of the ceiling area, revert to the possessory mortgagor;

(b) in any case where the total holding of the possessory mortgagor is in excess of the ceiling area, and where he desires the land mortgaged by him or any part thereof to be included within his ceiling area in the return furnished by him under section 7, revert to him subject to the condition that the land so reverted together with the other land held by him does not exceed the ceiling area.

(2) Where the possession of the land in excess held by a possessory mortgaged or any part thereof does not revert to the possessory mortgagor under sub-section (1), the Government may acquire such land under section 17.

(3)(a) (i) The possessory mortgagor to whom possession of the land mortgaged reverts under sub-section (1), shall pay the mortgage money due to the possessory mortgagee in respect of that land.

(ii) Where possession of a part only of the land mortgaged reverts to the possessory mortgagor under sub-section (1), the possessory mortgagor shall pay to the possessory mortgagee such amount of the mortgage money as bears to the entire amount of the mortgage money, the same proportion as the value of the part aforesaid on the date of such reversion bears to the value of the entire extent of the land mortgaged on the said date.

(iii) Where no agreement can be reached in respect of the mortgage money payable under sub-clause (i) or sub-clause (ii), the authorised officer shall, subject to the provisions of sub-clause (iv) and after making such inquiry as he deems fit, decide the amount so payable.

(iv) Where in the opinion of the authorised officer the decision of a question under sub-clause (iii) involves a substantial question of law or of fact, he shall, for reasons to be recorded in writing, refer the question to the Land Tribunal.

(b) The land or any part thereof, the possession of which reverts to the possessory mortgagor under sub-section (1), shall be the security for the payment of the mortgage money.

(c) The mortgage money referred to in clause (a) shall, for the purpose of article 62 of the Schedule to the Limitation Act, 1963 (Central Act 36 of 1963), be deemed to have become due with effect from the date of reversion under sub-section (1), and shall carry interest at the rate of five and a half per centum per annum from the said date.

(4) Where the possession of any land or any part thereof is likely to revert to the possessory mortgagor under sub-section (1), the authorised officer shall first fix the ceiling area of the possessory mortgagee.

Possession of land held by tenant to revert to the land owner in certain cases

16. (1) Where any land held by any person as tenant is in excess of the extent of land which he is entitled to hold under section 4, the possession of the land in such excess shall, with effect from the date of publication of the final statement under section 11 or section 13, revert to the land owner to the extent to which the land of the land owner himself is not liable to be declared as surplus land in accordance with the provisions of this Act.

(2) Where in respect of any land, the possession of which reverts to the land owner under sub-section (1), the contract of tenancy provides for the continuance of the tenancy after the expiry of the agricultural year immediately succeeding the date of such reversion, such land owner shall pay to the tenant an amount equivalent to one eighth of the fair rent calculated in the manner specified in paragraph 4 of Part I of Schedule I and out of such amount, three-fourths shall be paid to the cultivating tenant and one-fourth to the intermediary, if any.

(3) If any dispute arises in regard to the amount payable under sub-section (2), either party may make an application to the authorised officer within whose jurisdiction the land or the major part thereof is situated, for deciding such dispute and the authorised officer shall decide such dispute in accordance with such procedure as may be prescribed.

Acquisition of surplus land

17. (1) After the publication of the final statement under section 11 or section 13, the Government shall, subject to the provisions of sections 15 and 16, publish a notification to the effect that the surplus land is required for a public purpose.

(2) As soon as may be after the publication of a notification under sub-section (1), the authorised officer shall –

(a) cause to be published in every village or town in which any part of the land specified in such notification is situated a proclamation containing the terms of the notification:

(b) cause a copy of the notification to be served on the persons concerned, the creditors, persons whose names appear in the final statement published under section 11 or section 13 and such other persons as may be specified in the rules made under this Act.

(3) on the publication of the notification under sub-section (1), the land specified in the notification together with the trees standing on such land and building, machinery, plant, apparatus, wells, filter points or power lines constructed, erected or fixed on such land and used for agricultural purposes shall, subject to the provisions of this Act, be deemed to have been acquired for a public purpose and vested in the Government free from all encumbrances with effect from the date of such publication and all right, title and interest of all persons in such land shall, with effect from the said date, be deemed to have been extinguished:

Provided that where there is any crop standing on such land on the date of such publication, the authorised officer may, subject to such conditions as may be prescribed, permit the harvest of such crop by the person who had raised such crop.

(4) Subject to the rules made under sub-section (5), the authorised officer may, at any time after the publication of the notification under sub-section (1), take possession of any land specified in the said notification.

(5) (a) The Government may make rules –

- (i) specifying the classes of tenants, who may be allowed to continue in possession of the land:
- (ii) permitting any co-operative society registered or deemed to have been registered under the Puducherry Co-operative Societies Act, 1965 (Act 11 of 1965) or any land mortgage bank to which the Madras Co-operative Land Mortgage Bank Act, 1934 (Madras Act of 1934) in its application to the Union territory of Puducherry applies or any agricultural company to continue in possession of the land notwithstanding anything contained in sections 4 and 6, even after the publication of the notification under sub-section (1).

(b) The rules to be made under clause (a) may also provide –

- (i) for the conditions subject to which the persons referred to in sub-clause (i) and sub-clause (ii) of clause (a) may continue in possession of the land;

- (ii) that the share of a member of the co-operative society in such land together with his other land, if any, or if he is a member of a family, together with the land owned by the members of his family, if any, does not exceed the ceiling area.

Direction by Land Commissioner

18. Where for any reason, the extent of any land held by any person has not been included in the total extent of the land held by such person for the purposes of this Act, the Land Commissioner may, at any time, direct the authorised officer to include such land in such total extent and the ceiling area shall be calculated in accordance with the provisions of this Act, and accordingly, the provisions of section 8 and the other provisions of this Act shall, as far as may be, apply as if the extent of the land so included were mentioned in the return required to be furnished under section 7.

CHAPTER - III CEILING ON FUTURE ACQUISITION AND RESTRICTION ON CERTAIN TRANSFERS

Declaration to be made before the registering authority in certain cases

19. (1) On or after the notified date, no document relating to any transfer of land either by sale, gift, exchange, lease, possessory mortgage, surrender, agreement, settlement or otherwise, shall be registered unless a declaration in writing is made in duplicate in such form as may be prescribed and filed by the transferee before the registering authority under the Registration act, 1908 as to the total extent of land held by him.

(2) The registering authority referred to in sub-section (1) shall forward within such time and in such manner as may be prescribed one copy of the declaration referred to in sub-section (1) to the authorised officer within whose jurisdiction the land which is the subject matter of the transfer or the major part thereof is situated.

(3) On receipt of the copy of the declaration under sub-section (2), the authorised officer may obtain such information as may be necessary and take such action as he deems fit in accordance with the provisions of this Act, and in accordance with such rules as may be made in this behalf.

Penalty for future acquisition in contravention of section 6

20. (1) If, as a result of any transfer of land either by sale, gift (other than gift made in contemplation of death), exchange, surrender, agreement, settlement or otherwise effected on or after the notified date, the extent of land held by the transferee exceeds

the ceiling area, then, the right, title or interest accrued in his favour by virtue of such transfer in the land in excess of the ceiling area shall, as a penalty for contravention of the provisions of section 6, be deemed to have been transferred to the Government with effect from the date of such transfer, on a declaration made by the authorised officer within whose jurisdiction such excess land or the major part thereof is situated and the authorised officer shall record in writing the reasons for such declaration:

Provided that --

(a) no such declaration shall be made unless the transferor and the transferee have been given a reasonable opportunity of being heard and of adducing evidence, if any;

(b) the transferee shall be liable for payment of the consideration for, and to discharge other liabilities under, such transaction and the transferor shall have no claim for such consideration against the Government, otherwise than in respect of such land;

(c) no suit or other proceedings by the transferee shall lie in any court for the refund of the consideration for any such transaction.

Explanation – For the purposes of this sub-section, "transfer" does not include inheritance, bequest, lease or possessory mortgage.

(2) The Government may make rules, providing for the manner in which any right, title or interest transferred to the Government under sub-section (1) shall be disposed of.

Ceiling on future acquisition by inheritance bequest or by sale in execution of decree, etc.

21. (1) If, on or after the appointed day –

(a) any person acquires by inheritance or bequest from any person;

(b) but before the notified date, any person acquires by sale in execution of a decree or order of a civil court or of an award or order of any other lawful authority, any land, which, together with the land, if any, already held by him, exceeds in the aggregate the ceiling area, then he shall, within + [thirty] days from the notified date or from the date of such acquisition, whichever is later, furnish to the authorised officer within whose jurisdiction his holding or the major part thereof is situated, a return containing the following particulars, namely: -

+ Amended as per the Puducherry Land Reforms (Amendment) Regulation, 1977 w.e.f 28.02.77.

- (i) particulars of the land already held by him and those of the land so acquired;
- (ii) particulars of the land which he desires to retain within the ceiling area;
- (iii) particulars of the date of acquisition;
- (iv) particulars of the manner of acquisition and of the documents, if any, under which such acquisition was made;
- (v) the name and description of the person who held the land immediately before the date of acquisition;
- (vi) particulars of the land held by tenant, if any, and the name and address of such tenant; and
- (vii) such other particulars as may be prescribed.

Explanation. - In this sub-section, "bequest" shall include gift made in contemplation of death.

(2) If, as a result of marriage or adoption on or after the appointed day, the extent of land held by any person exceeds in the aggregate the ceiling area, then, he shall, within + [thirty] days from the notified date or from the date of marriage or adoption, as the case may be, whichever date is later, furnish to the authorised officer within whose jurisdiction his holding or the major part thereof is situated, a return containing the following particulars, namely: -

- (i) particulars of the land held before the date of the marriage or adoption;
- (ii) particulars of the land held after the date of marriage or adoption; and
- (iii) such other particulars as may be prescribed.

(3) If he fails to furnish the return or furnished an incorrect or incomplete return within the period specified in sub-section (1) or sub-section (2), the provisions of section 8 and other provisions of this Act shall, as far as may be, apply as if it were a return required to be furnished under section 7.

Restriction on transfer of land by a person

22. (1) Except where a person is permitted, in writing, by the authorised officer, a person, holding land in excess of the ceiling area applicable to him under section 4, shall not, after the commencement of this Act, transfer by sale, gift or otherwise or make any partition of any land held by him or any part thereof until the excess land, which is to be acquired by the Government under section 17, has been determined and taken possession of by or on behalf of the Government.

(2) (a) If any person makes any transfer, whether by sale, gift or otherwise, of any land in contravention of the provisions of sub-section (1), the Government may, in the first instance, take possession of land, equal in area to the land which is to be acquired by the Government, from out of the land held by such person, and where such recovery from the person is not possible, from the transferee.

(b) Where there are more transferees than one, the deficiency of the surplus area shall be made up from each of the transferees in proportion to the land transferred to them.

(3) Any person who transfers any land in contravention of the provisions of sub-section (1) shall be punishable with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

CHAPTER – IV

PERMISSION BY GOVERNMENT TO HOLD LAND IN EXCESS OF CEILING AREA BY INDUSTRIAL OR COMMERCIAL UNDERTAKINGS

Industrial or commercial undertakings to apply to Government for permission to hold-land in excess of ceiling area.

23. (1) If any industrial or commercial undertaking desires to hold or acquire any land in excess of the ceiling area for non-agricultural purposes, it shall make an application to the Government for permission to hold or acquire such land and every such application shall be in writing and shall contain such particulars as may be prescribed.

Explanation.– In this section, "industrial or commercial undertaking" means any industrial or commercial undertaking (other than a co-operative society) which *bona fide* carries on any industrial or commercial operation.

(2) The Government may, subject to the provisions of sub-section (3), grant the permission for the whole or part of the land specified in the application subject to such conditions as it may specify or refuse to grant such permission. The order granting such permission shall contain the particulars of the land in respect of which such permission is granted.

(3) The Government shall, in deciding whether to grant or refuse the permission under sub-section (2), take into consideration the following factors, namely –

- (a) the nature of the industrial or commercial operation;
- (b) whether the excess land is required for immediate use or use in future;
and
- (c) such other particulars as may be prescribed.

(4) The Government may cancel the permission in respect of any land granted under this section on the breach of any condition specified by the Government.

Provided that no application under sub-section (3) shall be refused or permission under sub-section (4) cancelled unless the party who may be affected by such refusal or cancellation has been given a reasonable opportunity for making a representation in the matter.

CHAPTER – V

PAYMENT OF AMOUNT FOR ACQUIRING SURPLUS LAND

Determination of amount for land acquired by Government

24.(1) Every person whose right, title or interest in any land is acquired by the Government under Chapter II shall subject to the provisions of section 28, be paid an amount according to the rate specified in Schedule I.

(2) Any person claiming any amount under sub-section (1) may, within + [fifteen] days from the date of publication of the notification under sub-section (1) of section 17 prefer the claim before the authorised officer in such form and containing such particulars as may be prescribed.

+ Amended as per the Puducherry Land Reforms (Amendment) Regulation, 1977 w.e.f 28.2.77.

(3)(a) The authorised officer shall determine the amount at the rate specified in Schedule I and prepare a draft assessment roll in such manner and containing such particulars as may be prescribed indicating the amount so determined and shall cause it to be published together with –

- (i) a statement that the amount specified therein is the entire amount payable for all interests in the land and that subject to the other provisions of this Act, the persons named therein are the only persons who are entitled thereto in the proportion stated therein, and
- (ii) a notice stating that objections, if any, in respect of any entry in the draft may be preferred by any person in such manner as may be prescribed within + [fifteen] days from the date of publication:

Provided that the authorised officer may allow such further time not exceeding + [fifteen] days.

(b) The authorised officer shall cause to be served on the persons whose names appear in the draft assessment roll a copy of the draft together with a copy of the statement and of notice referred to in clause (a).

(4) The authorised officer shall consider any objection which may be preferred under sub-section (3) and after giving the parties a reasonable opportunity of being heard and of adducing evidence, if any pass such order as he thinks fit and record the reasons therefor.

(5) When such objection, if any, in regard thereto has been finally disposed of, the authorised officer shall make such alteration in the draft assessment roll as may be necessary to give effect to any order made in regard to the objection and shall cause the draft so altered to be published finally in such manner as may be prescribed.

(6) If no objection is preferred within the period specified in the notice published under sub-section (3) or within the further time allowed by the authorised officer under that sub-section, the authorised officer shall cause the draft compensation assessment roll to be published finally in such manner as may be prescribed.

(7) Every entry in the assessment roll published finally under sub-section (5) or sub-section (6) shall, except as provided in this Act, be final and conclusive evidence of -

- (a) the matters referred to therein;
- (b) the nature of the interest of the person named therein; and
- (c) the apportionment of the amount among the persons claiming interest thereto.

(8) When the assessment roll has been published finally under sub-section (5) or sub-section (6), the authorised officer shall, within such time as may be prescribed, endorse a certificate thereon stating the date of the final publication thereof and shall date and subscribe the same with his name and official designation and such certificate shall be conclusive proof of such publication and the date of such publication.

(9) The authorised officer may, if he is satisfied either of his own motion or on the application of any of the parties that a *bona fide* mistake has been made in regard to any entry in the assessment roll as published finally, make necessary correction therein and on such correction being made, the provisions of sub-section (3) to (8) shall, as far as may be, apply thereto.

(10) Notwithstanding anything contained in sub-section (9), the authorised officer may, at any time, correct either of his own motion or on the application of any of the parties any clerical or arithmetical mistake in regard to any entry in the assessment roll as published finally.

Claims of mortgagee or charge holder on surplus land

25. (1)(a) Where any surplus land acquired under the provisions of this Act is subject to a mortgage or charge subsisting on the date of the acquisition, the mortgagee or the charge holder shall, where the amount due to him or part thereof can be fixed by agreement, be paid such amount or part.

(b) Where no such agreement can be reached, the mortgagee or the charge holder shall within + [thirty] days from the date of the acquisition, prefer a claim in such manner as may be prescribed before the authorised officer who shall, subject to the provisions of sub-section (3), decide the claim in such manner as may be prescribed and record the reasons for the decision.

(2) Where there are more claimants than one, the authorised officer shall settle the order in which each claimant is entitled to receive the amount due to him, and in doing so he shall be guided by the appropriate provisions of the Transfer of Property Act, 1882 (Central Act 4 of 1882).

(3) Where in the opinion of the authorised officer the decision of a claim under sub-section (1) or sub-section (2) involves a substantial question of law or of fact, he shall, for reasons to be recorded in writing, refer the claim to the Land tribunal for decision.

(4) If the amount of claim allowed to the mortgagee or the charge holder by the authorised officer exceeds the amount payable under section 24, the entire amount shall be paid to the mortgagee or the charge holder, as the case may be, and the balance may be recovered by the mortgagee or the charge holder in accordance with law for the time being in force.

Claims of limited owner on surplus land

26. (1) where any surplus land acquired under the provisions of this Act is held by a limited owner on the date of the acquisition, the amount payable in respect of such surplus land under section 24 shall, subject to such conditions as may be prescribed, be kept in deposit before such authority as may be prescribed, and the authorised officer shall direct payment of the interest accruing from the amount so deposited to the person or persons who would, for the time being, have been entitled to the possession of the said land:

Provided that where the limited owner has created an encumbrance over the surplus land referred to in this section, the whole or any portion of the interest aforesaid shall be paid to the encumbrancer, to the extent to which the encumbrancer is entitled and the balance shall be paid to the person or persons who would, for the time being, have been entitled to the possession of the said land.

(2) The amount referred to in sub-section (1) shall remain so deposited until the same is paid to any person or persons becoming absolutely entitled thereto.

Claims of maintenance holder on surplus land

27. Where any surplus land acquired under the provisions of this Act is on the date of the acquisition subject to a charge for payment of maintenance to another, the amount payable in respect of such surplus land under section 24 shall, subject to such conditions as may be prescribed, be kept in deposit before such authority as may be prescribed, and such amount shall be deemed to be substituted security and shall continue to remain such security till the death of the maintenance-holder or till the right to receive maintenance cease to exist or till the liability to pay maintenance is discharged.

Payment of amount to certain tenants

28. (1) Where the contract of tenancy provides for the continuance of the tenancy in respect of any surplus land that vests in the Government under section 17, after the expiry of the agricultural year immediately succeeding the date of such vesting, the tenants shall be entitled to the payment of such amount as is specified in Schedule II:

Provided that such tenant shall not be entitled to any amount in respect of such surplus land also under sub-section (1) of section 24.

(2) The amount referred to in sub-section (1) shall be apportioned between the cultivating tenant and the intermediary concerned in the manner specified in Schedule II.

Manner of payment of amount

29. (1) The amount payable as finally determined under this Act shall, within such period as may be prescribed, be paid in cash either in one lump or in annual installments, not exceeding three, together with interest at six per cent per annum.

(2) The interest shall be paid --

- (i) in the case of any land held by any person referred to in sub-clause (i) or sub-clause (ii) or clause (a) of sub-section (5) of section 17, with effect from the date of publication of the notification under sub-section (1) of that section; and
- (ii) in any other case, with effect from the date of taking possession of the land under sub-section (4) of section 17.

CHAPTER – VI

CULTIVATING TENANTS CEILING AREA

Definition

30. In this Chapter, "cultivating tenant's ceiling area" means 2 standard hectare held by any person partly as cultivating tenant and partly as owner or wholly as cultivating tenant.

Explanation. – For the purposes of this Chapter "cultivating tenant" includes any tenant who is in actual possession of land but does not contribute his own physical labour or that of any member of his family in the cultivation of such land.

Person holding land as cultivating tenant to furnish return in certain cases

31. (1) Every cultivating tenant who holds on the notified date land in excess of the cultivating tenant's ceiling area shall, within ninety days from the said date, furnish to the authorised officer a return containing the following particulars, namely: -

- (i) particulars of the land, if any, which he holds as owner;
- (ii) particulars of the land which he holds as cultivating tenant;
- (iii) particulars of the name and address of the land owner concerned; and
- (iv) such other particulars as may be prescribed.

(2) If any cultivating tenant who has held land in excess of the cultivating tenant's ceiling area, fails to furnish the return under sub-section (1) or furnishes an incorrect or incomplete return under that sub-section, the authorised officer may, by notice, require such cultivating tenant to furnish the return or the additional particulars as the case may be, within the time specified in the notice or within such future time not exceeding +[fifteen] days as the authorised officer may, in his discretion allow.

(3) (a) Where any cultivating tenant on whom notice under sub-section (2) has been served fails to furnish the return or the additional particulars, as the case may be, within the time specified in that notice or within the further time, if any, allowed by the authorised officer under that sub-section, the authorised officer may obtain in such manner as may be prescribed the necessary information either by himself or through such agency as he thinks fit.

(b) The authorised officer shall, as soon as may be after obtaining the information under clause (a), give to the cultivating tenant concerned a reasonable opportunity of making his representation and of adducing evidence, if any, in respect of such information and consider any such representation and evidence and pass such orders as he deems fit.

Authorised officer to take possession of land in excess of cultivating tenant's ceiling area

32. On the basis of the return furnished under sub-section (1) of section 31 or on the basis of the return furnished under sub-section (2) of that section, and the additional particulars, if any, furnished under that sub-section, or on the basis of the information obtained by the authorised officer under clause (a) of sub-section (3) of section 31, and the orders passed on the representation and the evidence, if any, under clause (b) of sub-section (3) of that section, the authorised officer shall subject to such rules, as may be made in this behalf and subject to the rights of the owner of the land, take possession on behalf of the Government, of the land held by the person, as cultivating tenant and in excess of the cultivating tenant's ceiling area:

+ Amended as per the Puducherry Land Reforms (Amendment) Regulation, 1977 w.e.f 28.02.77.

Provided that the authorised officer shall not take possession of such land unless he has given the land owner and the cultivating tenant concerned a reasonable opportunity of being heard in the matter:

Provided further that the authorised officer shall give in such manner as may be prescribed not less than + [fifteen days] notice in writing intimating the cultivating tenant of his decision to take possession of the land and the notice shall expire with the end of the agricultural year in which such notice is given:

Provided also that the authorised officer may, for reasons to be recorded in writing permit the possession of the land held by the person as cultivating tenant and in excess of the cultivating tenant's ceiling area, if the total extent of such excess land does not exceed 0.2 hectare in the case of wet land and 0.4 hectare in the case of dry land.

Provided also that where there is any crop standing on such land on the date of the expiry of the notice aforesaid, the authorised officer may postpone taking possession of the land and permit the harvest of such crop by the person who had raised such crop.

Liability of Government to pay rent

33. (1) With effect on and from the date on which the authorised officer takes possession of the land under section 32, the Government shall be deemed to be the tenant of the owner of the land.

(2) In respect of land referred to in sub-section (1), the Government shall be liable to pay annually to the owner of such land fair rent as calculated in the manner specified in paragraph 4 of Part I of Schedule I and such rent shall be paid in cash or in kind accordance with such rules as may be made under this Act.

(3) If any dispute arises in regard to the rent payable under sub-section (2), either party may make an application to the Land Tribunal within whose jurisdiction the land referred to in sub-section (1) or the major part thereof is situated for deciding such dispute.

Authorised officer to distribute possession of land

34. (1) The authorised officer shall distribute possession of the land, the possession of which he has taken under section 32, to the landless persons preferably persons belonging to the Scheduled Castes and Scheduled Tribes or to persons holding land below the cultivating tenant's ceiling area.

(2) (a) The distribution under sub-section (1) shall be in accordance with such rules as may be made under this Act and subject to such conditions as may be prescribed.

(b) The rules made under clause (a) may also provide for the manner of recovery of any amount due to the Government from, and the manner of evicting, the person to whom such distribution is made.

*** [Power of the Government to reserve land for other public purposes**

34-A. Notwithstanding anything contained in section 34, the Government may, if it considered necessary that any surplus land, the possession of which the authorised officer has taken under section 32, is required for any public purpose, reserve such land for such purpose.]

**Authorised officer empowered to summarily dispossess persons
in certain cases**

35. The authorised officer may summarily dispossess:-

- (i) any person to whom any land has been distributed under section 34, if such person fails to comply with the conditions subject to which the distribution was made, or contravenes any rule made under this Chapter:
- (ii) any other person occupying such land except in accordance with the provisions of this Chapter or the rules made thereunder.

Amount payable to tenants in certain cases

36. (1) Where, in respect of any land the possession of which has been taken by the authorised officer under section 32, the contract of tenancy provides for the continuance of the tenancy after the expiry of the agricultural year immediately succeeding the date of taking such possession, the Government shall pay to the tenant such amount as is provided in sub-section (2).

* Inserted vide Act No.7 of 2003 w.e.f 10-7-2003.

(2) The amount payable to any tenant under sub-section (1) shall be one-eighth of the fair rent for the land calculated in the manner specified in paragraph 4 of Part I of Schedule I and out of such amount, three-fourths shall be paid to the cultivating tenant and one-fourth to the intermediary, if any,

(3) If any dispute arises in regard to the amount payable under sub-section (2), either party may make an application to the Land Tribunal within whose jurisdiction the land or the major part thereof is situated and the Land Tribunal shall decide such dispute in such manner as may be prescribed.

Certain claims for arrears of rent not to be enforced against Government

37. No claim of any person to any arrear of rent or any other amount accrued or due in respect of any land for the period prior to the date of taking possession of such land under section 32 shall be enforced by any court whether in execution of a decree or otherwise against the Government or against any person holding the land under the Government.

Land owner's right to resume possession under Puducherry Act 9 of 1971 not affected

38. Nothing contained in this Chapter shall be deemed to affect the right of any land owner under the Puducherry Cultivating Tenants Protection Act, 1970 (9 of 1971) to resume possession for purposes of personal cultivation of the land the possession of which has been taken by the authorised officer under this Chapter and for the purposes of such resumption the Government shall be deemed to be the cultivating tenant in respect of the land aforesaid.

Furnishing of return on acquisition by lease of any land in excess of cultivating tenant's ceiling area

39. (1) If on or after the notified date, any person acquires by lease any land which together with the land, if any, already held by him, exceeds in the aggregate the cultivating tenant's ceiling area, he shall, within + [thirty] days of such acquisition, furnish to the authorised officer within whose jurisdiction the land or the major part thereof is situated, a return containing such particulars as may be prescribed.

+ Amended as per the Puducherry Land Reforms (Amendment) Regulation, 1977 w.e.f 28.02.77.

(2) If the person referred to in sub-section (1) fails to furnish the return or furnishes an incorrect or incomplete return, within the period specified in that sub-section, the provisions of sub-section (2) and (3) of section 31 and other provisions of this Chapter shall, as far as may be, apply as if it were a return required to be furnished under sub-section (1) of section 31.

Effect of certain Acts

40. The provisions of the Puducherry cultivating tenants Protection Act, 1970 (9 of 1971.), the Puducherry Cultivating Tenants (Payment of Fair Rent) Act, 1970 (5 of 1971.) and any other law relating to tenancy shall except in so far as they are inconsistent with any of the provisions of this Chapter, continue in force.

Provisions of this Chapter to override other provisions

41. The provisions of this Chapter shall, subject to the provisions of section 16, have effect notwithstanding anything inconsistent therewith contained in any other provision of this Act.

CHAPTER – VII

Exemptions

42. Except as otherwise provided in sub-sections (2) and (3) of section 4 and in section 5, nothing contained in this Act shall apply to –

- (i) any land held by the Central Government or any State Government or any local authority.
- (ii) any land held by –
 - (a) any charitable or educational institution of public nature;
 - (b) any religious institution;
 - (c) any public trust, or religious trust of a public nature, existing on the appointed day;
 - (d) any agricultural university constituted by any law;
- (iii) any land in respect of which the Government has granted permission to any industrial or commercial undertaking under section 23 and such permission continues to be in force;

Provided that the land referred in clause (iii) shall be exempt only so long as the conditions, if any, specified by the Government under the said section are complied with.

Act not to apply to land held by sugarcane factory

43. Nothing contained in this Act shall apply to any land held by a sugarcane factory up to an area not exceeding 40 hectares which, in the opinion of the Government, is necessary for the purpose of research and development.

CHAPTER – VIII

LAND TRIBUNALS

Constitution of Land Tribunals

44. (1) The Government shall constitute as many Land Tribunals as may be necessary for the purposes of this Act.

(2) Each Land Tribunal shall consist of one person who shall be a judicial officer not below the rank of a Sub-ordinate Judge*.

Jurisdiction and powers of Land Tribunals

45. (1) Each Land Tribunal shall have such jurisdiction over such areas such as the Government may, by notification, from time to time determine.,

(2) If any question is referred by the authorised officer to the Land Tribunal for its decision under sub-section (2) of section 10, sub-clause (iv) of clause (a) of sub-section (3) of section 15 or sub-section (3) of section 25, the Land Tribunal shall decide such question in such manner as may be prescribed.

(3) In deciding any reference or appeal under this Act, every Land Tribunal shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908.) in respect of the following matters, namely: -

* The Lieutenant-Governor, Puducherry has constituted one Land Tribunal each for Puducherry and Karaikal regions and appointed the Principal Sub-Judge, Puducherry and Sub-Judge, Karaikal, as such Land Tribunals, for the purpose of performing the functions under this Act. Notification No. 5020/75/c dated 25-4-1975 in gazette No.18 dt 6-5-1975.

- (a) summoning and enforcing the attendance of witness and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits.

CHAPTER - IX

APPEALS AND REVISION

Appeal to Land Tribunal

46.+(1) Any person aggrieved by any decision of the authorised officer under sub-section (1), or sub-section (2), of section 11 or sub-clause (iii) of clause (a) of sub-section (3) of section 15 or section 20 or section 22 or sub-section (4) of section 24 or sub-section (1), or sub-section (2) of section 25 or section 26 or clause (b) of sub-section (3) of section 31 or clause (b) of sub-section (2) of section 68, may, within thirty days from the date of such decision, prefer an appeal to the Land Tribunal in such manner as may be prescribed.

Explanation: – In this section and in section 47, "date of decision" means the date on which the decision is communicated to the party concerned].

(2) The Land Tribunal may admit an appeal presented after the expiration of the period mentioned in sub-section (1), but not exceeding thirty days, from such period, if it is satisfied that the party concerned had sufficient cause for not presenting the appeal within the said period.

(3) on receipt of an appeal under sub-section (1), the Land Tribunal after giving the parties a reasonable opportunity of being heard, shall

- (a) determine a case finally;
- (b) remand a case;
- (c) take additional evidence or require such evidence to be taken by the authorised officer.

Appeal to High Court

47. Any person aggrieved by a decision of the Land Tribunal under sub-section (3) of section 10 or sub-section (2) of section 45, may, within +[thirty] days from the date of decision, appeal to the High Court:

Provided that the High Court may admit an appeal presented after the expiration of the said period if it is satisfied that the party concerned had sufficient cause for not presenting the appeal within the said period.

Limitation Act to apply to appeal under section 46 or 47

48. The provisions of section 4 and of sub-section (1) and (2) of section 12 of the Limitation Act, 1963 (Central Act 36 of 1963), shall, as far as may be, apply to any appeal under section 46 or section 47.

Revision by Land Commissioner

49. The Land Commissioner may call for and examine the record of any authorised officer in respect of any proceeding under section 11, section 12, sub-section (1) of section 13, sub-section (3) of section (16), sub-section (4) of section 17, sub-section (5) or sub-section (9) of section 24 or the record of any proceeding under sub-section (2) of section 28 and in respect of any other proceeding under this Act not being a proceeding in respect of which a suit or an appeal to the Land Tribunal is provided by this Act to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed thereon; and if, in any case, it appears to the Land Commissioner that any such proceeding, decision or order should be modified, annulled, reserved or remitted for reconsideration, he may pass order accordingly:

Provided that the Land Commissioner shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard.

Revision by High Court

50. Subject to the provisions of section 47, every Land Tribunal shall be deemed to be a Court subordinate to the High Court for the purposes of section 115 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908.), and its orders shall be liable to revision by the High Court under the provisions of that section.

Power to Stay

51. The High Court, the Land Tribunal or the Land Commissioner may stay the execution of any decision or order pending the exercise of its or his powers under this Chapter.

CHAPTER – X

PENALTIES AND PROCEDURE

Penalty for failure to furnish return

52. (1) If any person who is under an obligation to furnish a return under this Act, refuses or wilfully fails to furnish the return within the time specified in the notice under sub-section (1) of section 8 or under sub-section (2) of section 31 or within the further time, if any, allowed by the authorised officer under those sub-sections, he shall be punishable + [with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both].

(2) If any person who, after having been convicted under sub-section (1), continues to refuse or to wilfully fail to furnish the return, he shall be punishable with fine which may extend to fifty rupees for each day after the previous date of conviction during which he continues so to offend.

+ Amended as per the Puducherry Land Reforms (Amendment) Regulation, 1977 w.e.f 28.2.77.

Penalty for failure to furnish information under section 68

53. If any person refuses or wilfully fails to furnish the information under sub-section (1) of section 68 within the time specified in the notice under that sub-section or within the further time if any, allowed by the authorised officer under that sub-section, such person shall be punishable + [with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both].

Penalty for furnishing false return or information

54. If any person who is under an obligation to furnish any return or information under this Act, furnish any return or information which he knows or has reason to believe to be false, he shall be punishable + [with imprisonment of either description for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both].

Penalty for making false declaration under section 19

55. If any person makes any declaration before the registering authority under sub-section (1) of section 19 which he knows or has reason to believe to be false, he shall be punishable + [with imprisonment of either description for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both].

Penalty for acquisition by lease or possessory mortgage in excess of ceiling area

56. If any person, on or after the notified date voluntarily acquires by lease or possessory mortgage any land which together with the land, if any, already held by him exceeds in the aggregate the ceiling area, he shall be punishable + [with imprisonment of either description for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both].

Penalty for contravention of any lawful order

57. If any person wilfully contravenes any lawful order passed under this Act or obstructs any person from lawfully taking possession of any land under any of the provisions of this Act, he shall be punishable + [with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both].

Penalty for cutting trees or for removing any machinery, etc.

58. If any person, after the date of vesting in the Government of any land acquired under this Act and before the disposal of such land under this Act, cuts or causes to be cut, trees on the land, or removes or causes to be removed, any building, machinery, plant, apparatus, wells, filter points or power lines constructed, erected or fixed on the land and used for agricultural purposes, or does or causes to be done any act likely to diminish the utility of the land, he shall be punishable with imprisonment for a term which may extend to one year, or with fine not exceeding one thousand rupees, or with both.

Offences by companies

59. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

+ Amended as per the Puducherry Land Reforms (Amendment) Regulation, 1977 w.e.f 28.02.77.

Explanation. – For the purposes of this section –

- (a) "company" means any body corporate and includes a firm or other association of individuals, and
- (b) "director" in relation to a firm, means a partner in the firm.

Cognizance of offences

60. (1) No court shall take cognizance of any offence punishable under this Act except on complaint in writing made by the authorised officer or any officer empowered by him by special order.

(2) No court inferior to that of sub-divisional Magistrate shall try any offence punishable under this Act.

CHAPTER – XI

DISPOSAL OF LAND ACQUIRED BY THE GOVERNMENT UNDER THIS ACT

Disposal of Land acquired by Government

61. (1) Subject to the provisions of sub-section (2), the Government may make rules providing for the manner in which any land acquired by the Government under this Act shall be disposed and for the payment of the price to be paid by a person to whom the land has been allotted:

Provided that such price shall, in no case, be less than the amount paid by the Government for the acquisition of such land under this Act.

(2) In the disposal of the land acquired by the Government under this Act, the Government shall give preference to any person who is completely dispossessed of his holding, or whose extent of holding is reduced below 1.2 standard hectares held by him partly as cultivating tenant and partly as owner or wholly as cultivating tenant, by virtue of the provisions of this Act.

CHAPTER – XII

MISCELLANEOUS

Conversion of one kind of land into another not to affect ceiling area in certain cases

62. (1) Notwithstanding anything contained in this Act, where on account of any improvements made in the land by or at the cost of the person holding such land, one kind of the lands specified in clause (32) of section 2 is converted into another kind of

the lands specified in the said clause after the date of publication of the final statement under section 11 or section 13, such conversion shall not be taken into account in calculating the extent of land held by such person.

(2) Where such conversion takes place as a result of any irrigation project constructed at the cost of the Government, the land so converted shall be reduced to standard hectares according to the proportion specified in clause (32) of section 2, and the ceiling area of such person shall be fixed in accordance with the provisions of this Act.

Decrease in number of members of family not to affect ceiling area

63. Notwithstanding anything contained in this Act, the extent of ceiling area which a family is entitled to hold under the provisions of this Act, immediately after the date of publication of the final statement under section 11 or section 13, shall not be reduced by reason only of any decrease after the said date in the number of members of such family.

Power of Government to issue orders and directions to the authorised officer, etc.

64. The Government may issue such orders and directions of a general character as it may consider necessary in respect of any matter relating to the powers and duties of the authorised officer and the Land Commissioner and the authorised officer and the Land Commissioner shall give effect to all such order and directions.

Transfer of any application or other proceeding from one authorised officer to another

65. (1) On the application of any of the parties or of his own motion, the Land Commissioner may at any stage after giving the parties a reasonable opportunity of being heard, transfer any application or other proceeding under this Act pending before an authorised officer to any other authorised officer for disposal.

(2) Where any application or proceeding has been transferred under sub-section (1), the authorised officer to whom such transfer is made may, subject to any special directions given in the order of transfer, either hold the inquiry *de novo* or proceed from the stage at which the said application or other proceeding stood when it was transferred.

Returns and reports

66. The authorised officer or the Land Commissioner shall furnish to the Government such returns statistics, accounts and other information as the Government may, from time to time, require.

Authorised Officer empowered to obtain information from court, etc.

67. The authorised officer may obtain from any court, Land Tribunal or other authority any information relating to any proceeding pending before the authorised officer, and such court, Land Tribunal or authority, as the case may be, shall, if such information be available with it, furnish him with such information within a reasonable period.

Authorised officer empowered to obtain information from persons

68. (1) For the purpose of carrying into effect the provisions of this Act, the authorised officer may, by notice, require any person to furnish any information relating to the extent of land held by such person, the number of members of the family, if any, of such person, and such other particulars as may be prescribed and the person aforesaid shall furnish the information to the authorised officer within such time as may be specified in the notice or within such further time not exceeding + [fifteen] days from such period as the authorised officer may allow.

(2) (a) Where any person on whom notice under sub-section (1) has been served fails to furnish the information within the time specified in that notice or within the further time allowed by the authorised officer under sub-section (1), the authorised officer may obtain, in such manner as may be prescribed, the necessary information either by himself or through such agency as he thinks fit.

(b) The authorised officer shall, as soon as may be after obtaining the information under clause (a), give to the person concerned a reasonable opportunity of making his representation and of adducing evidence, if any, in respect of such information and consider any such representation and evidence and pass such order as he deems fit.

Costs

69. The costs of, and incidental to, all proceedings before the authorised officer, Land Commissioner, Land Tribunal or other authority shall be in his or its discretion.

Power to enter upon land

70. The authorised officer or any person acting under his orders may, at any time, enter upon any land but not a dwelling-house, with such other officers or persons as he considers necessary and make a survey and take measurements thereof or do any other act which he considers necessary for carrying out the provisions of this Act.

Indemnity

71. (1) No suit, prosecution or other legal proceeding shall lie against the authorised officer, Land Commissioner, Land Tribunal or other authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder .

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by virtue of any provision of this Act or by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Bar of jurisdiction of Civil Courts

72. Except as otherwise provided in this Act, no civil court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by the authorised officer, the Land Commissioner, the Land Tribunal or other authority.

Parties not to be represented by legal practitioners before the authorised officer

+ [72-A. Notwithstanding anything contained in any law for the time being in force, no party to any proceeding under this Act shall be entitled to be represented by a legal practitioner before the authorised officer:

Provided that the authorised officer may, in the interests of justice and for reasons to be recorded in writing, allow any such party to be represented by a legal practitioner at his own cost.

Explanation. – For the purposes of this section, "legal practitioner" has the same meaning as in clause (1) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961)].

Court fees

73. The court-fee payable in respect of-

- (a) any suit under sub-section (3) of section 10, shall be twenty-five rupees;
- (b) any appeal to the Land Tribunal under section 46, shall be five rupees;
- (c) any appeal to the High Court under section 47, shall be twenty-five rupees;
- (d) any application for revision by the Land Commissioner under section 49, shall be one rupee;
- (e) any application for revision by the High Court under section 50, shall be ten rupees; and
- (f) any other case, shall be such fee as may be prescribed.

Delegation of powers

74. The Government may, by notification, direct that any power exercisable by the Land Commissioner or any authorised officer, under this Act or the rules made thereunder, shall, in relation to such matters and subject to such conditions, as may be specified in such notification, be exercisable also by such officer or authority subordinate to the Government, as may be specified in the notification.

Power to remove difficulties

75. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to it necessary for the purpose of removing the difficulty;

Provided that no such order shall be made under this section after the expiration of two years from the notified date.

Powers to make rules

76. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for –

- (a) the manner of service of notice under this Act;
- (b) the manner of giving reasonable opportunity or of adducing evidence under this Act.
- (c) the place at which and the manner in which the draft statement under sub-section (5) of section 9 and the final statement under section 11 or section 13 may be published.
- (d) the manner or service of a copy of the final statement under section 11 or section 13;
- (e) the manner of publication of a proclamation under clause (a) of sub-section (2) of section 17;
- (f) the manner in which the draft assessment roll may be published under sub-section (3) of section 24;
- (g) the manner of apportionment of the amount payable under this Act among the persons claiming interest in such amount;
- (h) the procedure to be followed by the authorised officer under this Act;
- (i) the manner in which, and the officer by whom, fair rent shall be ascertained for the purpose of this Act;
- (j) the circumstances under which, and the conditions subject to which, and the authority or officer before whom, any amount payable under this Act may be kept in deposit;
- (k) the manner of payment of the amount so deposited to the persons entitled thereto;
- (l) the manner of communicating to the party concerned every decision or order in any proceeding against which an appeal or revision is provided for by this Act; and
- (m) any other matter which is to be or may be prescribed or provided for by rules made under this Act.

(3) All rules made under this Act and all orders made under section 75 shall be published in the Official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every rule made under this Act and every order made under section 75 shall, as soon as possible after it is made, be laid before the Legislative Assembly, Puducherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule or order should not be made or issued, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.

Savings

77. + [(1) Notwithstanding the amendment of section 9, 21, 24, 25, 39 and 47 of the principal Act by this Regulation, where any objection or claim or return could have been preferred or furnished to the authorised officer, or where any appeal could have been preferred to the High Court against the decision of the Land Tribunal before the commencement of this Regulation but has not been so preferred or furnished before such commencement, such objection or claim or return or appeal may be preferred or furnished within the period specified in the relevant provision of the principal Act as if this Regulation had not been made.

(2) An appeal preferred against any order or decision of the authorised officer under clause (b) of sub-section (2) of section 8 or sub-section (3) or sub-section (4) or sub-section (6) of section 9, of the Principal Act as it stood before the commencement of this Regulation and pending on the date of such commencement shall be heard and disposed of as if this Regulation had not been made].

SCHEDULE - I

(See sections 16, 24, 33, 36 and Schedule II)

PART - I

Land other than the land specified in Part - II

1. The amount payable to any person under section 24 in respect of any land (other than the land specified in Part II) acquired by the Government under this Act shall be determined in the manner hereinafter in this Part specified.

2. A sum equivalent to the net annual income from the land shall be determined in the first instance.

3. The net annual income from the land shall be the amount of fair rent less the land revenue.

Explanation.- In this paragraph, 'land revenue' shall in respect of any land mean land tax levied in accordance with the Deliberation dated the 24th December, 1933 and includes 50% surcharge levied pursuant to the Deliberation dated the 20th September, 1950 and centimes additional, and charge for water, if any.

4. The fair rent shall be the aggregate of –

- (a) (i) in the case of wet land, 40 per cent of the average gross produce or its value in money;
- (ii) in the case of wet land, the irrigation of which is supplemented by lifting water, 35 per cent of the average gross produce or its value in money;
- (iii) in the case of land on which crops which do not give any yield within a period of one year from the time of cultivation, are cultivated, 40 percent of the average gross produce or its value in money;
- (iv) in the case of any other class of land, 33-1/3 per cent of the average gross produce or its value in money;

Provided that in the case of lands referred to in items (ii) and (iv) for the cultivation of which water is lifted by pump-set installed at the cost of the land owner, the fair rent shall be increased to 40 per cent.

Explanation I – In this paragraph "average gross produce "-

- (i) in respect of a land cultivated with any crop which does not give any yield within a period of one year from the time of cultivation, means the gross produce for one year if the land were cultivated with paddy;
- (ii) in respect of a land cultivated with any other crop, means the produce which would be obtained for one year from a land of the same class as the land in question similarly situated and possessing similar advantage if the rainfall and the seasons were normal.

Explanation II – In the case of land on which different crops are cultivated at different times on different portions of the land, the fair rent shall be calculated with reference to the actual crops ordinarily cultivated according to the ordinary rotation of crops in the area in which such land is situated; and

(b) the value of one-fifth of straw or stalk of all the crops cultivated on the land in an agricultural year.

5. In the case of land cultivated by the owner, the fair rent shall be the fair rent as calculated in the manner specified in paragraph 4 in respect of a land of the same class as the land in question, similarly situated and possessing similar advantages.

6. The amount payable for the land acquired by the Government under this Act, which in no case shall exceed five thousand rupees per standard hectare, shall be determined in accordance with the following scale, namely: -

- (i) for the first sum of ₹ 5,000 or any portion thereof of the net annual income from the land, 10 times such sum or portion;
- (ii) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, 9 times such sum or portion;
- (iii) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, 8 times such sum or portion;
- (iv) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, 7 times such sum or portion;
- (v) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, 6 times such sum or portion;
- (vi) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, 5 times such sum or portion;

- (vii) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, 4 times such sum or portion;
- (viii) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, 3 times such sum or portion;
- (ix) for the balance of the net annual income from the land, 2 times such balance.

7. (a) The amount payable for any building, machinery, plant, apparatus, wells, filter points or power lines acquired under this Act shall be the written down value determined in accordance with the provisions of the Income-tax Act, 1961 (Central Act 43 of 1961) of such building, machinery, plant, apparatus, wells, filter points or power lines, on the date of the publication of the notification under sub-section (1) of section 17.

(b) The amount payable for any tree shall be the value of such tree on the date of the publication of the notification under sub-section (1) of section 17.

8. The amount payable under this Part shall be the aggregate of the amount as calculated under paragraph 6 and 7 less the amount payable under section 28 to the tenant, in respect of the land concerned.

PART - II

Land Revenue of which or portion thereof has been assigned

Where the amount of land revenue or portion thereof in respect of any land acquired by the Government under this Act has been assigned in favour of any person, the Government shall pay such person an amount equal to ten times the difference between such amount of land revenue or portion thereof and the proportionate reduced rent, if any, payable by such person to the Government.

SCHEDULE - II

(See section 28)

The amount payable to any tenant under section 28 shall be one-eighth of the fair rent for the land calculated in the manner specified in paragraph 4 of Part I of Schedule -I.

2. Out of the said amount, three-fourths shall be paid to the cultivating tenant and one-fourth to the intermediary, if any.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.9 OF 1974

There is great disparity in the ownership of agricultural lands leading to the concentration of such lands in the hands of certain persons. Article 39 (b) and (c) of the Constitution lays down that the material resources of the community should be so distributed as best to sub serve the common good and that the operation of the economic system should not result in the concentration of wealth and means of production to the common detriment. In the context of these directive principles, it is necessary to reduce the disparity by fixing a ceiling on the holdings.

The Bill fixes ceiling not only on the owner-ship of holdings, but also on the lands held by the cultivating tenants. It lays down that unless otherwise provided, no person either as owner or as tenant owns or cultivates lands in excess of the prescribed extent. It shall extend to Puducherry and Karaikal regions. It also imposes ceiling on future acquisition. The surplus lands acquired by the Government shall be disposed of in the manner to be prescribed by the Government in the rules.

The provisions of the Bill shall not apply to lands held by religious trusts of public nature or by religious institutions.

The Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.7 OF 2003

The Puducherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 was enforced with effect from 22-9-1974 in the regions of Puducherry and Karaikal in the Union Territory of Puducherry. Under the provisions of section 34 of the said Act, the surplus land can be utilised for agricultural purpose only. So far surplus lands taken over possession by this administration have been distributed to the agricultural labourers and others for cultivation purpose only and not for any other purposes. Due to efflux of time, certain lands which were taken possession under the Act without encumbrance, have lost their basic characteristics as agricultural lands due to the process of urbanisation of the surrounding areas which have been converted into house-sites, rendering it impossible to carry on agricultural activities any longer effectively.

At the same time, there has been a growing demand on the Government for providing lands for other public purposes like construction of hospital, educational institution and for other basic amenities, etc. It is therefore proposed to bring an amendment in the Puducherry Land Reforms (Fixation of Ceiling on Land) Act, 1973, empowering the Government to reserve such surplus land, which cannot be otherwise used for agricultural purposes, for any other public purpose.

The Bill seeks to achieve the above objects.

THE PUDUCHERRY EXCISE (EXTENSION) ACT, 1980.

(Act No. 4 of 1980)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Definitions.
3. Extension of the Puducherry Excise Act, 1970 to other regions.
4. Suspension of operation of Prohibition Regulation.

THE PUDUCHERRY EXCISE (EXTENSION) ACT, 1980.

(Act No. 4 of 1980)

(3-4-1980)

AN ACT

to provide for the extension of the Puducherry Excise Act, 1970 to Puducherry and Karaikal regions and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-first Year of the republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Puducherry Excise (Extension) Act, 1980.
- (2) It extends to the whole of the Union territory of Puducherry.
- * (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (a) "Government" means the Administrator of the Union territory of Puducherry appointed under article 239 of the Constitution;
- (b) "Prohibition Regulation" means the Puducherry Prohibition Regulation, 1979, promulgated by the President under clause (1) of article 240 of the Constitution; and
- (c) "region" means any of the four regions of the Union territory of Puducherry namely, Puducherry, Karaikal, Mahe and Yanam.

Extension of the Puducherry Excise Act, 1970 to other regions.

3. (1) The Puducherry Excise Act, 1970 as in force in Mahe and Yanam regions, immediately before the commencement of this Act, is hereby extended to, and shall be in force, on such commencement, in the other regions, namely, Puducherry and Karaikal, in relation to which it was repealed by the Prohibition Regulation.

* This Act came into force w.e.f 25.4.1980 vide Notification published in EG No. 57, dated 24.4.80

(2) Notwithstanding anything contained in sub-section (1), any licence or permit issued or granted but not cancelled or suspended under the Prohibition Regulation shall be deemed to have been issued or granted, as the case may be, under the corresponding provisions of the Puducherry Excise Act, 1970, as extended by this Act, and shall continue in force unless and until it is cancelled or suspended or superseded by anything done or any action taken under the provisions of the Act.

Suspension of operation of Prohibition Regulation.

4. (1) Notwithstanding anything contained in the Prohibition Regulation, the operation of the said Regulation is hereby suspended on and from the commencement of this Act.

- (2) Save as provided in section 3, nothing in sub-section (1) shall affect-
- (a) The previous operation of the Prohibition Regulation or any provision thereof or anything duly done or suffered thereunder; or
 - (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Prohibition Regulation; or
 - (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Prohibition Regulation; or
 - (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

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**THE INDIAN SUCCESSION (EXTENSION TO PUDUCHERRY)
ACT, 1980**

(Act No. 10 of 1980)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
 2. Definitions
 3. Extension of Central Act 39 of 1925 to Puducherry
IA. Act not to apply to Renoncants
 4. Repeal and saving
 5. Rules of construction
 6. Power to remove difficulties
-

**THE INDIAN SUCCESSION (EXTENSION TO PUDUCHERRY)
ACT, 1980**

(Act No. 10 of 1980)

(13-9-1980)

AN
ACT

to extend the Indian Succession Act, 1925, to the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-first Year of the Republic of India as follows: -

Short title

1. This Act may be called the Indian Succession (Extension to Puducherry) Act, 1980.

Definitions

2. In this Act, unless the context otherwise requires, -

(a) "Administrator" means the Administrator of Puducherry appointed by the President under article 239 of the Constitution;

(b) "Puducherry" means the Union territory of Puducherry.

Extension of Central Act 39 of 1925 to Puducherry

3. The Indian Succession Act, 1925 (hereinafter referred to as the said Act), shall extend to the Union territory of Puducherry, subject to the following modifications, namely:-

(i) Section 1 of the said Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

*"(2) It shall come into force in the Union territory of Puducherry on such date as the Administrator of that Union territory may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision";

- (ii) after section 1 as so amended, the following section shall be inserted, namely:-

Act not to apply to Renoncants

"1A. Nothing contained in this Act shall apply to the Renoncants of the Union territory of Puducherry."

Repeal and saving

4. (1) Any law in force in Puducherry or any area thereof corresponding to the said Act or any provision thereof (except in so far as such law continues to be applicable to Renoncants) shall stand repealed as from the coming into force of the said Act or provision, as the case may be, in Puducherry.

(2) Nothing in sub-section (1) shall affect –

- (a) the previous operation of any law so repealed or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

Provided that anything done or any action taken under any such law shall be deemed to have been done or taken under the corresponding provision of said Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the said Act.

Rules of construction

5. (1) In the said Act, --

(a) any reference to any provision of law not in force, or to any functionary not in existence, in Puducherry shall be construed as a reference to the corresponding law in force, or to the corresponding functionary in existence, in that Union territory:

Provided that ---

- (i) if any question arises as to who such corresponding functionary is, or
- (ii) if there is no such corresponding functionary,

the Administrator shall decide as to who such functionary will be and his decision shall be final;

(b) any reference to the State Government shall be construed as a reference to the Central Government and also as including a reference to the Administrator.

(2) For the purpose of facilitating the application in relation to Puducherry of the said Act, any court or other authority may construe it in such manner, not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority.

Power to remove difficulties

6. If any difficulty arises in giving effect in Puducherry to the provisions of the said Act, the Administrator may, as occasion may require, by order notified in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of the said Act, as appear to him to be necessary for the removal of the difficulty; and any such order may provide for the transfer of any matter pending before any court, tribunal or other authority immediately before the commencement of the said Act in Puducherry to any corresponding court, tribunal or authority for disposal:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.10 OF 1980

The question of extending the Indian Succession Act, 1925 to the Union territory of Puducherry has been engaging the attention of this Administration for quite some time. Various seminars have been conducted by this Administration on the advice of the Government of India to elicit public opinion on the proposal. After examination, it is proposed to extend the Indian Succession Act, 1925, to fall in line with other parts of the country in the matter of succession, with provision that it shall not apply to "Renoncants" as in the case of other personal laws extended to this Union territory.

The Bill seeks to achieve the above object.

THE PUDUCHERRY KHADI AND VILLAGE INDUSTRIES BOARD ACT, 1980.

(Act No. 11 of 1980)

ARRANGEMENT OF SECTIONS

SECTION

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Preliminary

1. Short title, extent and commencement
2. Definitions

CHAPTER – II

3. Establishment and constitution of the Board
4. Constitution of the Board
- 4.A. No disqualifications in certain cases
5. Secretary of the Board
6. Resignation of office by member
7. Vacancies amongst members or defects in the constitution of the Board not to invalidate acts or proceedings of the Board
8. Temporary association of persons with the Board for particular purposes
9. Meetings of the Board
10. Term of office and conditions of appointment of members
11. Officers and servants of the Board
12. Standing Finance Committee

CHAPTER – III

13. Functions of the Board
14. General powers of the Board
15. Power of Government to give directions

CHAPTER – IV

Finance, Accounts, Audit and Reports

16. Transfer of property to the Board
17. Funds of the Board
18. Subventions, loans and grants to the Board
19. Power of the Board to spend
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21. Borrowing of money
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- 23. Power to alter scheme
- 24. Power to write off irrecoverable amount
- 25. Recovery of arrears
- 26. Returns and reports

CHAPTER – V
Miscellaneous

- 27. Dissolution of the Board
- 28. Preparation and submission of annual programme and establishment Schedule
- 29. Members, officers and other servants of the Board to be public servants
- 30. Protection for acts done in good faith
- 31. Power to make rules
- 32. Power to make standing orders
- 33. Operation of other laws not affected
- 34. Dissolution of non-statutory Board and vesting of its assets and liabilities in Board, etc.

THE PUDUCHERRY KHADI AND VILLAGE INDUSTRIES BOARD ACT, 1980.

(Act No. 11 of 1980)

(5-12-1980)

AN

ACT

to provide for the establishment of a Board for the development of Khadi and village industries and for matters connected therewith in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-first Year of the Republic of India as follows: -

CHAPTER - I

Preliminary

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Khadi and Village Industries Board Act, 1980.

(2) It extends to the whole of the Union territory of Puducherry.

+ (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

(a) "Board" means the Puducherry Khadi and Village Industries Board established under section 3;

(b) "Chairman" means the Chairman of the Board;

(c) "Commission" means the Khadi and Village Industries Commission established under section 4 of the Khadi and Village Industries Commission Act, 1956 (Central Act 61 of 1956);

(d) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;

(e) "khadi" means any cloth woven on hand looms in India from cotton, silk or woolen yarn, hand-spun in India or from a mixture of any two, or all of such yarns and includes ready-made garments made out of such cloth;

(f) "member" means a member of the Board and includes its Chairman;

(g) "non-statutory Board" means the Khadi and Village Industries Board constituted by the Government by an executive order and functioning in the Union territory on the date of commencement of this Act;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "Secretary" means the Secretary of the Board appointed under section 5;

+ This Act came into force w.e.f 15.05.1981 vide Notification published in GO.Ms No. 49 dt. 6.5.1981 of the Development Department, Puducherry.

- (j) "Standing orders" means standing orders issued under section 32;
- (k) "Vice-Chairman" means the Vice-Chairman of the Board;
- (l) "village industries" means, -
 - (i) all or any of the industries specified in the Schedule to the Khadi and Village Industries Commission Act, 1956 (Central Act 61 of 1956); and
 - (ii) any industry specified in this behalf by the Government by notification in consultation with the Board;

and includes any other industry deemed to be specified in the said Schedule by reason of a notification under section 3 of the said Act; and

- (m) "Union territory" means the Union territory of Puducherry.

CHAPTER – II

Establishment and constitution of the Board

Establishment of the Board

3. There shall be established, by notification in the Official Gazette, a Board, to be called the Puducherry Khadi and Village Industries Board, which shall be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and may, by the said name, sue and be sued.

Constitution of the Board

4. (1) The Board shall consist of not more than nine and not less than five members including the Chairman and the Vice-Chairman, of whom not more than four shall be officers serving under the Government. The appointment of members shall be made by the Government and shall be published in the Official Gazette.

(2) One of the members of the Board shall be appointed by the Government, *[omitted] as the Chairman of the Board.

(3) The Government may appoint, *[omitted] one of the other members as the Vice-Chairman who shall exercise such of the powers and perform such of the duties of the Chairman, as may be prescribed or as may be delegated to him by the Chairman.

(4) The non-official members of the Board shall be appointed from among persons who in the opinion of the Government have shown an active interest in the production and development of khadi or in the development of villages industries.

No disqualifications in certain cases

¹[4A. No person shall be disqualified for being chosen as, or for being a member of the Legislative Assembly by virtue only of the fact that he is a Chairman, Vice-Chairman or a Member of the Board].

* Omitted vide S.4(2), 4(3) Act No.14 of 1994.

¹ Inserted vide S.3 Act No.14 of 1994 w.e.f 17-11-1994 and published in the Extraordinary Gazette Part-II No.24 dated 21-11-94.

Secretary of the Board

5. The Government may, *[omitted] appoint an officer under it as Secretary to the Board, who shall be an ex-officio member of the Board.

Resignation of office by member

6. Any non-official member may resign his office by giving notice in writing to the Government, and on such resignation being notified in the Official Gazette, he shall be deemed to have vacated his office.

Vacancies amongst members or defects in the constitution of the Board not to invalidate acts or proceedings of the Board

7. No act or proceedings of the Board shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

Temporary association of persons with the Board for particular purposes

8. The Board may, with the approval of the Government, invite any person to attend a meeting of the Board for the purpose of advising or assisting the Board in any manner. The person so invited may take part in the discussions of the Board but shall have no right to vote.

Meetings of the Board

9. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to quorum and transaction of business at its meetings as may be provided by standing orders made by the Board under this Act:

Provided that the Board shall meet at least once in every two months.

(2) The Chairman may, whenever he thinks fit, call a special meeting of the Board.

(3) The Chairman, or in his absence, the Vice-Chairman, or in the absence of both, such other person as may be chosen by the members present from amongst themselves, shall preside at a meeting of the Board.

* Omitted vide S.4 Act No.14 of 1994.

(4) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting; and in the case of an equality of votes, the Chairman or in his absence, the person presiding, shall have a second or casting vote.

(5) The minutes of the meeting of the Board shall be forwarded to the Government and the Commission within fifteen days of every meeting.

Term of office and conditions of appointment of members

10. The term of office and the terms and conditions of appointment of the members of the Board shall be such as may be prescribed.

Officers and servants of the Board

11. (1) The Secretary shall exercise such powers and discharge such duties as may be prescribed or as may, from time to time, be delegated to him by the Government or by the Chairman.

(2) Subject to such standing orders as may be made by the Board in this behalf, the Board may appoint a Financial Adviser-cum-Chief Accounts Officer * [omitted] and such other officers and servants as it considers necessary for the efficient performance of its functions.

Standing Finance Committee

12. The Board may constitute a standing finance committee consisting of the Vice-Chairman and not more than three members. The Vice-Chairman shall be the president of the committee. The committee shall exercise such powers and perform such functions relating to the finances of the Board as may be laid down by the standing orders.

CHAPTER – III

Functions of the Board

Functions of the Board

13. (1) Subject to the provisions of this Act, the functions of the Board shall generally be to plan, organise and implement programmes for the development of khadi and village industries.

* Omitted vide S. 5 Act No.14 of 1994.

(2) In particular and without prejudice to the generality of the foregoing power, the Board may take such steps as it may think fit –

- (a) to start, encourage, assist and run khadi and village industries;
- (b) to provide deserving persons with work through the organisation of khadi and village industries;
- (c) to grant loans and give other assistance for the development of khadi and village industries;
- (d) to organize co-operative societies and institutions registered under the Societies Registration Act, 1860 (Central Act 21 of 1860.) or similar other Acts for the development of khadi and village industries;
- (e) to conduct training centres and train persons at such centres or at other centres outside the Union territory of Puducherry in khadi and village industries;
- (f) to arrange for the supply of raw materials, tools and implements to such industries and for the sale of their finished products;
- (g) to arrange for the publicity and popularisation of the finished products of such industries by activities such as opening of stores, shops, emporia or organising exhibitions;
- (h) to educate public opinion and cultivate in the public a preference for such industries and for utilisation of their products;
- (i) to encourage and promote research in the techniques of production of khadi and in the development of village industries;
- (j) to seek and obtain advice and guidance of experts;
- (k) to provide facilities for a study of the problems relating to khadi or village industries;
- (l) to arrange or assist in the sale and marketing of the products of khadi and village industries; and
- (m) to discharge such other duties and to perform such other functions as the Government may direct for the purpose of carrying out the objects of this Act.

General powers of the Board

14. The Board shall for the purpose of carrying out its functions under this Act have the following powers, namely:-

- (i) to acquire and hold movable and immovable property as it deems necessary and to lease, sell or otherwise transfer any such property:

Provided that any lease, sale or other transfer to any person or authority other than the Commission of any immovable property belonging to the Board shall be null and void unless it is sanctioned by the Government;

- (ii) to appoint a committee or committees for securing the efficient performance of its functions and, in particular, for ensuring that such functions are performed with due regard to the requirements of the local area concerned;
- (iii) to incur expenditure and undertake any work in any area in the Union territory for the framing and execution of such schemes as it may consider necessary for the purpose of carrying out the provisions of this Act, or as may be entrusted to it by the Government; and
- (iv) to enter into any contract and to do all things necessary for the purpose of this Act.

Power of Government to give directions

15. In the performance of its functions under this Act, the Board shall be bound by such directions as the Government or the Commission may give to it from time to time.

CHAPTER – IV

Finance, Accounts, Audit and Reports

Transfer of property to the Board

16. The Government may transfer to the Board any building, land or other property, movable or immovable for the use of and management by the Board on such conditions and subject to such limitations as may be imposed by the Government.

Funds of the Board

17. (1) The Board shall have two separate funds to be called the Khadi Fund and the Village Industries Fund and all grants and advances made to the funds from time to time by the Government for the purposes of the development of khadi or the development of village industries and all other grants, subventions, gifts and loans received from the Central Government or the Commission or any local authority or any body or organisation, whether incorporated or not, or any individual for all or any of the purposes of this Act shall be paid to the Khadi Fund or Village Industries Fund, as the case may be, and all payments by the Board for, or in respect of khadi and village industries shall be made from the appropriate fund.

(2) Except as otherwise directed by the Government, all moneys belonging to such funds shall be deposited in such manner as the Government may, by general or special order, direct or be invested in such securities as may be approved by the Government.

Subventions, loans and grants to the Board

18. (1) The Government may, from time to time, make subventions and grants to the Board for the purposes of this Act on such terms and conditions as the Government may, in each case, determine.

(2) The Government may, from time to time, advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the Government may determine.

(3) The Board shall have power to receive financial assistance from the Commission in the form of loan, grant, subsidy or in any other form with or without security, or on the security of a mortgage, charge, hypothecation of any of its movable and immovable assets.

Power of the Board to spend

19. Subject to the provisions of section 20, the Board shall have power to spend such sums as it deems fit for purposes authorised by this Act:

Provided that nothing in this section shall be deemed to prevent the Board from spending, with the previous approval of the Government, such moneys as it thinks fit, for any such purpose outside the Union territory.

Budget

20. (1) The Board shall, by such date in each year as may be prescribed, prepare and submit to the Government for approval two separate budgets in the prescribed form for the next financial year to be called the Khadi Budget and the Village Industries Budget, showing the estimated receipt and expenditure in respect of khadi and village industries respectively during that financial year.

(2) Subject to the provisions of sub-sections (3) and (4), no sum shall be expended by or on behalf of the Board unless such expenditure is covered by a specific provision in the budget approved by the Government and the Commission.

(3) The Board may, within the respective limits of the Khadi Budget and the Village Industries Budget and to the extent as may be approved by the Commission, sanction any re-appropriation from one head of expenditure to another or from a provision made for one scheme to that in respect of another, but in no case shall a re-appropriation of fund be made from the Khadi Budget to the Village Industries Budget or from the Village Industries Budget to the Khadi Budget:

Provided that no re-appropriation from the head "loan" to any other head of expenditure and **vice-versa** in either budget shall be sanctioned by the Board except with the previous approval of the Government and the Commission.

(4) The Board may, subject to the provisions contained in sub-section (3), incur expenditure in excess of the limit provided in the budget approved by the Government under any head of expenditure or in connection with any particular scheme so long as the aggregate amount in either budget approved by the Government is not exceeded.

Borrowing of money

21. Subject to such rules as may be made in this behalf by the Government, the Board shall have power to borrow on the security of the Khadi Fund or the Village Industries Fund or any other asset for any purpose to which such fund or asset may be applied.

Accounts and Audit

22. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss accounts and the balance sheets in such form as may be prescribed.

(2) The accounts of the Board shall be audited by such person as the Government may appoint in this behalf.

(3) The person appointed under sub-section (2) shall, in connection with such audit, have such rights, privileges and authority, as may be prescribed and in particular, such auditor shall have the right to demand the production of books, accounts, connected vouchers and other documents and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by such auditor together with the audit report thereon shall be forwarded annually to the Government and the Commission before such date as the Government may specify in this behalf.

(5) The Board shall comply with such directions as the Government or the Commission may, after perusal of the report of the auditor, think fit to issue.

Power to alter scheme

23. The Board may, with the previous approval of the Commission, make any alteration in any scheme so long as the aggregate amount sanctioned for the scheme is not exceeded.

Power to write off irrecoverable amount

24. The Board may write off any amount due to it, whether under a contract or otherwise, or any sum payable in connection therewith, if in its opinion such amount or sum is irrecoverable:

Provided that the Board shall, before writing off any such amount or sum exceeding rupees three thousand, obtain the sanction of the Government.

Recovery of arrears

25. If any amount due to the Board in accordance with the terms of a contract or otherwise howsoever or any sum payable in connection therewith, has not been paid, the Board may, without prejudice to any other remedy provided by law, recover such amount or sum as arrears of land revenue.

Returns and reports

26. (1) The Board shall furnish to the Government and the Commission at such time and in such form and manner as may be prescribed or as the Government or the Commission may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of khadi and village industries as the Government and the Commission may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as possible after the end of each financial year, submit to the Government an annual report in such form and before such date as may be prescribed, giving a true and full account of its activities, policy and programme during the previous financial year.

(3) The annual report furnished by the Board to the Government under sub-section (2) shall, as soon as possible after it is so furnished, be placed on the table of the Legislative Assembly.

CHAPTER – V Miscellaneous

Dissolution of the Board

27. (1) If at any time the Government is satisfied that –

(a) the Board has, without reasonable cause or excuse, made default in the discharge of its duties, or in the performance of its functions, imposed or entrusted by or under this Act, or exceeded or abused its powers, or

(b) circumstances have so arisen that the Board is rendered unable, or may be rendered unable to discharge its duties or perform its functions under this Act, or

(c) it is otherwise expedient or necessary to dissolve the Board.

the Government may, by notification, dissolve the Board for such period as may be specified in the notification and declare that the duties, powers and functions of the Board shall, during the period of its dissolution, be discharged, exercised and performed by such person or authority, as may be specified in the notification:

Provided that the Government shall, before dissolving the Board, give a reasonable opportunity to it to show cause against the proposed action.

(2) The Government shall, before the expiration of the period of dissolution, re-constitute the Board in accordance with the provisions of section 4.

(3) The Government may make such incidental and consequential provisions as may appear to it to be necessary for giving effect to the provisions of this section.

(4) Any notification issued or order made by the Government under this section shall not be questioned in any civil court.

(5) On the Board being dissolved under sub-section (1) –

(i) all funds and other properties vested in, and realisable by, the Board shall, during the period of dissolution, vest in, and be realisable by, the Government; and

(ii) all claims and liabilities, legally subsisting and enforceable by or against the Board, shall be enforceable by or against the Government:

Provided that no such liability shall be enforceable against the Government except to the extent of the funds and properties vested in the Government under clause (i):

Provided further that the liabilities, if any, of the Commission legally subsisting and enforceable against the Board shall be enforceable against the Government in entirety irrespective of the funds and properties vested in the Government under clause (i).

Preparation and submission of annual programme and establishment Schedule

28. (1) In each year on or before such date as may be fixed by the Government in this behalf, the Board shall in such form as may be prescribed, prepare and forward to the Government –

(a) a programme for the promotion of khadi and village industries; and
(b) a Schedule of the staff of officers and servants employed and to be employed during the next year.

(2) The programme shall contain –

(a) particulars of the schemes which the Board proposes to execute whether in part or in whole during the next year;
(b) particulars of any work which the Board proposes to execute or any undertaking which the Board proposes to organise during the next year for the purpose of performing its functions under this Act; and
(c) such other particulars as may be prescribed.

(3) The Government may approve and sanction the programme and schedule of the staff of officers and servants forwarded to them under sub-section (1) with such modifications as they may deem fit.

(4) The Board may submit a supplementary budget and supplementary programme for the sanction of the Government in such form and before such date as the Government may prescribe and the provisions of section 20 and sub-sections (1) to (3) (both inclusive) shall, respectively, apply to such supplementary budget and programme.

Members, officers and other servants of the Board to be public servants

29. The members, officers and other servants of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

Protection for acts done in good faith

30. (1) No suit, prosecution or other legal proceedings shall lie against the Chairman, Vice-Chairman, Secretary or any member or any person in the employment of the Board for any thing which is, in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the Board for any damage caused or likely to be caused by anything which is, in good faith done, or purported to be done, under this Act.

Power to make rules

31. (1) The Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the place at which the office of the Board shall be located;
- (b) the term of office of, and the manner of filling casual vacancies among, the members of the Board and the terms and conditions of service of Vice-Chairman, the Secretary and the other members of the Board, including the salaries and allowances to be paid to them and travelling and daily allowances to be drawn by them;
- (c) the disqualifications for membership of the Board and the procedure to be followed for removing a member who is or becomes subject to any disqualification;
- (d) the procedure to be followed in the performance of functions by members of the Board;
- (e) the powers and duties to be exercised and discharged by the Secretary;
- (f) the date by which and the form in which the budget and the supplementary budget shall be prepared and submitted each year under section 20 and sub-section (4) of section 28;
- (g) the procedure to be followed and the conditions to be observed in borrowing moneys and in granting loans;
- (h) the procedure to be followed for placing the Board in possession of funds;
- (i) the conditions subject to which and the mode in which contracts may be entered into by or on behalf of the Board;
- (j) the form and manner in which the accounts of the Board shall be maintained under section 22;
- (k) the form and manner in which the returns, reports or statements shall be submitted under section 26; and
- (l) any other matter which has to be or may be prescribed.

(3) All rules made and all notifications issued under this Act shall, as soon as possible after they are made or issued, be placed on the table of the Legislative Assembly of the Union territory and shall be subject to such modification by way of amendment or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session:

Provided however that any modifications or annulment shall not affect the validity of anything already done and acted upon under such rules and notifications by the Board.

Power to make standing orders

32. (1) The Board may, with the previous sanction of the Government, by notification in the Official Gazette, issue standing orders not inconsistent with this Act and the rules made thereunder for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such standing orders may provide for all or any of the following matters, namely:-

(a) the terms and conditions of appointment and service and the scales of pay of officers and servants of the Board other than the Secretary including the payment of travelling and daily allowances in respect of journeys undertaken by such officers and servants for the purpose of this Act.

(b) the time and place of meeting of the Board, the procedure to be followed in regard to transaction of business at such meetings and the quorum necessary for the transaction of such business at the meeting;

(c) the delegation of powers and duties to the standing finance committee, Secretary or any employee of the Board;

(d) the maintenance of minutes of meetings of the Board and the transmission of copies thereof to the Government and the Commission;

(e) the persons by whom and the manner in which payments, deposits and investments may be made on behalf of the Board;

(f) the custody of moneys required for the current expenditure of the Board and investment of moneys not so required; and

(g) the maintenance of accounts.

(3) The Government may, by notification, rescind any standing order made under this section and thereupon, the standing order shall cease to have effect.

Operation of other laws not affected

33. The provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force in the Union territory and relating to khadi and village industries.

Dissolution of non-statutory Board and vesting of its assets and liabilities in Board, etc.

34. On the commencement of this Act, the non-statutory Board shall stand dissolved, and –

(i) all its assets rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, book debts, investments and all other rights and interests in, or arising out of, such property as were, immediately before such commencement in the ownership, possession, power or control of such Board shall vest in and stand transferred to the Board;

(ii) all borrowings, liabilities and obligations of whatever kind subsisting in relation to the non-statutory Board immediately before the commencement of this Act, shall stand transferred to the Board;

(iii) all loans, grants and financial assistance sanctioned by the Government or by the Commission or any other authority to the non-statutory Board shall be deemed to be loans, grants and financial assistance sanctioned to the Board and shall be the liability of the Board;

(iv) all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the non-statutory Board subsisting on and having effect immediately before the commencement of this Act and to which the non-statutory Board is a party or which are in its favour shall be of as full force and effect against or in favour of the Board and may be enforced or acted upon as fully and effectively as if in the place of the non-statutory Board, the Board had been a party thereto or as if they had been issued in favour of the Board.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 11 OF 1980

The Government of Puducherry has constituted a non-statutory Board called the "Khadi and Village Industries Board, Puducherry", with a view to promoting and developing khadi and village industries in the union territory of Puducherry. The board is vested with powers to prepare and organise programmes for the production and development of khadi and village industries, and to deal with other matters incidental thereto. It has, however, been found by experience that the Board can function more effectively only if it is made a statutory body, vested with powers executive, administrative and financial, for the proper development of khadi and village industries.

The present Bill seeks to achieve the above object.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.14 OF 1994

In accordance with the existing provisions of the Puducherry Khadi and Village Industries Board Act, 1980, the Government has been consulting the Khadi and Village Industries Commission, while appointing the Chairman, Vice-Chairman, Secretary to the Board and Financial Advisor-*cum*-Chief Accounts Officer in the Puducherry Khadi and Village Industries Board, Puducherry. The Khadi and Village Industries Commission have reviewed the need for such consultation and suggested to dispense with the formality of amendment of sections 4(2), 4(3), 5 and 11(2), and that whenever there is a necessity for the appointment of Chairman, Vice-Chairman, Secretary and Financial Advisor-*Cum*-Chief Accounts Officer, the Government of Puducherry can make such appointments directly without consultation with the Commission.

2. The Puducherry Khadi and Village Industries Board Act, 1980 does not debar non-officials to be appointed as Chairman, Vice-Chairman and Members of the Board. Nevertheless, it is felt desirable to include a suitable provision in that Act to prevent disqualification of such Chairman, Vice-Chairman and Members for being chosen as or for being the Members of the Legislative Assembly, by way of abundant caution.

3. The Bill seeks to achieve the above objects.

**THE WOMEN'S AND CHILDREN'S INSTITUTIONS (LICENSING) ACT
(EXTENSION TO PUDUCHERRY) ACT, 1981**

(Act No.8 of 1982)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
 2. Definitions
 3. Extension of Central Act 105 of 1956 to Puducherry
 4. Amendment of section 11
 5. Rule of construction
-

**THE WOMEN'S AND CHILDREN'S INSTITUTIONS (LICENSING) ACT
(EXTENSION TO PUDUCHERRY) ACT, 1981**

(Act No.8 of 1982)

(15-6-1982)

AN
ACT

to extend the Women's and Children's Institutions (Licensing) Act, 1956 to the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-second year of the Republic of India as follows: -

Short title

1. This Act may be called the Women's and Children's Institutions (Licensing) Act (Extension to Puducherry) Act, 1981.

Definitions

2. In this Act, unless the context otherwise requires, --

(a) "Administrator" means the Administrator of Puducherry appointed by the President under article 239 of the Constitution;

(b) "Puducherry" means the Union territory of Puducherry.

Extension of Central Act 105 of 1956 to Puducherry

3. The Women's and Children's Institutions (Licensing) Act, 1956 (hereinafter referred to as the said Act), shall extend to Puducherry.

Amendment of section 11

4. In the said Act, after sub-section (2) of section 11, the following sub-section shall be inserted, namely: --

"(3) All rules made and all notifications issued under this Act shall, as soon as possible after they are made or issued, be placed on the table of the Legislative Assembly of Puducherry and shall be subject to such modification by way of amendment or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session:

Provided however that any modifications or annulment shall not affect the validity of anything already done and acted upon under such rules and notifications."

Rule of construction

5. In the said Act, any reference to the State Government shall be construed as a reference to the Administrator.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.8 OF 1982

At present, there is no law in this Union territory of Puducherry to control and regulate the functioning of organisations who under the guise of social welfare institutions for women and children indulge in malpractices. Hence, in order to licence, supervise and control the proper functioning of all such voluntary institutions and to revoke the licences granted to such institutions which are found to resort to malpractices at a subsequent stage, it is proposed to extend the Women's and Children's Institutions (Licensing) Act, 1956 (105 of 1956), to fall in line with other parts of the country.

The Bill seeks to achieve the above objects.

**THE ANGLO-FRENCH TEXTILES LIMITED (ACQUISITION AND TRANSFER OF
TEXTILE UNDERTAKING) ACT, 1986**

(Act No.7 of 1986)

ARRANGEMENT OF SECTIONS

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2. Definitions

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3. Acquisition of rights of company of Anglo-French Textiles Limited
4. General effect of vesting
5. Owner to be liable for certain prior liabilities
6. Contribution by Government

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PAYMENT OF AMOUNT

7. Payment of amount to owner of textile undertaking
8. Management, etc, of the textile undertaking
9. Duty of persons in charge of management of textile undertaking to deliver all assets, etc.
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CHAPTER-IV

Provisions relating to employees of textile undertaking

11. Employment of certain employees

CHAPTER – V

Commissioner of Payments

12. Appointment of Commissioner of Payments
13. Payment by the Government to the Commissioner
14. Certain powers of the Corporation
15. Claims to be made to the Commissioner
16. Priority of claims
17. Examination of claims

18. Admission or rejection of claims
19. Disbursement of money by the Commissioner to claimants
20. Disbursement of amounts to the owner of the textile undertaking
21. Undisturbed or unclaimed amount to be deposited to the general revenue account

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Miscellaneous

22. Assumption of liabilities
23. Act to override all other enactments
24. Contracts to cease to have effect unless ratified by Corporation
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27. Protection of action taken in good faith
28. Company not to be wound up by the court
29. Delegation of powers
30. Power to make rules
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32. Declaration as to the policy of the State
33. Repeal and saving

SCHEDULE I

SCHEDULE II

**THE ANGLO-FRENCH TEXTILES LIMITED (ACQUISITION AND TRANSFER OF
TEXTILE UNDERTAKING) ACT, 1986**

(Act No.7 of 1986)

(2-5-1986)

AN
ACT

to provide for the acquisition and transfer of the right, title and interest of the Anglo-French Textiles Limited for the purpose of ensuring continued and increased production of goods essential to the needs of the community and for matters connected therewith or incidental thereto.

WHEREAS the Anglo-French Textiles Limited, Puducherry remained closed from the first week of July, 1983;

AND WHEREAS various attempts and efforts made by the Puducherry Administration and the Government of India (Ministry of Textiles) in collaboration with the Financial Institutions like Industrial Development Bank of India, United Commercial Bank, etc. to reopen the mills through the existing management or by inducting a new management could not succeed;

AND WHEREAS certain banks had advanced large sums of money to the company owning the said undertaking with a view to making the said undertaking viable and were unwilling to make any further advances;

AND WHEREAS further investment of very large sums of money is necessary for reorganising and rehabilitating the said undertaking and thereby to protect the interests of the workmen employed therein and to augment the production of cloth and yarn so as to sub-serve the interests of general public;

AND WHEREAS acquisition by the Government of the said undertaking is necessary in the interest of labour force, maintenance of production, ensuring credit line, and in the largest interest of the people of Puducherry;

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-seventh Year of the Republic of India as follows: --

CHAPTER – I
Preliminary
Short title and commencement

1. (1) This Act may be called the Anglo-French Textiles Limited (Acquisition and Transfer of Textile Undertaking) Act, 1986.

(2) It shall be deemed to have come into force on the 24th day of December, 1985.

Definitions

2. In this Act, unless the context otherwise requires, --

(a) "appointed day" means the 24th day of December, 1985;

(b) "Bank" means ---

(i) the State Bank of India constituted under the State Bank of India Act, 1955;

(ii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

(iv) any other Bank, being a Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934;

(c) "Commissioner" means a Commissioner of payments appointed under section 12;

(d) "Company" means the Anglo-French Textiles Limited, being a company as defined in the Companies Act, 1956 and having its registered office at Puducherry;

(e) "Corporation" means the Puducherry Textile Corporation Limited, formed and registered under the Companies Act, 1956;

(f) "Government" means the Government of Puducherry;

(g) "notification" means a notification published in the Official Gazette;

(h) "Owner" when used in relation to Anglo-French Textiles Limited, means any person or firm who or which is immediately before the appointed day, the immediate proprietor or lessee or occupier of the said textile undertaking or any part thereof, and also includes any agent or manager of such owner;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "specified date" means such date as the Government may for the purpose of any provision of this Act, by notification, specify; and different dates may be specified for different provisions of this Act;

(k) "textile undertaking" means the undertaking of the company;

(l) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.

CHAPTER – II

Acquisition and Transfer of Anglo-French Textiles Limited

Acquisition of rights of company of Anglo-French Textiles Limited

3. (1) On the appointed day, the Anglo-French Textiles Limited and the right, title and interest of the owner in relation to that textile undertaking shall stand transferred to, and shall vest absolutely in the Government.

(2) The textile undertaking which stands vested in the Government by virtue of sub-section (1) shall, immediately after it has so vested, stand transferred to, and vest in the Corporation.

General effect of vesting

4. (1) The textile undertaking referred to in section 3 shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the owner of the textile undertaking, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All property as aforesaid which has vested in the Government under sub-section (1) of section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting it, and any attachment, injunction or decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Where any licence or other instrument in relation to the textile undertaking had been granted at any time before the appointed day to an owner by the Central Government or the Government or any other authority, the Corporation shall, on and from such date, be deemed to be substituted in such licence or other instrument in place of the owner referred to therein as if such licence or other instrument had been granted to the Corporation and it shall hold such licence or such other instrument for the remainder of the period for which the owner would have held such licence or such other instrument.

(4) Every mortgagee of any property which has vested under this Act in the Government and every person holding any charge, lien or other interest in or in relation to any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(5) For the removal of doubt, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in relation to such property in section 7, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Government.

Owner to be liable for certain prior liabilities

5. (1) Every liability of the owner of the textile undertaking in respect of any period prior to the appointed day, shall be the liability of such owner and shall be enforceable against him and not against the Government or the Corporation.

(2) For the removal of doubt, it is hereby declared that--

(a) save as otherwise expressly provided in this section or in any other section of this act, no liability in relation to the textile undertaking, in respect of any period prior to the appointed day, shall be enforceable against the Government or the Corporation;

(b) no liability of the textile undertaking or any owner thereof for the contravention, before the appointed day, of any provision of law for the time being in force, shall be enforceable against the Government or the Corporation.

Contribution by Government

6. An amount equal to the value of the assets of the textile undertaking transferred to and vested in the Corporation under sub-section (2) of section 3, shall be deemed to be the contribution made by the Government to the Corporation.

CHAPTER - III

PAYMENT OF AMOUNT

Payment of amount to owner of textile undertaking

7. (1) The owner of the textile undertaking shall be given by the Government, in cash and in the manner specified in Chapter-V, for the transfer to, and vesting in the Government under sub-section (1) of section 3 of the textile undertaking and the right, title and interest of owner in relation to such textile undertaking, an amount equal to the amount specified against it in column (4) of the First Schedule.

(2) In addition to the amount referred to in sub-section (1), there shall be given by the Government, in cash, to the owner of the textile undertaking, simple interest at the rate of four per cent per annum on the amount specified against such owner in column (4) of the First Schedule for the period commencing on the appointed day, and ending on the date on which the payment of such amount is made by the Government to the Commissioner.

(3) The amount representing interest calculated at the rate specified in sub-section (2) shall be given in addition to the amount specified in the First Schedule.

(4) Where any liability of the owner specified in the Second Schedule is discharged by the Government or the Corporation according to the order of the priorities mentioned in the Second Schedule, the amount to be paid to the owner under sub-section (1) shall stand reduced to that extent.

Management, etc, of the textile undertaking

8. (1) The Corporation or any person which the Corporation may, by order in writing, specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs and business of the textile undertaking, the right, title and interest of an owner in relation to which have vested in the Corporation under sub-section (2) of section 3, and to do all such things as the owner of the textile undertaking is authorised to exercise and do.

(2) Notwithstanding anything contained in sub-section (1) or any other law for time being in force, it shall be lawful for the Corporation to reorganise and reconstruct the textile undertaking and thereby form such units as the Corporation deems fit.

Duty of persons in charge of management of textile undertaking to deliver all assets, etc.

9. On the vesting of the management of the textile undertaking in the Corporation, all persons in charge of the management of such textile undertaking immediately before such vesting shall be bound to deliver to the Corporation all assets, books of account, registers or other documents in their custody relating to the textile undertaking.

Accounts

10. The Corporation shall maintain the accounts of the textile undertaking in accordance with the provisions of the Companies Act, 1956.

CHAPTER-IV

Provisions relating to employees of textile undertaking

Employment of certain employees

11. (1) Where services of a person who is a workman within the meaning of the Industrial Disputes Act, 1947, and who has been immediately before the appointed day, employed in the textile undertaking, are in the opinion of the Corporation necessary having regard to the requirements of the units of the Corporation formed as a result of reorganization and reconstruction of the textile undertaking, he shall become, from the date of his appointment by the Corporation, an employee of the Corporation and shall hold office or service in the Corporation with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such textile undertaking had not been transferred to, and vested in the Corporation, and continue to do so unless and until his employment in such Corporation is duly terminated or until his remuneration and terms and conditions of employment are duly altered by the Corporation:

Provided that notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act 4 of 1936) and the Payment of Gratuity Act, 1972 (Central Act 39 of 1972) –

(a) the Government or the Corporation shall not be liable to any person who has become an employee of the Corporation under this sub-section for payment of any gratuity or any arrears of wages for the period commencing from the day on which the textile undertaking in which he was employed was closed and ending on the day on which he becomes an employee of the Corporation, irrespective of whether such closure was in accordance with the provisions of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) or not,

(b) the termination of services of a person under sub-clause (ii) of clause (a) of sub-section (3) on his becoming an employee of the Corporation under this sub-section, shall not entitle such person to payment of any gratuity.

(2) Where services of a person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and who has been, immediately before the appointed day, employed in the textile undertaking, are in opinion of the Corporation necessary having regard to the requirement of the units of the Corporation formed as a result of reorganisation and reconstruction of the textile undertaking by the Corporation, he shall become, from the date of his appointment by the Corporation, an employee of the Corporation and shall hold office or service in the Corporation on such terms and conditions of employment as may be determined by the Corporation.

(3) (a) The services of every person employed by the owner before the appointed day shall stand terminated –

- (i) on the designated date if such person is not employed before that date by the Corporation under sub-section (1) or (2); and
- (ii) on the date of his appointment if such person is employed before the designated date by the Corporation under sub-section (1) or (2).

(b) A person whose services stand terminated under sub-clause (i) of clause (a) shall not be entitled to claim employment in the Corporation as of right.

(4)(a) Every person whose services stand terminated under sub-clause (i) of clause (a) of sub-section (3) shall be entitled to –

- (i) payment of gratuity as per the provisions of the Payment of Gratuity Act, 1972 and compensation for retrenchment or closure, as the case may be, if he is a workman within the meaning of the Industrial Disputes Act, 1947 in accordance with the provisions of that Act; and
- (ii) payment of gratuity if he is not such workman:

Provided that no person whose services are terminated on his superannuation on or before the designated date, shall be entitled to payment of compensation for retrenchment.

(b) Notwithstanding that the liability for payment of gratuity and compensation for retrenchment under clause (a) is that of the owner, such liability shall be discharged by the Government or the Corporation, according to the order of priorities mentioned in the Second Schedule and on discharge of such liability by the Government or the Corporation, the owner shall stand discharged to the extent of the liability so discharged.

(5) Where ---

(a) the services of any person employed before the appointed day in the textile undertaking are terminated ---

- (i) under the terms of any contract or service or otherwise, or
- (ii) under sub-section (3), and

(b) such person is entitled to any arrears of salary or wages or any payment for any leave not availed of or other payment not being payment by way of gratuity or compensation for retrenchment,

such person may, except to the extent such liability of payment has been discharged by the Government or the Corporation under sub-section (4) of section 7, enforce his claim against the owner of the textile undertaking but not against the Government or the Corporation.

Explanation.- In this section, the expression "designated date" means such date as the Government may, in relation to the textile undertaking by notification designate.

CHAPTER – V

Commissioner of Payments

Appointment of Commissioner of Payments

12. (1) For the purpose of disbursing the amounts payable to the owner of textile undertaking, the Government shall, by notification in the Official Gazette, appoint such person as it may think fit to be the Commissioner of Payments.

(2) The Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons to also exercise all or any of the powers exercisable by him under this Act, and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of the Union territory of Puducherry.

Payment by the Government to the Commissioner

13. (1) The Government shall, within ninety days from the specified date, pay in cash to the Commissioner, for payment to the owner of the textile undertaking, an amount equal to the amount specified against the textile undertaking in the First Schedule and shall also pay to the Commissioner such sums as may be due to the owner of the textile undertaking under sub-section (2) of section 7.

(2) A personal deposit account in the State Bank of India shall be opened in favour of the Commissioner and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and thereafter the said deposit account shall be operated by the Commissioner.

(3) Separate records shall be maintained by the Commissioner in respect of the textile undertaking in relation to which payments have been made to him under this Act.

(4) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (2) shall accrue to the benefit of the owner of the textile undertaking.

Certain powers of the Corporation

14. (1) The Corporation shall be entitled to receive upto the specified date, to the exclusion of all other persons, any money due to the textile undertaking, realised after the appointed day, notwithstanding that the realisation pertain to a period prior to the appointed day.

(2) Save as otherwise provided in this Act, the liabilities in relation to the textile undertaking in respect of any period prior to the appointed day shall be the liabilities of the owner of the textile undertaking.

Claims to be made to the Commissioner

15. Every person having a claim against the owner of the textile undertaking shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days but not thereafter.

Priority of claims

16. The claims arising out of the matters specified in the Second Schedule shall have priorities in accordance with the following principles, namely: --

(a) Category-I shall have precedence over all other categories and Category-II shall have precedence over Category-III;

(b) the claim specified in each category except Category-II shall rank equally and be paid in full but if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(c) the liabilities specified in Category-II shall be discharged subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority, inter se, of such loans; and

(d) the question of payment of a liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

Examination of claims

17. (1) On receipt of the claims under section 15, the Commissioner shall arrange the claims in the order of priority specified in the Second Schedule and examine the same in accordance with the said order.

(2) If, on examination of the claims, the Commissioner is of the opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the liabilities in respect of such lower category.

Admission or rejection of claims

18. (1) After examining the claims with reference to the priority set out in the Second Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursement made by the Commissioner.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of the daily newspaper in the English language and one issue of the daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursement made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the owner of the textile undertaking an opportunity of refuting the claim and after giving the claimants a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions including the place or places at which he may hold his sittings and shall, for the purpose of making any investigation under the Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely: --

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object produceable as evidence;

(c) the reception of evidence on affidavits; and

(d) the issuing of any commission for the examination of witnesses.

(6) An investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a Civil Court for the purposes of section 195 and Chapter-XXVI of the Code of Criminal Procedure, 1973.

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the Principal Civil Court of original jurisdiction within the local limits of whose jurisdiction the textile undertaking is situated:

Provided that where a person who is a Judge of the High Court is appointed to be the Commissioner, such appeal shall lie to the High Court and it shall be heard and disposed of by not less than two other Judges of the High Court.

Disbursement of money by the Commissioner to claimants

19. After admitting a claim under this Act, the amount due in respect of such claim shall be credited by the Commissioner to the relevant fund or be paid to the person or persons to whom such sums are due and on such credit or payment the liability of the owner in respect of such claims shall stand discharged.

Disbursement of amounts to the owner of the textile undertaking

20. (1) If out of the monies paid to him in relation to the textile undertaking, there is a balance left after meeting the liabilities as specified in the Second Schedule, the Commissioner shall disburse such balance to the owner of such textile undertaking.

(2) Before making any payment to the owner of the textile undertaking under sub-section (1), the Commissioner shall satisfy himself as to the right of such person to receive the whole or any part of such amount, and in the event of there being a doubt or dispute as to the right of the persons to receive the whole or any part of the amount referred to in section 7, the Commissioner shall refer the matter to the Court, and make the disbursement in accordance with the decision of the Court.

(3) For the removal of doubt, it is hereby declared that the entry in column (3) of the First Schedule shall not be deemed to be conclusive as to the right, title and interest of any person in relation to the textile undertaking specified in the corresponding entry

in column (2) of the said Schedule and evidence shall be admissible to establish the right, title and interest of any person in relation to such textile undertaking.

(4) Where any machinery, equipment or other property in the textile undertaking has vested in the Corporation, but such machinery, equipment or other property does not belong to the owner of the textile undertaking, the amount specified in column (4) of the First Schedule against the textile undertaking shall, on a reference made to the Court by the Commissioner, be apportioned by the Court between the owner of the textile undertaking and the owner of such machinery, equipment or other property having due regard to the value of such machinery, equipment or other property on the appointed day.

Explanation. – In this section, "Court" in relation to the textile undertaking means, the Principal Civil Court of original jurisdiction within the local limits of whose jurisdiction the textile undertaking is situated.

Undisbursed or unclaimed amount to be deposited to the general revenue account

21. Any money paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made, shall be transferred by the Commissioner to the general revenue account of the Government, but a claim to any money so transferred may be preferred to the Government by the person entitled to such payment and shall be dealt with as if such transfer has not been made, the order, if any, for payment of the claim being treated as an order for the refund of revenue.

CHAPTER – VI

Miscellaneous

Assumption of liabilities

22. (1) Where any liability of the owner of the textile undertaking arising out of any item specified in Category I of the Second Schedule is not discharged fully by the Commissioner out of the amount paid under this Act, the Commissioner shall intimate in writing to the Government the extent of the liability which remains undischarged and that liability shall be assumed by the Government.

(2) The Government, may, by order, direct the Corporation to take over any liability assumed by the Government under sub-section (1) and on receipt of such direction, it shall be the duty of the Corporation to discharge such liability.

Act to override all other enactments

23. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court, tribunal or authority.

Contracts to cease to have effect unless ratified by Corporation

24. (1) Every contract entered into by the owner or occupier of the textile undertaking for any service, sale or supply and in force immediately before the appointed day shall, on and from the expiry of one hundred and eighty days from the appointed day cease to have effect unless such contract is, before the expiry of that period, ratified, in writing by the Corporation and in ratifying such contract the Corporation may, with the previous approval of the Government, make such alterations or modifications therein as it may think fit:

Provided that the Corporation shall not omit to ratify a contract, and shall not make any alteration or modification in a contract unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interest of the textile undertaking.

(2) The Corporation shall not omit to ratify a contract, and shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Penalties

25. Any person who, --

(a) having in his possession, custody, or control any property forming part of the textile undertaking, wrongfully withholds such property from the Government or the Corporation, or any person authorised by the Government or the Corporation, as the case may be, in this behalf, or

(b) wrongfully obtains possession of, or retains, any property forming part of the textile undertaking or wilfully withholds or fails to furnish to the Government, the Corporation or any person specified by the Government or the Corporation, as the case may be, any document relating to such textile undertaking, which may be in his possession, custody or control or fails to deliver to the Corporation or any person specified by the Corporation, any assets, books of accounts, registers or other documents in his custody relating to the textile undertaking, or

(c) wrongfully removes or destroys any property forming part of the textile undertaking or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies

26. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. --- For the purpose of this section, ---

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith

27. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or the Corporation or any officer or other person authorised by the Corporation for anything which is, in good faith done or intended to be done under this Act.

Company not to be wound up by the court

28. No proceeding for the winding up of the company, the right, title and interest in relation to the textile undertaking owned by which have vested in the Corporation under this Act or, for the appointment of a receiver in respect of the business of the textile undertaking shall lie or be proceeded within any court except with the consent of the Government.

Delegation of powers

29. (1) The Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power under section 30, may also be exercised by any person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Government.

Power to make rules

30. (1) The Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: --

(a) the time within which and the manner in which an intimation referred to in sub-section (4) of section 4, shall be given;

(b) any other matter which is required to be, or may be prescribed.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the Legislative Assembly of Puducherry as soon as possible after they are made and be subject to rescission by the Legislative Assembly or to such modification as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

Power to remove difficulties

31. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

Declaration as to the policy of the State

32. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation. – In this section, "the state" has the same meaning as in article 12 of the Constitution.

Repeal and saving

33.(1) The Anglo-French Textiles Limited (Acquisition and Transfer of Textile Undertaking) Ordinance, 1985, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE FIRST SCHEDULE

[See sections 7 and 13]

Sl. No. (1)	Name of the Undertaking (2)	Name of the owner (3)	Amount ₹ (4)
1.	Anglo-French Textiles Limited, Puducherry.	Anglo-French Textiles Limited, Puducherry.	7,65,00,000

THE SECOND SCHEDULE

[See sections 7(a), 11(a) (b), 16, 17, 18 and 20]

Order of priorities for the discharge of liabilities in respect of the textile undertaking

CATEGORY—I

- (i) All dues including gratuity of persons employed in the textile undertaking;
- (ii) Arrears relating to contributions towards Provident Fund and contributions under the Employees' State Insurance Act, 1948, payable by the owner;
- (iii) Arrears of excise duty, sales-tax, dues relating to electricity and dues of a Local Authority.

CATEGORY—II

Secured creditors including banks and institutions.

CATEGORY—III

- (i) Sundry Creditors;
- (ii) Other liabilities.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.7 OF 1986

The Anglo-French Textile Limited, Puducherry had remained closed from the first week of July, 1983. Various attempts and efforts made by the Puducherry Administration and the Government of India (Ministry of Textiles) in collaboration with the Financial Institutions like Industrial Development Bank of India, United Commercial Bank, etc., to reopen the Mills through the existing management or by inducting new management could not succeed. Also certain Banks who had advanced large sums of money to the Company owning the mills with a view to making the mills viable were unwilling to make any further advances. Further investments of very large sum of money was necessary for reorganizing and rehabilitating the said mills and thereby to protect the interest of the workmen employed therein and to augment the production of cloth yarn ensuring credit line and in the largest interest of the people of Puducherry. It was therefore decided to acquire and transfer the right, title and interest of the Anglo-French Textiles Limited by the Government of Puducherry.

In order to achieve the above objects and in order to give effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution, the Anglo-French Textile Limited (Acquisition and Transfer of Textile Undertaking) Ordinance, 1985 was promulgated by the Administrator, Puducherry on the 24th December, 1985 under article 239 B of the Constitution.

The said Ordinance, apart from providing for the acquisition and transfer of the textile undertaking of the Company, provided for the payment of an amount for such acquisition, appointment of a Commissioner of payments for the purpose of disbursing the amounts payable to the Company, and for other incidental and consequential matters.

This Bill seeks to replace the aforesaid ordinance.

**THE SLUM AREAS (IMPROVEMENT AND CLEARANCE) (PUDUCHERRY
AMENDMENT) ACT, 1986**

(No. 10 of 1986)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title extent and commencement.
 2. Amendment of section 2.
 3. Amendment of section 3.
 4. Power of competent authority to require execution of works of improvement to slum areas.
 5. Enforcement of notice requiring execution of works of improvement.
 6. Expenses of maintenance of works of improvement etc., to be recoverable from the occupiers of buildings.
 7. Insertion of new Chapter VI-A.
 - Establishment of Slum Clearance Board.
 - Constitution of the Board.
 - Condition of service of members.
 - Appointment of officers and servants.
 - Conditions of service of officers and servants.
 - General disqualification of members, officers and servants.
 - Function of the Board.
 - Finance, accounts and audit.
 - No disqualification in certain cases.
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 - Power of the Puducherry Housing Board to cease.
 - Transfer of certain assets and liabilities to the Board.
 8. Insertion of new section 39A.
 - Application of the Act to certain pending cases of acquisition.
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**THE SLUM AREAS (IMPROVEMENT AND CLEARANCE) (PUDUCHERRY
AMENDMENT) ACT, 1986**

(No. 10 of 1986)

(24—8—1986)

**AN
Act**

to amend the Slum Areas (Improvement and Clearance) Act, 1956 (Central Act XCVI of 1956).

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-seventh Year of the Republic of India, as follows:-

Short title extent and commencement.

1. (1) This Act may be called the Slum Areas (Improvement and Clearance) (Puducherry Amendment) Act, 1986.

(2) It extends to the whole of the Union territory of Puducherry.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In the Slum Areas (Improvement and Clearance) Act, 1956 (Central Act XCVI of 1956.) (hereinafter referred to as the principal Act), in section 2,-

(i) after clause (a), the following clause shall be inserted, namely:-

“(aa) ‘Board’ means the Puducherry Slum Clearance Board, established under section 21A;”;

(ii) after clause (h), the following clause shall be inserted, namely:-

“(hh) ‘slum area’ means any area declared to be a slum area under sub-section (1) of section 3 ;”;

(iii) for clause (i), the following shall be substituted, namely:-

“(i) ‘slum clearance area’ means any slum area declared to be a slum clearance area under sub-section (1) of section 9 ;”.

Amendment of section 3.

3. In the principal Act, for sub-section (1) of section 3, the following shall be substituted, namely:-

“(1) Where the Administrator is satisfied that-

(a) any area is or may be a source of danger to the health, safety or convenience of the public of that area or its neighbourhood, by reason of the area being low lying, insanitary, squalid, overcrowded or otherwise; or

(b) the buildings in any area, used or intended to be used for human habitation are-

(i) in any respect, unfit for human habitation, or

(ii) by reason of dilapidation, over-crowding, faulty arrangement and design of such buildings; narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors detrimental to safety, health or morals,

he may, by notification, declare such area to be a slum area.”.

4. In the principal Act, for section 4, the following shall be substituted, namely:-

Power of competent authority to require execution of works of improvement to slum areas.

“4. (1) Where the competent authority is satisfied that at a reasonable expense-

(a) any slum area or any part thereof is capable of being improved so as not to be a source of danger to the health, safety or convenience of the public of that area; or

(b) any building being unfit for human habitation in a slum area can be rendered fit for human habitation,

it may serve upon the owner of the slum area or part thereof or of the building, as the case may be, a notice requiring him within such time not being less than sixty days, as may be specified in the notice, to execute the works of improvement specified therein:

Provided that where the owner of the building is different from the owner of the land on which the building stands and the works of improvement required to be executed relate to provision of water taps, bathing places, construction of drains, open or covered, as the case may be, provision of water-borne latrines or removal of rubbish and such works are to be executed outside the building, the notice shall be served upon the owner of the land.

(2) In addition to serving a notice under this section on the owner, the competent authority may serve a copy of the notice on any other person having an interest in the slum area or part thereof or the building or the land on which the building stands whether as lessee, mortgagee or otherwise.

(3) In determining, for the purposes of this Act, whether at a reasonable expense, the slum area or part thereof, can be improved or a building can be rendered fit for human habitation, regard shall be had to the estimated cost of the works of improvement of the slum area or part thereof or of the works necessary to render the building fit for human habitation and the estimated value that the slum area or part thereof or the building will have when the works are completed.”.

Substitution of new section for section 5.

5. In the principal Act, for section 5, following shall be substituted, namely:-

Enforcement of notice requiring execution of works of improvement.

“5. (1) If a notice under section 4 is not complied with, then, after the expiration of the time specified in the notice, the competent authority may itself do the works required to be done by the notice.

(2) All expenses incurred by the competent authority under this section, together with interest, at such rate as the Central Government may by order fix from the date when a demand for the expenses is made until payment, may be recovered by the competent authority from the owner of the slum area or part thereof or of the building or of the land on which the building stands, as the case may be, as arrears of land revenue and all such expenses and interest shall constitute a charge upon the slum area or part thereof or the building or the land on which the building stands, as the case may be:

Provided that if the owner proves that he-

- (a) is receiving the rent merely as agent or trustee for some other person; and
- (b) has not in his hands on behalf of that other person sufficient money to satisfy the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has in his hands as aforesaid.”.

Substitution of new section for section 6.

6. in the principal Act, for section 6, the following shall be substituted, namely:-

**Expenses of maintenance of works of improvement etc.,
to be recoverable from the occupiers of buildings.**

“6. Where works of improvement have been executed in relation to any land or building in a slum area in pursuance of the provisions of sections 4 and 5, the expenses incurred by the competent authority or, as the case may be, by any local authority, in connection with the maintenance of such works of improvement or the enjoyment of amenities and conveniences rendered possible by such works shall be recoverable from the occupier or occupiers of the land or building as arrears of land revenue.”.

Insertion of new Chapter VI-A.

7. In the principal Act, after Chapter VI, the following Chapter and section shall be inserted, namely:-

“CHAPTER VI-A

SLUM CLEARANCE BOARD

Establishment of Slum Clearance Board.

21A. (1) With effect from such date as the Administrator may, by notification, appoint in this behalf, there shall be established a Board by the name of the Puducherry Slum Clearance Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal, and shall, by the said name sue and be sued.

Constitution of the Board.

21B. (1) The Board shall consist of the following members, namely:-

- (a) a Chairman to be appointed by the Administrator;
- (b) the Secretary to Government in-charge of slum clearance;
- (c) the Secretary to Government, Finance Department;
- (d) the District Collector;
- (e) the Director of Public Works Department;
- (f) the Director of Health and Family Welfare Services;
- (g) the Senior Town Planner; and
- (h) three non-official members to be appointed by the Administrator, one of whom shall be an Engineer who possesses experience in slum clearance and who is not in the employment of the Central or State or Union territory Government or of a local authority or of any corporation owned or controlled by

the Central or State or Union territory Government; and one shall be a resident of any one of the outlying areas of Karaikal, Mahe or Yanam.

(2) The appointment of Chairman and non-official members shall be notified in the Official Gazette.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

Condition of service of members.

21C. The terms and conditions of the service of members of the Board shall be such as may be prescribed.

Appointment of officers and servants.

21D. (1) The Secretary to the Board shall be appointed by the Administrator,

(2) The Secretary shall be the Chief Executive Officer of the Board.

(3) The Board may appoint such other officials and servants as it considers necessary for the efficient performance of its functions.

Conditions of service of officers and servants.

21E. The pay and other conditions of service of the officers and servants of the Board shall be such as may be prescribed.

General disqualification of members, officers and servants.

21F. No person who has directly or indirectly by himself or his partner or agent, any share or interest in any contract by or on behalf of the Board, shall become or remain a member or officer or servant of the Board.

Function of the Board.

21G. The functions of the Board shall be-

(a) to exercise the powers of the competent authority in cases where the Government have, by notification, directed that the powers of the competent authority shall be exercised by the Board;

(b) such other functions as may be prescribed.

Finance, accounts and audit.

21H. The provisions of Chapter IX of the Puducherry Housing Board Act, 1973 (Act No. 7 of 1974) relating to finance, accounts and audit shall apply, as far as may be, to the Board as the said provisions apply to the Puducherry Housing Board.

No disqualification in certain cases.

21I. No person shall be disqualified for being chosen as, or for being a member of the Legislative Assembly by reason only of the fact that he is a Chairman or a member of the Board.

Power of Board to make regulations.

21J. The Board may make regulation in regard to the meetings of the Board and the conduct of business.

Board to comply with directions of Administrator.

21K. It shall be the duty of the Board to comply with such directions as the Administrator may, from time to time issue either generally or in regard to any particulars matter.

Power of the Puducherry Housing Board to cease.

21L. With effect from the date of the establishment of the Board, the Puducherry Housing Board shall cease to exercise any function under the Puducherry Housing Board Act, 1973 (Act No. 7 of 1974.) in respect of matters dealt with in this Act and in particular, the improvement of the slum area, the clearance of a slum area and the re-development of a slum clearance area.

Transfer of certain assets and liabilities to the Board.

21M. (1) All property, assets, rights and liabilities of the Government or any other authority shall, in so far as such property, assets, rights and liabilities are relatable immediately before the date of establishment of the Board to the improvement of the slum area, the clearance of the slum area and the re-development of the slum clearance area, stand transferred to and vested in the Board.

(2) All contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the establishment of the Board and to which the Government or such other authority is a party, in so far as such contracts, agreements and instruments are relatable to the improvement of the slum area, the clearance of a slum area and the re-development of a slum clearance area shall be of full force and effect against or in favour of the Board and may be enforced or acted upon as fully and effectually as if, instead of the Government or such other authority, the Board had been a party thereto or as if they had been entered into a issued in favour of the Board.

(3) If, on the date of establishment of the Board, any suit, appeal or other legal proceeding of whatever nature by or against the Government or such other authority is pending, then such suit, appeal or other legal proceeding in so far it is relatable to the improvement of the slum area, the clearance of a slum area and the re-development of a slum clearance area, shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Board of the property, assets, rights and liabilities of the Government or such other authority or of anything done under this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Board.

Explanation.- For the purposed of this sub-section, "legal proceeding" includes any proceeding under the Land Acquisition Act, 1894 (Central Act I of 1894).".

Insertion of new section 39A.

8. In the principal Act, after section 39, the following section shall be inserted, namely:-

Application of the Act to certain pending cases of acquisition.

"39A. The provisions of this Act as amended by the Slum Area (Improvement and Clearance) (Puducherry Amendment) Act, 1986 shall apply to any case or cases in which proceeding have been started before the commencement of this Act for the acquisition of any land in a slum area under the Land Acquisition Act, 1894 (Central Act I of 1894) (hereinafter in this section referred to as the said Act), but no award has been made by the Collector under section 11 of the said Act before such commencement, as if-

(i) the notification published under sub-section (1) of section 4 of the said Act, or

(ii) the declaration made under section 6 of the said Act, or

(iii) the notice given under sub-section (1) of section 9 of the said Act,

were a notice to show cause against the acquisition of the land served by the Government under section 12 of this Act.".

STATEMENT OF OBJECTS AND REASONS ACT NO. 4 OF 1986

In the Union territory of Puducherry, 36 per cent of the total population are slum dwellers. With the rapid urbanisation in this territory, there is proliferation of slum areas. Unless the mushroom growth of slums is arrested, and the slum dwellers rehabilitated, there will be hazards to public health and hygiene. At present, the slum clearance schemes are implemented by the Government and to certain extent by the Puducherry Housing Board. With a view to take concerted efforts to remove congestion and insanitary and unhygienic conditions prevailing in this territory and also to make improvements to slum areas, a unified agency for the purpose is a long felt need in this territory.

The Slum Areas (Improvement and Clearance) Act, 1956 (Central Act XCVI of 1956) is in force in this Union territory on and from the 18th December, 1968. The Act however serves only a limited purpose for making improvement only to buildings and the surrounding areas. The Act also does not provide for creation of an agency with corporate personality to take up steps for clearance and improvement to slum areas. The said Act therefore requires to be amended to widen its scope for the above purposes and also to provide for the constitution of a Slum Clearance Board and matters incidental thereto.

This Bill seeks to achieve the above objects.

THE PUDUCHERRY APARTMENT OWNERSHIP ACT, 1987
(No. 8 of 1987)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Application of the Act
 3. Definitions
 4. Status of apartments
 5. Ownership of apartments
 6. Common areas and facilities
 7. Compliance with covenants, bye-laws and administrative provisions
 8. Certain works prohibited
 9. Encumbrances against apartments, removal from encumbrances, effect of part payment etc.
 10. Common profits and expenses
 11. Contents of Declaration
 12. Contents of Deeds of Apartments
 13. Declaration Deeds of Apartments and copies of floor plans to be registered
 14. Removal from provisions of this Act
 15. Removal no bar to subsequent submission of property to this Act
 16. Bye-laws and their contents
 17. Waiver of use of common areas and facilities, abandonment of apartment
 18. Separate assessment
 19. Charge on property for common expenses
 20. Joint and several liability of vendor, etc.
 21. Insurance
 22. Disposition of property, destruction and damage
 23. Action
 24. Act to be binding on apartment owners, tenants, etc.
 25. Power to make rules
 26. Removal of doubt
 27. Severability
-

THE PUDUCHERRY APARTMENT OWNERSHIP ACT, 1987

(No. 8 of 1987)

(28-7-1987)

**AN
ACT**

to provide for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property and for matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-eighth Year of the Republic of India as follows: --

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Apartment Ownership Act, 1987.
- (2) It extends to the whole of the Union territory of Puducherry.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Application of the Act

2. This Act applies only to property, the sole owner or all the owners of which submit it to the provisions of this Act by duly executing and registering a Declaration as hereinafter provided:

Provided that no property, shall be submitted to the provisions of this Act, unless it is mainly used or proposed to be used for residential purposes.

Definitions

3. In this Act, unless the context otherwise requires, --
 - (a) "apartment" means a part of any property, intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors or part of parts thereof, in a building, intended to be used for residential purposes and with a direct exit to a public street, road or highway or to a common area leading to such street, road or highway;
 - (b) "apartment owner" means the person or persons owning an apartment and an undivided interest in the common areas and facilities in the percentage specified and established in the Declaration;
 - (c) "apartment number" means the number, letter, figure or combination thereof, designating the apartment in the Declaration;
 - (d) "Association of Apartment Owners" means all the apartment owners acting as a group in accordance with the bye-laws and Declaration;

(e) "building" means a building containing four or more apartments, or two or more buildings, each containing two or more apartments, with a total of four or more apartments for all such buildings, and comprising a part of the property;

(f) "common areas and facilities", unless otherwise provided in the Declaration or lawful amendments thereto, includes ---

(1) the land on which the building is located;

(2) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire-escapes, entrances and exits of the building;

(3) the basements, cellars, yards, gardens, parking areas and storage spaces;

(4) the premises for the lodging of janitors or persons employed for the management of the property;

(5) installations of central services, such as power, light, gas, hot and cold water, heating, refrigeration, air-conditioning and incinerating;

(6) the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;

(7) such community and commercial facilities as may be provided for in the Declaration; and

(8) all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

(g) "common expenses" includes, --

(1) all sums lawfully assessed against the apartment owners by the Association of Apartment Owners;

(2) expenses of administration, maintenance, repair or replacement of the common areas and facilities;

(3) expenses agreed upon as common expenses by the bye-laws;

(4) expenses declared as common expenses by the provisions of this Act or by the Declaration or the bye-laws;

(h) "common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses;

(i) "competent authority" means the relation to buildings constructed or to be constructed by the Housing Board, the Secretary of the Housing Board and in any other case, the Registrar of Co-operative Societies as defined in the Puducherry Co-operative Societies Act, 1972 (Act No. 7 of 1973.);

(j) "Declaration" means the instrument by which the property is submitted to the provisions of this Act, as hereinafter provided, and such Declaration as from time to time may be lawfully amended;

(k) "Government" means the Administrator of the Union territory of Puducherry appointed under article 239 of the Constitution;

(l) "Housing Board" means the Housing Board constituted under the Puducherry Housing Board Act, 1973 (Act No. 7 of 1974).

(m) "joint family" means an undivided Hindu family, and in the case of other persons, a group or unit, the members of which are by custom joint in possession of residence;

(n) "limited common areas and facilities" means those common areas and facilities designated in the Declaration as reserved for use of certain apartment or apartments to the exclusion of the other apartments;

(o) "majority" or "majority of apartment owners" means the apartment owners with fifty-one per cent or more of the votes in accordance with the percentages assigned in the Declaration to the apartments for voting purposes;

(p) "person" includes a joint family;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "property" means the land, the building, all improvements and structures appurtenant thereto, owned in freehold or held on lease or as occupant under any law relating to land revenue and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the provisions of this Act.

Status of apartments

4. Each apartment, together with its undivided interest in the common areas and facilities, appurtenant to such apartment, shall for all purposes constitute heritable and transferable immovable property within the meaning of any law for the time being in force in the territory, and accordingly, an apartment owner may transfer his apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment by way of sale, mortgage, lease, gift, exchange or in any other manner whatsoever in the same manner, to the same extent and subject to the same rights, privileges, obligations, liabilities, legal proceedings and remedies as any other immovable property, or make a bequest of it under the laws applicable to the transfer and succession of immovable property.

Ownership of apartments

5. (1) Each apartment owner shall be entitled to the exclusive ownership and possession of his apartment.

(2) Each apartment owner shall execute a Declaration that he submits his apartment to the provisions of this Act and a Deed of Apartment in relation to his apartment in the manner prescribed for the purpose.

Common areas and facilities

6. (1) Each apartment owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the Declaration. Such percentage shall be computed by taking as a basis the value of the apartment in relation to the value of the property; and such percentage shall reflect limited common areas and facilities.

(2) The percentage of the undivided interest of each apartment owner in the common areas and facilities as expressed in the Declaration shall have a permanent character, and shall not be altered except with the consent of all the apartment owners expressed in an amended Declaration duly executed and registered as provided in this Act. The percentage of the undivided interest in the common areas and facilities shall not be separated from the apartment to which it appertains, and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned in the conveyance or other instrument.

(3) The common areas and facilities shall remain undivided, and no apartment owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of the Act as provided in sections 14 and 22. Any covenant to the contrary shall be null and void.

(4) Each apartment owner may use the common areas and facilities in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other apartment owners.

(5) The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bye-laws.

(6) The Association of Apartment Owners shall have the irrevocable right, to be exercised by the Manager or Board of Managers, to have access to each apartment from time to time during reasonable hours as may be necessary for the maintenance, repair and replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another apartment or apartments.

Compliance with covenants, bye-laws and administrative provisions

7. Each apartment owner shall comply strictly with the bye-laws and with the administrative rules and regulations adopted pursuant thereto, as any of them may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the Declaration or in the Deed of Apartment. Failure to comply with any of them shall be a ground for an action to recover sums due for damages or injunctive relief or both maintainable by the Manager or Board of Managers on behalf of the Association of Apartment Owners or, in a proper case by an aggrieved apartment owner.

Certain works prohibited

8. No apartment owner shall do any work which would jeopardise the soundness or safety of the property, reduce the value thereof or impair any easement or hereditament nor may any apartment owner add any material structure or excavate any additional basement or cellar without, in every such case, the unanimous consent of all the other apartment owners being first obtained.

Encumbrances against apartments, removal from encumbrances, effect of part payment etc.

9. (1) Subsequent to recording the Declaration as provided in this Act, and while the property remains subject to the Act, no encumbrance of any nature shall thereafter arise or be effective against the property. During such period encumbrances may arise or be created only against each apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment, in the same manner and under the same conditions in every respect as encumbrances may arise or be created upon or against any other separate parcel of property subject to individual ownership:

Provided that if during the period any encumbrance has arisen or been created against such apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment, no apartment and such percentage of undivided interest shall be partitioned or sub-divided in interest:

Provided further that, no labour performed or materials furnished with the consent or at the request of an apartment owner or his agent or his contractor or sub-contractor shall be the basis for a charge or any encumbrance under the provisions of the Transfer of Property Act, 1882 (Central Act 4 of 1882), against the apartment or any other property of any other apartment owner not expressly consenting to or requesting them, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. Labour performed and materials furnished for the common areas and facilities, if duly authorised by the Association of Apartment Owners, the Manager or Board of Managers in accordance with this Act, the Declaration or bye-laws, shall be deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis for a charge or encumbrance under the Transfer of Property Act, 1882 (Central Act 4 of 1882), against each of the apartments and shall be subject to the provisions of sub-section (2).

(2) In the event of a charge or any encumbrance against two or more apartments becoming effective, the apartment owners of the separate apartments may remove their apartments and the percentage of undivided interest in the common areas and facilities appurtenant to such apartments from the charge or encumbrance by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing in the Declaration. Subsequent to any such payment, discharge or other satisfaction, the apartment and the percentage of undivided interest in the

common areas and facilities appurtenant thereto shall thereafter be free and clear of the charge or encumbrance so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the person having a charge or any other encumbrance from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

Common profits and expenses

10. The common profits of the property shall be distributed among and the common expenses shall be charged to, the apartment owners according to the percentage of the undivided interest in the common areas and facilities.

Contents of Declaration

11.(1) The Declaration shall contain the following particulars, namely: -

(a) description of the land on which the building and improvements are to be located; and whether the land is freehold or leasehold;

(b) description of the building stating the number of storeys and basements, the number of apartments and the principal materials of which it is or is to be constructed;

(c) the apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification;

(d) description of the common areas and facilities;

(e) description of the limited common areas and facilities, if any, stating to which apartments their use is reserved;

(f) value of the property and of each apartment, and the percentage of undivided interest in the common areas and facilities appertaining to each apartment and its owner for all purposes, including voting; and a statement that the apartment and such percentage of undivided interest are not encumbered in any manner whatsoever on the date of the declaration;

(g) statement of the purpose for which the building and each of the apartments are intended and restricted as to us;

(h) the name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of such person which shall be within the city, town or village in which the building is located;

(i) provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property;

(j) any other details in connection with the property which the person executing the Declaration may deem desirable to set forth consistent with this Act; and

(k) the method by which the Declaration may be amended consistent with the provisions of this Act.

(2) A true copy each of the Declaration and bye-laws and all amendments to the Declaration or the bye-laws shall be filed in the Office of the competent authority.

Contents of Deeds of Apartments

12. (1) Deeds of Apartments shall include the following particulars, namely: -

(a) description of the land as provided in section 11 of this Act or the post office address of the property, including in either case the book, page and date of executing the Declaration, the date and serial number of its registration, under the Registration Act, 1908 (Central Act 16 of 1908), and the date and other reference if any, of its filing with the competent authority;

(b) the apartment number of the apartment in the Declaration and any other data necessary for its proper identification;

(c) statement of the use for which the apartment is intended and restrictions on its use, if any;

(d) the percentage of undivided interest appertaining to the apartment in the common areas and facilities; and

(e) any further details which the parties to the Deed may deem desirable to set forth consistent with the Declaration and this Act.

(2) A true copy of every Deed of Apartment shall be filed in the Office of the competent authority.

Declaration Deeds of Apartments and copies of floor plans to be registered

13. (1) The Declaration and all amendments thereto and the Deed of Apartment in respect of each apartment and the floor plans of the buildings referred to in sub-section (2) shall be registered under this Registration Act, 1908 (Central Act 16 of 1908).

(2) Simultaneously with the registration of the Declaration there shall be filed along with it a set of the floor plans of the building showing the layout, location, apartment numbers and dimensions of the apartments, stating the name of the building or that it has no name, and bearing the verified statement of an architect or an engineer approved by the Government for the purpose (hereinafter in this sub-section referred to as approved engineer) certifying that it is an accurate copy of portions of the plans of the building as filed with and approved by the local authority within whose jurisdiction the building is located. If such plans do not include a verified statement by such architect or approved engineer that such plans fully and accurately depict the layout location, apartment number and dimensions of the apartments as built, there shall be recorded prior to the first conveyance of any apartment, an amendment to the Declaration to which shall be attached a verified statement of an architect or an

approved engineer certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment number and dimensions of the apartment as built.

(3) In all registration offices a book called "Register of Declarations and Deeds of Apartments under the Puducherry Apartment Ownership Act, 1987" and Index relating thereto shall be kept. The Book and the Index shall be kept in such form and shall contain such particulars as may be prescribed.

(4) It shall be the duty of every Manager or Board of Managers to send to the Sub-Registrar of the sub-district in which the property containing the apartment is situated, or if there is no Sub-Registrar for the areas, to the Registrar of the district in which such property is situated, a certified copy of the Declaration and Deed of Apartment made in respect of every apartment contained in the building forming part of the property together with a memorandum containing such particulars as may be prescribed.

(5) The Sub-Registrar, or as the case may be, the Registrar shall register the Declaration along with floor plans of the building and the Deed of Apartment in the "Registrar of Declarations and Deeds of Apartments under the Puducherry Apartment Ownership Act, 1987" and shall also enter particulars in the Index kept under sub-section (3). Any person acquiring any apartment of any apartment owner shall be deemed to have notice of the Declaration and of the Deed of Apartment as from the date of its registration under this section.

(6) Except as provided in this section, the provisions of the Registration Act, 1908 (Central Act 16 of 1908), shall **mutatis mutandis** apply to the registration of such Declaration and Deeds of Apartments, and the words and expressions used in this section but not defined in this Act shall have the same meanings as assigned to them in the Registration Act, 1908 (Central Act 16 of 1908).

Removal from provisions of this Act

14. (1) All the apartment owners may remove a property from the provisions of this Act by an instrument to that effect duly executed:

Provided that, the holders of all charges and other encumbrances affecting any of the apartments shall consent thereto or agree, in either case by instruments duly executed, that their charges or encumbrances be transferred to the percentage of the undivided interest of the apartment owner in the property as hereinafter provided.

(2) Upon the removal of the property from the provisions of this Act, the property shall be deemed to be owned in common by the apartment owners. The undivided interest in the property owned in common which shall apportion to each

apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities.

Removal no bar to subsequent submission of property to this Act

15. The removal of the property from the provisions of this Act as provided for in the preceding section shall in no way bar the subsequent resubmission of the property to the provisions of this Act.

Bye-laws and their contents

16.(1) The administration of every property shall be governed by bye-laws, a true copy of which shall be annexed to the Declaration. No modification of or amendment to the bye-law shall be valid, unless set forth in an amendment to the Declaration and such amendment is duly recorded and a copy thereof is duly filed with the competent authority.

(2) The bye-laws shall provide for the following matters, namely: --

(a) the election from among the apartment owners, of a Board of Managers, the number of persons constituting the Board, and that the terms of at least one-third of the members of such Board shall expire annually; the powers and duties of the Board; the method of removal from office of members of the Board; and whether or not the Board may engage the services of a Secretary, a Manager or Managing Agent, and specifying which of the powers and duties granted to the Board by this Act or otherwise may be delegated by the Board to either or both of them;

(b) method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, shall constitute a quorum;

(c) election of a President from among members of the Board of Managers who shall preside over the meetings of such Board and of the Association of Apartment Owners;

(d) election of a Secretary who shall keep a minute book wherein resolutions shall be recorded;

(e) election of a Treasurer who shall keep the financial records and books of accounts;

(f) maintenance, repair and replacement of the common areas and facilities and payments therefor;

(g) manner of collecting from the apartment owners their share of the common expenses;

(h) designation and removal of persons employed for the maintenance , repair and replacement of the common areas and facilities;

(i) the method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities;

(j) such restrictions on the requirements respecting the use and maintenance of the apartments and the use of the common areas and facilities not set forth in the Declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common areas and facilities by the several apartment owners; and

(k) the percentage of the votes required to amend the bye-laws.

(3) The bye-laws may also provide for the following matters, namely:-

(a) subject to the provisions of this Act, provision for regulating transfer or partition of any apartment and percentage of undivided interest in the common areas and facilities appurtenant to such apartment, subject to such terms and conditions as may be specified in the bye-laws;

(b) provisions enabling the Board of Managers to retain certain areas of the building and lease to non-residents for commercial purposes and for distribution of resulting proceeds to the apartment owners as income or application thereof in reduction of their common charges for maintaining the building; and

(c) any other provisions, not inconsistent with the provisions of this Act, relating to the audit and accounts and administration of the property and annual and special general meetings, annual report etc.

Waiver of use of common areas and facilities, abandonment of apartment

17. No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his apartment.

Separate assessment

18. Notwithstanding anything to the contrary contained in any law relating to local authorities, each apartment and its percentage of undivided interest in the common areas and facilities appurtenant to such apartment, being an apartment submitted to the provisions of this Act, shall be deemed to be separate property for the purpose of assessment to tax on lands and buildings leviable under such law and shall be assessed and taxed, accordingly; and for this purpose, a local authority shall make all suitable rules to carry out the provisions of this section. Neither the building, the property nor any of the common areas and facilities shall be deemed to be separate property for the purposes of the levy of such tax.

Charge on property for common expenses

19. All sums assessed by the Association of Apartment Owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a charge on

such apartment in priority to all other charges, except only to (i) the charge if any of the apartment for payment of Government and Municipal taxes and (ii) all sums unpaid on a first mortgage of the apartment.

Joint and several liability of vendor, etc.

20.(1) Upon the sale of an apartment, the purchaser of the apartment shall be jointly and severally liable with the vendor for all unpaid assessments against the latter for his share of the common expenses upto the time of the sale without prejudice to the purchaser's or grantee's right to recover from the vendor the amount paid by the purchaser or grantee therefor.

(2) A purchaser referred to in sub-section (1) shall be entitled to a statement from the Secretary or Board of Managers, setting forth the amount of the unpaid assessment against the vendor and such purchaser or grantee shall not be liable for, nor shall the apartment sold be subject to a charge for any unpaid share of common expenses against such apartment accrued prior to such sale or bequest in excess of the amount therein set forth.

Insurance

21.(1) The Manager or Board of Managers, if required by the Declaration or the by-laws or by a majority of the apartment owners, or at the request of a mortgagee having a first mortgage covering the property, shall have the authority to and shall obtain insurance for the property against loss or damage by fire and such other hazards under such terms and for such amounts as shall be required or requested.

(2) Insurance referred to in sub-section (1) shall be written in the name of the Manager or of the Board of Managers of the Association of the Apartment Owners as trustee for each of the apartment owners in the percentages established in the Declaration.

(3) Premiums in respect of insurance referred to in sub-section (1) shall be common expenses and such insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

Disposition of property, destruction and damage

22. If within sixty days of the date of damage or destruction to all or part of the property, it is not determined by the Association of Apartment owners to repair, reconstruct or rebuild, then and in that event,

(a) the property shall be deemed to be owned in common by the apartment owners;

(b) the undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of the undivided interest previously owned by such owner in the common areas and facilities;

(c) any encumbrance affecting any of the apartments shall be deemed to be transferred in accordance with the existing priority to the percentage of the undivided interest of the apartment owner in the property as provided herein;

(d) the property shall be subject to an action for partition at the suit of any apartment owner, in which event the net proceeds of sale together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the apartment owners in percentage equal to the percentage of undivided interest owned by each owner in the property after first paying out all the respective shares of the apartment owners to the extent sufficient for the purpose and all charges on the undivided interest in the property owned by each apartment owner.

Action

23. Without limiting the rights of any apartment owner, actions may be brought by the Manager or Board of Managers, in either case in the discretion of the Board of Managers, on behalf of two or more of the apartment owners as their respective interest may appear with respect to any cause of action relating to the common areas and facilities or more than one apartment. Service of process on two or more apartment owners in any action relating to the common areas and facilities or more than one apartment may be made on the person designated in the Declaration to receive service of process.

Act to be binding on apartment owners, tenants, etc.

24.(1) All apartment owners, tenants of such owners, employees of owners and tenants, or any other person that may in any manner use property or any part thereof submitted to the provisions of this Act shall be subject to this Act and to the Declaration and the bye-laws of the Association of Apartment Owners adopted pursuant to the provisions of this Act.

(2) All agreements, decisions and determinations lawfully made by the Association of Apartment Owners in accordance with the voting percentages established under this Act, Declaration or bye-laws, shall be deemed to be binding on all apartment owners.

Power to make rules

25.(1) The Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying into effect the provisions of this Act.

(2) All rules made and all notifications issued under this Act shall, as soon as possible after they are made or issued, be placed on the table of the Legislative Assembly of the Union territory and shall be subject to such modification by way of amendment or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session:

Provided however that any modifications or annulment shall not affect the validity of any thing already done and acted upon under such rules and notifications.

Removal of doubt

26. For the removal of doubt, the provisions of the Transfer of Property Act, 1882 (Central Act 4 of 1882), shall, in so far as they are not inconsistent with the provisions of this Act, apply to every apartment together with its undivided interest in the common areas and facilities appurtenant to such apartment as those provisions apply in relation to any immovable property, and the provisions of this Act shall take effect notwithstanding anything to the contrary contained in any contract.

Severability

27. If any provision of this Act or any section, sentence, clause, phrase or word, application thereof in any circumstances is held invalid, the validity of the remainder of this Act and of the application of any such provision, section, sentence, clause, phrase or word, in any other circumstances shall not be affected thereby.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.8 OF 1987

People who are required to reside within the periphery of town by virtue of their employment, business etc., have a tendency to look out for residential houses within the short radius of the town. This has resulted in a vast demand for accommodation and as such public experience much hardship to have a residence of their own at a reasonable cost within the periphery of the town.

To mitigate the hardship, experienced by the public, the Puducherry Housing Board is contemplating construction of multi-storeyed flats for providing housing to the public in the periphery of the Puducherry town. In order to provide for ownership of individual apartments in a building after construction and to make such apartment a heritable and transferable property, it is considered that a separate law may be made for the purpose.

The Organisations and Undertakings, which are engaged wholly in construction of houses shall also be able to obtain the benefits if they construct multi-storeyed housing complex and allot apartments on a flat house system as per the provisions of this Act.

This Bill seeks to achieve the above object.

THE PUDUCHERRY SCHOOL EDUCATION ACT, 1987

(No.9 to 1987)

ARRANGEMENT OF SECTIONS

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THE PUDUCHERRY SCHOOL EDUCATION ACT, 1987

(No.9 to 1987)

(20-10-1987)

AN
ACT

to provide for better organisation and development of school education in the Union territory of Puducherry and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-eighth Year of the Republic of India as follows : -

CHAPTER - I

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Puducherry School Education Act, 1987.
- (2) It extends to the whole of the Union territory of Puducherry.

⁺(3) It shall come into force on such date as the Administrator may, by notification, appoint and different dates may be appointed for different provisions of this Act and reference to the commencement of this Act in relation to any provision thereof shall be construed as a reference to the date on which that provision comes into force.

Definitions

2. In this Act, unless the context otherwise requires, --

(a) "academic year" means the year commencing on the first day of January or June;

+ I. Sections 1, 2, 3 and 49 of the Act came into force w.e.f 22.6.1989 vide Notification published in EG Pt. I No. 28, dated 29.7.1989.
II. Sections 4 to 48 and 50 of the Act came into force w.e.f 1.7.1995 vide Notification published in EG Pt. II No. 15, dated 19.9.1995

(b) "aid" means any aid granted to a recognised school by the Central Government, the Government, a local authority or any other authority designated by the Central Government, the Government or a local authority;

(c) "aided school" means a recognised school which is receiving aid in the form of maintenance grant from the Central Government, the Government, or a local authority or any other authority designated by the Central Government, the Government, or a local authority;

(d) "appropriate authority" means any authority, officer or person authorised by the Government, by notification, to perform the functions of the appropriate authority or any other authority under this Act for such area or in relation to such class of private schools, as may be specified in the notification;

(e) "Director" means the Director of Education, Puducherry, and includes any other officer authorised by him to perform all or any of the functions of the Director under this Act;

(f) "educational agency" in relation to, --

(a) any minority school, means any person who, or body of persons which has established and is administering or proposes to establish and administer such minority school; and

(b) any other private school, means any person or body of persons permitted or deemed to be permitted under this Act to establish and maintain such other private school;

(g) "employee" means a teacher and includes every other employee working in a recognised school;

(h) "existing employee" means an employee of an existing school who is employed in such school immediately before the commencement of this Act, and includes an employee who was employed in such school for a period of not less than twelve months immediately preceding the commencement of this Act;

(i) "existing school" means a recognised private school which is in existence at the commencement of this Act;

(j) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;

(k) "Head of School" means the principal academic officer, by whatever name called, of a recognised school;

(l) "manager", in relation to a school, means the person, by whatever name called, who is entrusted, either on the date on which this Act comes into force or, as the case may be, under a scheme of management made under section 11, with the management of the affairs of that school;

(m) "minority school" means a private school of its choice established and administered, or administered, by any such minority whether based on religion or language as has the right to do so under clause (1) of article 30 of the Constitution;

(n) "notification" means a notification published in the Official Gazette;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "private school" means a pre-primary, primary, middle or high school or higher secondary school or any other institution imparting education or training, established and administered or maintained by any person or body of persons, but does not include a school or an institution --

- (i) imparting technical or professional education;
- (ii) established and administered or maintained by the Central Government or the Government or any other authority designated or sponsored by the Central Government or the Government;
- (iii) maintained or approved by, or affiliated to, any University established by law; or
- (iv) giving, providing or imparting religious instruction alone, but not any other instruction;

(q) "public examination" means an examination conducted by the Boards of Secondary Education in the States of Tamil Nadu, Kerala and Andhra Pradesh or any other Board or authority which may hereafter be established for the purpose, and recognised by the Government or any other officer authorised by him in this behalf ;

(r) "recognised school" means a private school recognised by the appropriate authority;

(s) "school property" means all movable and immovable property belonging to, or in the possession of, the school and all other rights and interests in, or arising out of, such property, and includes land, building and its appurtenances, playgrounds, hostels, furniture, books, apparatus, maps, equipment, utensils, cash, reserve funds, investments and bank balances ;

(t) "teacher" includes the Head of a School ;

(u) "Tribunal" means a Tribunal constituted under section 37 ; and

(v) "unaided minority school" means a minority school which does not receive any aid.

CHAPTER - II

ESTABLISHMENT, PERMISSION FOR ESTABLISHMENT AND MANAGEMENT OF PRIVATE SCHOOLS

Power of Government to regulate school education

3. The Government may regulate the different stages of education and courses of instruction in private schools.

New private school to obtain permission

4. Save as otherwise expressly provided in this Act, no person shall, without the permission of the appropriate authority and except in accordance with the terms and conditions specified in such permission, establish any private school on or after the date of the commencement of this Act.

Application for permission and sending of statement

5. (1) The educational agency of every private school proposed to be established on or after the date of the commencement of this Act shall make an application to the appropriate authority for permission to establish such school.

(2) Every such application shall --

(a) be in the prescribed form ;
 (b) be accompanied by such fee not exceeding one hundred rupees as may be prescribed ; and

(c) contain the following particulars, namely :-

- (i) the name of the private school and the name and address of the educational agency ;
- (ii) the need for the private school in the locality ;
- (iii) the course for which such private school proposes to prepare, train or guide its pupils for appearing at any examination conducted by, or under the authority of, the Government ;
- (iv) the amenities available to pupils and teachers ;
- (v) the equipment, laboratory, library and other facilities for instruction ;
- (vi) the sources of income to ensure the financial stability of the private school ;
- (vii) the situation and the description of the buildings in which such private school is proposed to be established ; and
- (viii) such other particulars as may be prescribed.

(3) The educational agency of every private school in existence on the date of the commencement of this Act shall, before the expiry of six months from that date, send to the appropriate authority a statement in the prescribed form containing -

(a) the particulars specified in clause (c) [excluding sub-clause (ii) thereof] of sub-section (2) ;

(b) the names of the members of the teaching and non-teaching staff and the educational qualifications of each such member ; and

(c) the number of pupils and classes in the private school.

Grant of permission

6. On receipt of an application under sub-section (1) of section 5, the appropriate authority –

(a) may, after considering the particulars contained in such application, grant or refuse to grant the permission ; and

(b) shall communicate its decision to the applicant within a period of four months from the date of such receipt :

Provided that the permission shall not be refused under that section unless the applicant has been given an opportunity of making his representations:

Provided further that in case of refusal of the permission the applicant shall be entitled to refund of one-half of the amount of the fee accompanying the application.

Permission deemed to be granted in certain cases

7. On receipt of a statement under sub-section (3) of section 5 from any private school in existence immediately before the date of the commencement of this Act, permission under section 6 shall be deemed to have been granted to such private school but no fee shall be payable for any such permission.

Approval of transfer of permission

8. (1) Whenever there is any change in the constitution of the educational agency, that agency shall apply to the appropriate authority for approval of such change.

(2) Whenever the management of any private school is proposed to be transferred, the educational agency and the person to whom the management is proposed to be transferred may, before such transfer, apply jointly to the appropriate authority for approval of the transfer.

(3) On any transfer of the management of a private school, without approval having been obtained for such transfer under sub-section (2), the transferee shall, if desires to run it as such, apply to the appropriate authority within three months of the date of the transfer for approval of the transfer.

(4) An application under sub-section (1), sub-section (2) or sub-section (3), shall be in such form and contain such particulars as may be prescribed.

(5) On receipt of an application under this section for approval, the appropriate authority shall-

(a) if it is satisfied, after making such inquiry as it deems fit, that the educational agency will continue to maintain and manage or, as the case may be, that the transferee will maintain and manage, the private school, in accordance with the provisions of this Act and the rules made thereunder, approve the change or, as the case may be, the transfer, subject to such conditions as it may impose ; and

(b) communicate its decision to the applicant within a period of three months from the date of such receipt.

Minority school to be established without permission

9. Any minority whether based on religion or language may establish and administer any private school without permission under section 6.

Minority schools to send statements

10. (1) Every minority school in existence immediately before the date of the commencement of this Act shall send to the appropriate authority a statement containing the particulars specified in clause (c) excluding sub-clause (ii) thereof of sub-section (2) of section 5 within such time as may be prescribed.

(2) Every minority school established and administered after the date of the commencement of this Act shall send to the appropriate authority a statement containing particulars specified in clause (c) of sub-section (2) of section 5 within such time as may be prescribed.

Scheme of management

11. (1) Notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law, the educational agency of every private school shall make in accordance with the rules made under this Act and with the previous approval of the appropriate authority, a scheme of management for such school:

Provided that in the case of a private school which does not receive any aid, the scheme of management shall apply with such variations and modifications as may be prescribed:

Provided further that so much of this sub-section as relates to the previous approval of the appropriate authority, shall not apply to a scheme of management for unaided minority school.

(2) A scheme may be made, in like manner, to add to, vary or modify any scheme made under sub-section (1).

CHAPTER - III

RECOGNITION OF PRIVATE SCHOOL

Recognition of private school

12.(1) On receipt of an application by-

- (a) any private school in respect of which permission has been or is deemed to have been granted under section 6: or
- (b) any minority school ;

the appropriate authority may, after satisfying itself, that proper arrangements have been made for the maintenance of academic standard in the school, that the provisions of this Act are complied with and that the prescribed conditions have been satisfied grant a certificate recognising the private school for the purposes of this Act.

(2) The certificate under sub-section (1) shall be granted within such period as may be prescribed.

Withdrawal of recognition by appropriate authority

13. (1) The appropriate authority may withdraw permanently or for any specified period the recognition of any private school—

- (a) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder in so far as such provisions, rules or directions are applicable to such private school, or
- (b) in respect of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder, or
- (c) which contravenes or fails to comply with any such conditions as may be prescribed.

(2) Before withdrawing the recognition under sub-section (1), the appropriate authority shall give the educational agency an opportunity of making its representation.

Effect of withdrawal of recognition

14. Any private school which is unrecognised or the recognition of which has been withdrawn shall not be entitled to –

- (a) receive any grant or other financial assistance from the Government; or
- (b) prepare, train or guide pupils for appearing at any public examination.

Payment of grant

15. (1) The Government may grant aid to recognised schools such sums of money and for such purposes as may be prescribed.

(2) The Government may withhold permanently or for any specified period the whole or part of any aid referred to in sub-section (1) in respect of any private school, --

(a) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder in so far as such provisions, rules or directions are applicable to such private school, or

(b) in respect of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder, or

(c) which contravenes or fails to comply with any such conditions as may be prescribed.

(3) Before withholding the grant under sub-section (2) the Government shall give the educational agency an opportunity of making its representation.

CHAPTER - IV

SCHOOL PROPERTY

School property

16. (1) The management of every aided school shall furnish to the appropriate authority, initially, at the time of grant of aid and thereafter annually, a statement containing a list of school property together with such particulars as may be prescribed.

(2) Notwithstanding anything contained in any other law for the time being in force, no transfer, mortgage or lease of any movable or immovable property of an aided school, not being the property specified in the rules, shall be made except with the previous permission of the appropriate authority:

Provided that where the appropriate authority omits or fails to dispose of the application for such permission within sixty days from the date of receipt of the application in this behalf, the permission shall, on the expiry of the said period of sixty days, be deemed to have been granted.

(3) Any person aggrieved by the grant or refusal of permission under sub-section (2) may prefer, in such form and within such time as may be prescribed, appeal to the Government against such grant or refusal of permission and the decision of the Government thereto shall be final.

(4) Any transaction made in contravention of the provisions of sub-section (2), or, as the case may be, decision of the Government, shall be void.

CHAPTER - V**TERMS AND CONDITIONS OF SERVICE OF TEACHERS
AND OTHER PERSONS EMPLOYED IN PRIVATE SCHOOLS****Qualifications, conditions of service, etc., of teachers
and other persons employed in recognised schools**

17. The Government may make rule regulating the number, qualifications and conditions of service (including promotion, Pay, allowances, leave, pension, provident fund, insurance and age of retirement and rights as respect disciplinary matters) of the teachers and other persons employed in any recognised school.

Appointment of teachers and other employees in recognised schools

18. (1) No person who does not possess the qualifications prescribed under section 17 shall on or after the date of the commencement of this Act be appointed as teacher or other employee in any recognised school.

(2) Nothing contained in this section or any rule made thereunder shall apply to any person who, on or before the date of the commencement of this Act, is employed as teacher or other employee in any recognised school.

**Teachers and other persons employed in recognised schools to be
governed by Code of Conduct**

19. (1) Every teacher and every other person employed in any recognised school shall be governed by such Code of Conduct as may be prescribed and if any teacher or other person so employed violates any provision of such Code of Conduct, he shall be liable to such disciplinary action as may be prescribed.

(2) The manager may define the standards, of conduct to be observed by teachers and other persons employed in the recognised school, such standards not being inconsistent with the provisions of this Act and rules made thereunder.

Suspension of teachers or other persons of recognised schools

20. (1) No teacher or other person employed in any recognised school shall be placed under suspension, except when an inquiry into the gross misconduct, within the meaning of the Code of Conduct prescribed under sub-section (1) of section 19, of such teacher or other person is contemplated.

(2) No such suspension shall remain in force for more than a period of two months from the date of suspension and if such inquiry is not completed within that period, such teacher or other person shall, without prejudice to the inquiry, be deemed to have been restored as teacher or other employee:

Provided that the appropriate authority may, for reasons to be recorded in writing, extend the said period of two months, for a further period not exceeding two months, if, in the opinion of such appropriate authority, the inquiry could not be completed within the said period of two months for reasons directly attributable to such teacher or other persons.

Appeal against orders of punishment imposed on teachers and other persons employed in recognised schools

21. (1) Any teacher or other person employed in any recognised school,-

(a) who is dismissed, removed or reduced in rank or whose appointment is otherwise terminated ; or

(b) whose pay or allowances or any of whose conditions of service are altered or interpreted to his disadvantage,

by an order, may prefer an appeal against such order to such authority or officer not below the rank of the Director of Education, Puducherry, as may be prescribed ; and different such authorities or officers may be prescribed for different classes of private schools.

Explanation. - In this section, the expression "order" includes any order made on or after the date of the commencement of this Act in any proceedings which were pending on that date.

(2) The appellate authority may, after giving the parties an opportunity of making their representations, pass such order on the appeal as it may deem fit:

Provided that in disposing of an appeal under this section in relation to a minority institution, the appellate authority shall consider and shall only consider whether the procedure for taking disciplinary action prescribed under this Act has been complied with and if not, whether such non-compliance has resulted in the failure of justice, and pass orders –

(i) confirming or setting aside the said order : or

(ii) remitting the case to such authority with such directions as it may deem fit in the circumstances of the case.

Second appeal in case of dismissal, removal or reduction in rank or termination of teachers or other persons employed in recognised schools

22. If the appeal under section 21 was against the dismissal, removal or reduction in rank or the termination otherwise of the appointment of any teacher or other person employed in any recognised school, such teacher or other person or the educational agency aggrieved by any order made in any such appeal may prefer an appeal against that appellate order to the Tribunal.

Special provision regarding appeal in certain past disciplinary cases

23.(1) If, before the date of the commencement of this Act, any teacher or other person employed in any recognised school has been dismissed or removed or reduced in rank or his appointment has been otherwise terminated and any appeal preferred before the date –

(a) by him against such dismissal or removal or reduction in rank or termination ; or

(b) by him or the educational agency against any order made before that date in the appeal referred to in clause (a) is pending on that date, such appeal shall –

(i) in a case falling under clause (a), stand transferred to the appellate authority prescribed under section 38, or

(ii) in a case falling under clause (b), stand transferred to the Tribunal.

(2) If any such appeal as is referred to in sub-section (1) has been disposed of before the date of the commencement of this Act, the order made in any such appeal shall be deemed to be an order made under this Act and shall have effect accordingly.

Pay and allowance of teachers and other persons employed in recognised schools to be paid in the prescribed manner.

24. The pay and allowances of any teacher or other person employed in any recognised school shall be paid on or before such day of every month, in such manner and by or through such authority, officer, or person, as may be prescribed.

Chapter to have overriding effect.

25. (1) This Chapter or any rule providing for all or any of the matters specified in this Chapter or any order made in relation to any such matter shall have effect notwithstanding –

(a) anything contained in any –

- (i) other law for the time being in force, or
- (ii) award, agreement or contract of service whether such award, agreement or contract of service was made before or after the date of the commencement of this Act, or
- (iii) judgment, decree or order of Court, Tribunal or authority, or

(b) that the rules relating to recognition of, or payment of grant, to recognised schools, had or have no statutory force :

Provided that where, under any such award, agreement, contract of service or otherwise, any teacher or other person employed in any recognised school is entitled to benefits in respect of any matter which are more favourable to him than those to which he will be entitled under this Chapter, such teacher or other person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Chapter.

(2) Nothing contained in this Chapter shall be construed as precluding any such teacher or other person from entering into an agreement for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Chapter.

CHAPTER - VI

ADMISSION TO SCHOOLS AND FEES

Admission to recognised schools

26. (1) A child who has not attained the age of five years shall not be admitted to class I, or an equivalent class or any class higher than class I, in a recognised school.

(2) A student seeking admission for the first time in a recognised school in a class higher than class I shall not be admitted to that class if his age reduced by the number of years of normal school study between that class and class I or an equivalent class, falls short of five years.

(3) Admission to a recognised school or to any class thereof shall be regulated by rules made in this behalf.

Fees and other charges

27. (1) No aided school shall levy any fees or collect any other charge or receive any other payment except those specified by the Director.

(2) Every aided school having different rates of fees or other charges or different funds shall obtain prior approval of the prescribed authority before levying such fees or collecting such charges or creating such funds.

(3) The manager of every recognised school shall, before the commencement of each academic year, file with the Director a full statement of the fees to be levied by such school during the ensuing academic year and except with the prior approval of the Director, no such school shall charge, during the academic year, any fee in excess of the fee specified by its manager in the said statement.

School Fund

28. (1) In every aided school, there shall be a fund, to be called the 'School Fund', and there shall be credited thereto –

- (a) any aid granted by the Government,
- (b) income accruing to the school by way of fees, charges or other payments, and
- (c) any other contributions, endowments and the like.

(2) The School Fund and all other funds, including the Pupils' Fund, established with the approval of the Government, shall be accounted for and operated in accordance with the rules made under this Act.

(3) In every recognised unaided school, there shall be a fund, to be called the "Recognised Unaided School Fund", and there shall be credited thereto income accruing to the school by way of –

- (a) fees,
- (b) any charges and payments which may be realised by the school for other specified purposes, and
- (c) any other contributions, endowments, gifts and the like.

(4) (a) Income derived by unaided schools by way of fees shall be utilised only for such educational purposes as may be prescribed ; and

(b) Charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received.

(5) The manager of every recognised school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed.

Affiliations

29. (1) For the purpose of any public examination every recognised high school or higher secondary school shall be affiliated to one or more of the Boards or authorities conducting such examination and shall fulfil the conditions specified by the Board or authority in this behalf.

(2) The students of every recognised high school or higher secondary school shall be prepared for, and presented to, the public examinations or such other form of evaluation held or made for the students of such schools.

(3) The students of every recognised middle school shall be prepared for, and presented to, such public examination, as may be specified by the Director.

CHAPTER-VII

TAKING OVER THE MANAGEMENT OF SCHOOLS

Taking over the management of schools.

30. (1) Whenever the Government is satisfied that the educational agency or manager of any recognised school, has neglected to perform any of the duties imposed on it or him, by or under this Act or any rule made thereunder and that it is expedient in the interests of school education to take over the management of such school, it may, after giving the educational agency or the manager of such school, a reasonable opportunity of showing cause against the proposed action, take over the management of such school for a limited period not exceeding three years:

Provided that where the management of a school has been taken over for a period of three years or less, the Government may, if it is of opinion that in order to secure proper management of the school it is expedient that such management should continue to be in force after the expiry of the said limited period, it may, from time to time, issue directions for the continuance of such management for such period not exceeding one year at a time as it may think fit, so, however, that the total period for which such management is taken over shall not, in any case, exceed five years.

(2) Whenever the management of any school is taken over under sub-section (1), every person incharge of the management of such school immediately before its management is taken over, shall deliver possession of the school property to the Government of any officer authorised by it in this behalf.

(3) After taking over the management of any school under this section, the Government may arrange to manage the school through the Director or any other person authorised by the Director in this behalf (hereinafter referred to as the "authorised officer").

(4) Where the management of any school has been taken over under sub-section (1), the educational agency or manager of such school may, within three months from the date of taking over, appeal to the Government, and the Government may after considering the representation made by educational agency or the manager, pass such orders, including an order for the restoration of the management or for the reduction of the period during which the management of such school shall remain vested in the Government.

(5) Where the management of a school has been taken over under this section, the Government shall pay such rent as may be payable for the building of the school to the person entitled to receive it as was being paid by the educational agency or the manager immediately before the management of such school was taken over.

(6) During such period as any school remains under the management of the authorised officer –

(a) the service conditions, as approved by the Government, of the employees of the school who were in employment immediately before the date on which the management was taken over, shall not be varied to their disadvantage ;

(b) all educational facilities which the school had been affording immediately before such management was taken over, shall continue to be afforded ;

(c) the School Fund, the Pupils' Fund and the Management Fund and any other existing fund shall continue to be available to the authorised officer for being spent for the purposes of the school ; and

(d) No resolution or order passed by the educational agency of such school shall be given effect to unless approved by the Government.

Section 30 not to apply to minority schools.

31. Nothing contained in section 30 shall apply to any minority school.

CHAPTER - VIII

ACCOUNTS, AUDIT, INSPECTION AND RETURNS

Accounts

32. Every recognised school shall maintain accounts in such manner and containing such particulars as may be prescribed.

Annual audit of accounts

33. (1) The accounts of every recognised school receiving aid shall be audited at the end of every academic year by such authority, officer or person as may be prescribed and different authorities, officers or persons may be prescribed for different classes of private schools.

(2) (a) The authority, officer or person, prescribed under sub-section (1) shall send a copy of the report on the audit of the accounts under that sub-section to the appropriate authority which shall forward the report to the educational agency.

The educational agency shall, within such time as may be prescribed, submit that report together with the comments of that agency to the appropriate authority.

Inspection or inquiry

34. (1) The appropriate authority shall have the right to cause an inspection of, or inquiry in respect of, any recognised school, its buildings, laboratories, libraries, workshops and equipment, and also of the examinations, teaching and other work conducted or done by the private school, to be made by such person or persons as it may direct and to cause an inquiry to be made in respect of any other matter connected with the private school and the educational agency shall be entitled to be represented thereat.

(2) The appropriate authority shall communicate to the educational agency the views of the authority with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the educational agency thereon, advise that agency upon the action to be taken.

(3) The educational agency shall report to the appropriate authority the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry and such report shall be furnished within such time as the appropriate authority may direct.

(4) Where the educational agency does not, within a reasonable time, take action to the satisfaction of the appropriate authority that authority may, after considering any explanation furnished or representation made by the educational agency, issue such directions as that authority deems fit and the educational agency shall comply with such directions.

Furnishing of returns, etc.

35. Every educational agency shall, within such time or within such extended time as may be fixed, by the appropriate authority in this behalf, furnish to that authority such returns, statistics and other information as the appropriate authority may, from time to time, require.

CHAPTER - IX

GENERAL PROVISIONS REGARDING APPEAL AND REVISION

Appeal against orders of appropriate authority

36. (1) Any person aggrieved by any order, decision or direction of the appropriate authority under any provision of this Act may prefer an appeal against such order, decision or direction, to such authority or officer as may be prescribed; and different such authorities or officers may be prescribed for different classes of recognised schools.

(2) If the appropriate authority omits to communicate its decision to any applicant within the period specified in clause (b) of section 6 or in clause (b) of sub-section (5) of section 8, such applicant may prefer an appeal against such omission to the appellate authority prescribed under this section.

Tribunal

37. (1) The Government may constitute as many Tribunals as may be necessary for the purposes of this Act.

(2) Each Tribunal shall consist of one person only who shall be a judicial officer not below the rank of a District Judge or an officer of equal grade qualified in law and serving in the Law Department of the Government.

(3) Each Tribunal shall have such jurisdiction and over such area or in relation to such class of private schools, as the Government may, by notification, from time to time, determine.

(4) Every Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while hearing an appeal.

Time for appeal and powers of appellate authority

38. (1) No appeal under any provision of this Act shall be preferred after expiry of one month from the date on which the order, decision or direction appealed against, was received by the appellant:

Provided that the appellate authority may, in its discretion allow further time not exceeding one month for preferring any such appeal if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

(2) On receipt of any such appeal, the appellate authority shall, after --

- (a) giving the parties an opportunity of making their representations,
- (b) making, if necessary, such inquiry as it deems fit, and
- (c) considering all the circumstances of the case,

make such order as it deems just and equitable.

(3) The appellate authority may, pending the exercise of its power, pass such interlocutory orders as it deems fit.

(4) Every appeal under this Act shall be disposed of as expeditiously as possible.

Deposit with the Tribunal of pay and allowances of teachers and other persons employed in recognised schools in certain cases

39. (1) If the appellate authority referred to in section 38 has, in any appeal under that section against the dismissal or removal or reduction in rank or the termination otherwise of the appointment of any teacher or other person employed in any recognised school, made an order restoring such teacher or other employee as such, no appeal against the order of such restoration shall be preferred to the tribunal and no appeal (against the order of such restoration) which, under section 23, stands transferred to the Tribunal shall be proceeded with by the Tribunal, unless the educational agency deposits with the Tribunal all arrears of pay and allowances due to such teacher or other person from the date of his dismissal or removal or reduction in rank or termination otherwise of his appointment up to the date of deposit, and continues to deposit the pay and allowances due to such teacher or other person until the termination of the proceedings before the Tribunal.

(2) the deposit under sub-section (1) shall be made within such time and in such manner as may be prescribed.

(3) Where there is any dispute as to the amount to be deposited under sub-section (1), the Tribunal shall on application made to it either by the educational agency or by such teacher or other person, and after making such inquiry as it deems fit, determine summarily the amount to be so deposited.

(4) If the educational agency fails to deposit the amount as aforesaid, the Tribunal shall, unless the educational agency shows sufficient cause to the contrary stop all further proceedings and make an order directing the educational agency to restore such teacher or other employee as such.

(5) (a) Where, as a result of any final order made by the Tribunal at the conclusion of the proceedings before it any amount of pay and allowances as becomes due to such teacher or other person, such amount shall be paid to him out of the amount deposited under sub-section (1).

(b) If there is any balance left of the amount deposited under sub-section (1) after payment under clause (a) of the pay and allowances referred to in that clause, such balance or, where no amount becomes due as aforesaid to such teacher or other person, the whole of the amount deposited under sub-section (1), shall be returned to the educational agency.

Revision

40. (1) The Government may call for and examine the record of any authority or officer prescribed for the purpose of section 30 in respect of any proceedings to satisfy themselves as to the regularity of such proceedings or the correctness, the legality or propriety of any order made, decision taken or direction issued therein; and, if in any case, it appears to the Government that any such order, decision or direction should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Government may, pending the exercise of their power under sub-section (1), pass such interlocutory orders as they deem fit.

CHAPTER - X

PENALTIES AND PROCEDURES

Penalty for not giving information or giving false information

41. If any person, when required, by or under this Act or any rule made under this Act, to furnish any information, omits to furnish such information or furnishes any information which he knows, or has reasonable cause to believe, to be false, or not true, in any material particular, he shall be punishable with fine which may extend to one hundred rupees.

Other penalties

42. (1) If any person wilfully contravenes, or attempts to contravene, or knowingly abets the contravention of, any of the provisions of this Act or any rule made thereunder, he shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend

to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person wilfully obstructs any authority, officer or person, from entering any recognised school in the exercise of any power conferred on it or him by or under this Act, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Offences by companies

43. (1) Where an offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation, -- For the purpose of this section, --

(a) "company" means any body corporate and includes a firm, society or other association of individuals, and

(b) "director" in relation to –

(i) a firm, means a partner in the firm,

(ii) a society or other association of individuals, means the person who is entrusted, under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

Cognizance of offences

44. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by an authority or officer authorised by the Government in this behalf.

CHAPTER - XI

MISCELLANEOUS

Puducherry Schools Education Advisory Board

45. (1) There shall be an Advisory Board for school education, to be called the "Puducherry School Education Advisory Board" for the purpose of advising the Government on matters of policy relating to education in the Union territory of Puducherry.

(2) The Advisory Board shall be constituted by the Government and shall consist of a Chairman and fourteen other members to be nominated by the Government

(3) The Advisory Board constituted under sub-section (2) shall include-

- (a) Heads of private schools ;
- (b) representatives of the organisations of teachers of the private schools ;
- (c) managers of the private schools ;
- (d) representatives of parents or guardians of students of private schools ;
- and
- (e) eminent educationists.

(4) The Advisory Board shall regulate its own procedure.

(5) The term of office of every member of the Board and travelling and other allowances payable to a member of the Board shall be such as may be prescribed.

Delegation of powers of Government

46. (1) The Government may, by notification, authorise any authority or officer to exercise any of the powers vested in them by this Act except the power to make rules and may in like manner withdraw such authority.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification and also to control and revision by the Government or by such authority or officer as may be empowered by it in this behalf and the Government shall also have the power to control and revise the acts or proceedings of any authority or officer so empowered.

Civil Court not to decide questions under this Act

47. No Civil Court shall have jurisdiction to decide or deal with any question which is, by or under this Act, required to be decided or dealt with by any authority or officer mentioned in this Act.

Indemnity

48. (1) No suit or other proceedings shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder.

(2) (a) No suit, prosecution or other proceeding shall lie against any authority, officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder without the previous sanction of the Government.

(b) No authority or officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of the duties or the discharge of the functions imposed by or under this Act.

(3) No suit, prosecution or other proceeding shall be instituted against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder after the date of the expiry of six months from the date of the act complained of.

Power to make rules

49. (1) The Government may, and subject to the condition of previous publication, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the manner in which education may be regulated by the Government in the Union territory of Puducherry ;
- (b) the conditions which every existing school shall be required to comply ;
- (c) establishment of a new school or the opening of a higher class or the closing down of an existing class in an existing school ;
- (d) the form manner in which an application for recognition of a school shall be made ;
- (e) the facilities to be provided by a school to obtain recognition ;
- (f) the manner in which, and the authority to which, an appeal against the refusal or withdrawal of recognition shall be made ;
- (g) the minimum qualifications for, and method of recruitment, and the terms and conditions of service of employees ;

- (h) the authorities to be specified for the purposes of the different provisions of this Act ;
- (i) the particulars which a scheme of management shall contain, and the manner in which such scheme shall be made ;
- (j) variations and modifications which may be made in the scheme of management for a recognised school which does not receive any aid ;
- (k) the conditions under which aid may be granted to recognised schools, and on the violation of which aid may be stopped, reduced or suspended ;
- (l) the part of the expenditure of a recognised school which is to be covered by aid ;
- (m) particulars of school property which should be furnished to the appropriate authority ;
- (n) the form in which and the time within which, an appeal shall be preferred to the Government against an order made in relation to the transfer, mortgage or lease of any school property ;
- (o) the Code of Conduct for the employees and the disciplinary action to be taken for the violation thereof ;
- (p) the benefits which should be granted to the employees of private schools;
- (q) admission to a recognised school ;
- (r) fees and other charges which may be collected by an aided school ;
- (s) the manner of inspection of recognised schools ;
- (t) the term of office, traveling and other allowances payable to the members of the Advisory Board ;
- (u) financial and other returns to be filed by the educational agency or the manager of private schools, and the authority by which such returns shall be audited ;
- (v) educational purposes for which the income derived by way of fees by recognised unaided schools shall be spent ;
- (w) manner of accounting and operation of school funds and other funds of a private school ;
- (x) fees, for preferring any appeal under this Act,
- (y) any other matter which is to be, or may be prescribed under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Puducherry while it is in session for a total period of fifteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid the Legislative Assembly agrees in making any modification in the rule or agrees that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties

50. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.9 OF 1987

The pattern of education imparted in the Union territory is heterogeneous in nature in view of the peculiar geographical situation. The Puducherry and Karaikal regions which are surrounded by the Tamil Nadu areas and which have adopted Tamil as the regional language follow the pattern of education obtaining in Tamil Nadu. The Mahe region follows the pattern of Kerala and the Yanam region follows that of Andhra Pradesh. The schools in these regions are affiliated to the Boards of Education of the State to which they are adjacent. The Education Department has been adopting the educational rules of the adjacent States which are mostly executive in nature. This administration is also sanctioning substantial amount to the private educational institutions by way of grant-in-aid and for this purpose, the Government have framed, with the approval of the Government of India, grant-in-aid code regulating sanction of this aid to the private educational institutions. This code is also only executive in nature.

2. In order to achieve uniformity in the standard of education and also to exercise proper control over the functions of the private schools and also in other matters incidental thereto, it has been proposed to bring a comprehensive legislation called "The Puducherry School Education Bill, 1987" in our Legislative Assembly.

3. The above Bill seeks to achieve the above objects.

**THE PUDUCHERRY EYES (AUTHORITY FOR USE FOR THERAPEUTIC
PURPOSES) ACT, 1988**

(Act No. 11 of 1988)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement.
 2. Definitions.
 3. Authority for removal of eyes of deceased persons.
 4. Removal of eyes not to be authorised in certain cases.
 5. Authority for removal of eyes in case of unclaimed bodies in hospital or prison.
 6. Authority for removal of eyes from bodies sent for post-mortem examination for medico-legal or pathological purposes.
 7. Removal of eyes to be made by registered medical practitioner and in the presence of police officer.
 8. Preservation and deposit of eyes removed from dead bodies.
 9. Saving.
 10. Protection of action taken in good faith.
 11. Power to make rules.
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**THE PUDUCHERRY EYES (AUTHORITY FOR USE FOR THERAPEUTIC
PURPOSES) ACT, 1988**

(Act No. 11 of 1988)

(19-5-1988)

AN
ACT

to provide for the use of eyes of deceased persons for therapeutic purposes and for matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-ninth Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Puducherry Eyes (Authority for Use for Therapeutic Purposes) Act, 1988.

(2) It extends to the whole of the Union territory of Puducherry.

† (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;

(b) "near relative", in relation to a deceased person, means any person related to him as spouse, parent, son, daughter, brother or sister and includes any other person who is related to him-

(i) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees; or

(ii) by marriage with any of the relatives aforesaid.

Explanation:- The expressions "lineal consanguinity" and "collateral consanguinity" shall have the meanings respectively assigned to them in the Indian Succession Act, 1925 (Central Act 39 of 1925), and degrees of relationship shall be computed in the manner laid down in that Act;

† This Act has come into force w.e.f 01-05-1989 vide Notification published in the Gazette of Puducherry No.20 dated 16-05-1989.

(c) "prescribed" means prescribed by rules made under this Act;

(d) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 (Central Act 102 of 1956), and who is enrolled on a State Medical Register as defined in clause (k) of the said section.

Authority for removal of eyes of deceased persons.

3. (1) If any person had, either in writing or orally, in the presence of two or more witnesses (at least one of whom is a near relative of such person) unequivocally authorised, at any time before his death, the use of his eyes, after his death, for therapeutic purposes (such person being hereafter in this sub-section referred to as the donor), the person lawfully in possession of the dead body of the donor shall, unless he produces sufficient evidence before the registered medical practitioner to the effect that the donor had subsequently revoked the authorization aforesaid, grant to a registered medical practitioner all reasonable facilities for the removal, for therapeutic purposes, of the eyes from the dead body of the donor.

(2) Where no such authorisation as is referred to in sub-section (1) was made by any person before his death but no objection was also expressed by such person to his eyes being used after his death for therapeutic purposes, the person lawfully in possession of the body of the deceased person may, unless he has reason to believe that any near relative of the deceased person has objection to the deceased person's eyes being used for therapeutic purposes, authorise the removal of the eyes of the deceased person for their use for therapeutic purposes.

(3) The authority given under sub-section (1), or, as the case may be, under sub-section (2), shall be sufficient warrant for the removal, for therapeutic purposes, of the eyes from the body of the deceased person.

Removal of eyes not to be authorised in certain cases.

4. (1) No facilities shall be granted under sub-section (1) of section 3 and no authority shall be given under sub-section (2) of that section for the removal of the eyes from the body of a deceased person if the person required to grant such facilities or empowered to give such authority, has reason to believe that an inquest may be required to be held in relation to such body in pursuance of the provision of any law for the time being in force.

(2) No authority for the removal of eyes from the body of a deceased person shall be given by a person to whom such body has been entrusted solely for the purpose of interment, cremation or other disposal.

Authority for removal of eyes in case of unclaimed bodies in hospital or prison.

5. (1) In the case of a dead body lying in a hospital or prison and not claimed by any of the near relatives of the deceased person, the authority for the removal of the eyes from the dead body which so remains unclaimed may be given, subject to the provisions of sub-section (2), in the prescribed form, by the person in-charge, for the time being, of the management or control of the hospital or prison or by an employee of such hospital or prison, authorised in this behalf by the person in-charge of the management or control thereof.

(2) The authority referred to in sub-section (1) shall not be given except after the expiry of such time as may be prescribed.

(3) No authority shall be given under sub section (1) if the person empowered to give such authority has reason to believe that any near relative of the deceased is likely to claim the dead body even though such near relative has not come forward to claim the body of the deceased within the time specified.

Explanation:- For the purpose of this section. "hospital" includes a nursing home, medical or teaching institution for therapeutic purposes or other like institution.

Authority for removal of eyes from bodies sent for post-mortem examination for medico-legal or pathological purposes.

6. Where the body of a person has been sent for post-mortem examination:-

(a) for medico-legal purposes by reason of the death of such person having been caused by accident or any other unnatural cause; or

(b) for pathological purposes,

the person competent under this Act to give authority for the removal of the eyes from such dead body may, if he has reason to believe that the eyes will not be required for the purpose for which such body has been sent for post-mortem examination, authorise the removal for therapeutic purposes, of the eyes of such deceased person provided that he is satisfied that the deceased person had not expressed, before his death, any objection to his eyes being used for therapeutic purposes after his death or, where he had granted an authority for the use of his eyes for therapeutic purposes after his death, such authority had not been revoked by him before his death.

Removal of eyes to be made by registered medical practitioner and in the presence of police officer.

7. No removal of eyes under this Act shall be made,-

(i) by any person other than a registered medical practitioner who had satisfied himself, before such removal, by a personal examination of the body from which eyes are to be removed, that life is extinct in such body; and

(ii) except in the presence of a police officer not below the rank of a Sub-Inspector of Police.

Preservation and deposit of eyes removed from dead bodies.

8. After the removal of the eyes from the body of a deceased person, the registered medical practitioner shall take such steps as may be prescribed for the preservation of the eyes so removed and deposit the same in such eye banks as may be specified in the rules.

Saving.

9. (1) Nothing in the foregoing provisions of this Act shall be construed as rendering unlawful any dealing with the body or with any part of the body of a deceased person if such dealing would have been lawful if this Act had not been passed.

(2) Neither the grant of any facility or authority for the removal of eyes from the body of a deceased person in accordance with the provisions of this Act nor the removal of eyes from the body of a deceased person in pursuance of such authority shall be deemed to be an offence punishable under section 297 of the Indian Penal Code, 1860.

Protection of action taken in good faith.

10. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

11. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form in which removal of eyes, from unclaimed bodies may be authorised, as required by section 5;
- (b) the preservation of removed eyes, as required by section 8;
- (c) the publicity which may be given to the provisions and objects of this Act;
- (d) any other matter which is required to be or may be prescribed.

(3) All rules made and all notifications issued under this Act shall, as soon as possible after they are made or issued, be placed on the table of the Legislative Assembly of the Union territory and shall be subject to such modifications by way of amendment or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session:

Provided however that any modifications or annulment shall not affect the validity of anything already done and acted upon under such rules and notifications.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 11 OF 1988

Corneal grafting is quite often resorted to as therapeutic measure to cure blindness. Persons enlivened by consciousness to provide relief to the blind come forward to donate their eyes after their death for use for therapeutic purposes. It is therefore necessary to vest necessary authority in the qualified registered medical practitioners to remove the eyes of such donors after their death. It is also necessary to vest such authority for removal of eyes in the case of unclaimed dead bodies in hospital and prisons and also in certain circumstances from bodies sent for post-mortem examination for medico-legal or pathological purposes. The eyes so removed have to be deposited for preservation in the eye banks prescribed for the purpose.

The Bill seeks to achieve the above objects.

THE PUDUCHERRY RELIEF FROM INDEBTEDNESS ACT, 1987
(Act No. 7 of 1989)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. Discharge of Debt
 4. Reconveyance of property
 5. Constitution of Tribunals
 6. Appointment of appellate authorities
 7. Powers of Tribunal and appellate authority
 8. Legal practitioners not to appear before Tribunals and appellate authorities
 9. Burden of proof
 10. Bar of jurisdiction of Civil Courts
 11. Act to override other laws, contracts, etc.
 12. Power to make rules
-

THE PUDUCHERRY RELIEF FROM INDEBTEDNESS ACT, 1987

(Act No. 7 of 1989)

(24-6-1989)

AN
ACT

to provide relief from indebtedness to certain persons in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-eighth Year of the Republic of India as follows: --

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Relief from Indebtedness Act, 1987.
- (2) It extends to the whole of the Union territory of Puducherry.
- * (3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires, --

(1) "annul household income" means the aggregate of the gross income from all sources of all the members of a family during the year ending on the 31st December, 1986;

(2) "appellate authority" means an appellate authority appointed under section 6;

(3) "creditor" means a person from or in respect of whom the debtor has borrowed or incurred a debt and includes the heirs, legal representatives and assignees of such person;

(4) "debt" means any liability in cash or kind, whether secured or unsecured due from or incurred by a debtor on or before the date of the commencement of this Act, whether payable under a contract or under a decree or order of any court, or otherwise, and subsisting on that date, but does not include ---

* This Act has come into force w.e.f 24-6-1989.

- (a) any sum payable to -
- (i) the Government of Union territory of Puducherry or the Government of India or the Government of any other State or Union territory in India or any local authority; or
 - (ii) a banking company as defined in the Banking Regulation Act, 1949 (Central Act No. 10 of 1949); or
 - (iii) scheduled banks as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934); or
 - (iv) the State Bank of India as constituted under the State Bank of India Act, 1955 (Central Act No. 23 of 1955); or
 - (v) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act No. 38 of 1959); or
 - (vi) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act No. 5 of 1970); or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act No. 40 of 1980); or
 - (vii) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (Central Act No. 18 of 1964); or
 - (viii) a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act No. 21 of 1976); or
 - (ix) the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (Central Act No. 28 of 1981); or
 - (x) the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 (Central Act No. 15 of 1948); or
 - (xi) the State Financial Corporations established under the State Financial Corporations Act, 1951 (Central Act No. 63 of 1951); or
 - (xii) the Industrial Reconstruction Bank of India established under the Industrial Reconstruction Bank of India Act, 1984 (Central Act No. 62 of 1984); or
 - (xiii) the Agricultural Finance Corporation Limited a company incorporated under the Companies Act, 1956 (Central Act No. 1 of 1956); or
 - (xiv) a Co-operative Bank as defined in clause (cci) of section 5 read with section 56 of the Banking Regulation Act, 1949 (Central Act No. 10 of 1949), and Land Development Bank or as the case may be, Land Mortgage Bank registered under any law relating to co-operative societies for the time being in force in any State; or
 - (xv) a corporation owned or controlled by the Government or the Government of any other State or Union territory or the Government of India or a Government company as defined in the Companies Act, 1956 (Central Act No. 1 of 1956); or
 - (xvi) the Puducherry Housing Board constituted under the Puducherry Housing Board Act, 1973 (Act No. 7 of 1974); or
 - (xvii) any co-operative society including a Land Mortgage Bank, registered or deemed to be registered under the Puducherry Co-operative Societies Act, 1972 (Act No. 7 of 1973); or

(b) any liability incurred or arising under any chit, the bye-laws or the agreement of which has been registered under the Puducherry Chit Funds Act, 1966 (Act No. 18 of 1996), or the Chit Funds Act, 1982 (Central Act No. 40 of 1982); or

(c) any sum advanced for the purposes of Agriculture or Rural Development by any institution receiving financial assistance from the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act No. 61 of 1981); or

(d) any sum payable to any other financial institution notified in this behalf by the Government in the Official Gazette; or

(e) any sum payable to any charitable endowment vested in any Treasurer of Charitable Endowments, appointed under section 3 of the Charitable Endowments Act, 1890 (Central Act No. 6 of 1890); or

(f) any liability arising out of a breach of trust or any tortious liability; or

(g) any liability in respect of maintenance, whether under a decree of court or otherwise; or

(h) any liability in respect of wages or remuneration due as salary or otherwise for services rendered; or

(i) any debt which represents the price of property, whether movable or immovable, purchased by a debtor or any amount due under a hire purchase agreement; or

(j) any liability for which a charge is provided under sub-clause (b) of clause (4) of section 55 of the Transfer of Property Act, 1882 (Central Act No. 4 of 1882); or

(k) any rent due in respect of any property including agricultural land let out to a debtor; or

(l) any amount received by a debtor as advance for the delivery of goods at a future date; or

(m) any debt or debts payable on the date of the commencement of this Act to –

(i) a widow; or

(ii) a minor child both of whose parents are dead; or

(iii) a minor child whose father is dead; or

(iv) a female person whose marriage has been dissolved by a decree of divorce or has been declared null and void, or annulled by a decree of nullity:

Provided that, ---

(A) the market value of the property owned by such widow, minor child or female person on the date of such commencement, including the principal amount of the debt or debts so due, did not exceed twenty-five thousand rupees;

(B) the right of such widow, minor child or female person to recover the debt or debts did not arise by reason of any assignment.

Explanation. – For the purpose of this clause, the market value of the property shall be estimated to be the price, which in the opinion of the authority prescribed in this behalf, such property would have fetched if sold in the open market on the date of the commencement of this Act;

(n) any amount due on account of any goods to a financier who financed the purchase of such goods and whose principal business is to finance the purchase of goods.

Explanation - I. – For the purpose of this clause, ---

(i) the liability of a surety who is a debtor shall be deemed to be a debt within the meaning of this Act, notwithstanding that the principal debtor is not a debtor for the purposes of this Act;

(ii) where a debt has been split up in any manner whatsoever, whether before or after the commencement of this Act and fresh documents have been executed in respect of different portions of the debt, each such different portion shall be a debt.

Explanation - II. – Where the debt is a liability in kind, the value of the commodity shall be commuted at the market rate prevailing on the date on which the debt was incurred;

(5) "debtor" means any person from whom any debt is due and whose annual household income does not exceed four thousand and eight hundred rupees:

Provided that a person shall not be deemed to be a debtor, if he or any member of his family ---

(i) has, in either of the two financial years, or in both the two financial years immediately preceding the 1st day of April, 1987, been assessed to income-tax under the Income Tax Act, 1961 (Central Act No. 43 of 1961), or under the income-tax law in force in any foreign country; or

(ii) has, in either of the two financial years, or in both the two financial years immediately preceding the 1st day of April, 1987, been assessed to sales tax under the Puducherry General Sales Tax Act, 1967 (Act No. 6 of 1967), or under the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956); or

(iii) has, in any one or more within the four half years, or in all the four half years, immediately preceding the commencement of this Act, been assessed to property or house-tax in respect of buildings or lands other than agricultural lands, under the Puducherry Municipalities Act, 1973 (Act No. 9 of 1973), and the Puducherry Village and Commune Panchayats Act, 1973 (Act No. 10 of 1973), or any law governing municipal or local bodies in any other State or Union territory in India, provided that the aggregate annual rental value of such buildings and lands whether let out or in the occupation of the owner is not less than one thousand and two hundred rupees.

Explanation. – The annual rental value of any building or land for the purposes of proviso (iii) shall, --

(1) where the assessment is based on the annual rental value, be deemed to be such value;

(2) where the assessment is based on the capital value, be deemed to be five per cent of the capital value; and

(3) in any other case, be deemed to be the value ascertained in the prescribed manner; or

(iv) has, in any one or more within the four half years, or in all the four half years, immediately preceding the commencement of this Act, been assessed to profession tax on a half yearly income of more than one thousand and two hundred rupees derived from a profession other than agriculture under the Puducherry Municipalities Act, 1973 (Act No. 9 of 1973), and the Puducherry Village and Commune Panchayats Act, 1973 (Act No. 10 of 1973), or any law governing municipal or local bodies in any other State or Union territory in India.

Explanation. – Proviso (iv) shall apply only to a person whose annual household income exceeds four thousand and eight hundred rupees and such person shall not be deemed to be a debtor for the purposes of this Act; or

(v) whether individually or jointly owns in the Union territory of Puducherry or elsewhere agricultural lands exceeding ten acres of unirrigated lands or five acres of irrigated lands (whether irrigated from the Government source or a private source).

Explanation. – Where any person owns both irrigated and unirrigated lands, for the purpose of calculating under proviso (v), the extent of lands owned by him, one acre of irrigated land shall be deemed to be equal to two acres of unirrigated land; or

(vi) whether individually or jointly owns in the Union territory of Puducherry or elsewhere any other immovable property (other than agricultural lands), the market value of which exceeds twenty-five thousand rupees; or

(vii) whether individually or jointly owns in the Union territory of Puducherry or elsewhere both agricultural lands and other immovable property, the market value of both such agricultural lands and other immovable property exceeds twenty-five thousand rupees.

Explanation. – For the purposes of provisos (vi) and (vii), the market value of the immovable property or both the agricultural lands and other immovable property, as the case may be, shall be estimated to be the price, which, in the opinion of the authority authorised in this behalf, such immovable property or both the agricultural lands and other immovable property, as the case may be, would have fetched if sold in the open market on the date of commencement of this Act;

(6) "family" in relation to a person means the individual, the wife or husband, as the case may be, of such individual, and their unmarried minor children;

Explanation. – For the purpose of this clause, "minor" means a person who has not completed the age of eighteen years;

(7) "Government" means the Administrator appointed by the President under article 239 of the Constitution;

(8) "interest" means any amount or other thing paid or payable in excess of the principal amount borrowed or pecuniary obligation incurred; or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any;

(9) "pay" with its grammatical variations, includes deliver;

(10) "prescribed" means prescribed by rules made under this Act;

(11) "principal amount" means the amount originally advanced together with such sum, if any, as has been subsequently advanced, notwithstanding any stipulation to treat any interest as principal and notwithstanding that the debt has been removed or included in a fresh document, whether by the same debtor or by his heirs, legal representatives or assigns or by any other person acting on his behalf or in his interest, and whether in favour of the same creditor or his heirs, legal representatives or assigns or of any other person acting on his behalf or in his interest;

(12) "Tribunal" means a Tribunal constituted under section 5.

Discharge of Debt

3.(1) Notwithstanding anything contained in the Puducherry Pawn Brokers Act, 1966 (Act No. 11 of 1966), the Puducherry Money Lenders Act, 1970 (Act No. 26 of 1970) and the Tamil Nadu Debt Relief Act, 1976 (President's Act No. 31 of 1976), as extended to the Union territory of Puducherry or in any other law for the time being in force or in

any contract or other instruments having force by virtue of any such law, or in any decree or order of Court and save as otherwise expressly provided in this Act, and in particular sub-section (2) with effect from the commencement of this Act,-

(a) every debt advanced or incurred before the date of commencement of this Act (including interest, if any) and payable by the debtor to the creditor shall be deemed to be wholly discharged;

(b) no Civil Court shall entertain any suit or other proceeding against the debtor for the recovery of any amount of such debt (including interest, if any):

Provided that where any suit or other proceeding is instituted jointly against the debtor and any other person, nothing in this section shall apply to the maintainability of such suit or proceeding in so far as it relates to such other person;

(c) all suits and other proceedings (including appeals, revisions, attachments or execution proceedings) pending on the date of commencement of this Act against any debtor for the recovery of any such debt (including interest, if any), shall abate:

Provided that nothing in this clause shall apply to -

- (i) the sale of any movable property held and concluded before the commencement of this Act;
- (ii) the sale of any immovable property confirmed before such commencement;

(d) every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt (including interest, in any), shall be released;

(e) every movable property pledged by a debtor shall stand released in favour of such debtor and the creditor shall be bound to return the same to the debtor forthwith;

(f) every mortgage executed by the debtor in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor.

Explanation. – I. In this section, the term "suit" shall not include a claim to a set-off made in a suit instituted by a debtor.

Explanation. – II. For the purposes of this section, a suit in which a decree in respect of a debt is prayed for shall be deemed to be a suit for the recovery of the debt notwithstanding that other reliefs are prayed for in such suit, and a decree shall be

deemed to be a decree in respect of a debt notwithstanding that other reliefs are granted in such decree:

Provided that a suit or decree for possession of land shall not be deemed to be a suit for recovery of or a decree in respect of a debt by reason merely of mesne profits being also prayed for or included in such suit or decree.

Explanation. – III. Nothing in this section shall debar a decree holder from enforcing reliefs other than in respect of a debt where the decree contains independent reliefs.

Explanation. – IV. Nothing in this section shall be construed as entitling any debtor to the refund of any part of any debt or interest thereon already repaid by him or recovered from him before the commencement of this Act.

(2) Nothing contained in this Act shall apply to any debtor who is entitled to the benefit of the Tamil Nadu Debt Relief Act, 1976 (President's Act No. 31 of 1976), as extended to the Union territory of Puducherry only in so far as any debt to which that Act applies, is concerned.

Reconveyance of property

4. (1) (a) Any debtor entitled to the delivery of possession of any property under clause (e) or clause (f) of sub-section (1) of section 3 or any other person on behalf of such debtor may make an application in such form and containing such particulars as may be prescribed to the Tribunal having jurisdiction over the area within six months from the commencement of this Act or within such further period as may be notified by the Government in this behalf, for such delivery of possession.

(b) Every such application shall be ---

- (i) supported by an affidavit which shall be in such form and be sworn or affirmed before such officer or authority as may be prescribed and which shall state that the debtor is entitled to relief under section 3; and
- (ii) accompanied by a certificate from the prescribed authority as to the annual household income of such debtor.

(c) where any debtor referred to in clause (e) or clause (f) of sub-section (1) of section 3 or any other person on behalf of such debtor, has not made any application in accordance with the provisions of, and within the time specified in this sub-section, then, such debtor shall not be entitled to relief under this Act.

(2) On receipt of an application under sub-section (1), the Tribunal shall make necessary inquiries in respect of such application and if it is satisfied that the applicant or the person on whose behalf the application has been made is entitled to the delivery of possession of such property mentioned in the application, it shall, by order, direct the person in possession of such property to deliver possession thereof to the applicant or to the person on whose behalf the application has been made, within a period of thirty days from the date of service of the order:

Provided that no order under this sub-section shall be made unless the person in possession of the property has been given a reasonable opportunity of being heard.

(3) Every order made under sub-section (2) shall be served on the person for whom it is intended, --

(a) by delivering or tendering it to that person; or

(b) if it cannot be delivered or tendered to that person, by delivering or tendering it to any officer of such person or any adult member of the family of such person or by affixing a copy thereof on the outer door or some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(c) failing service by any of these means, by registered post.

(4) Any person aggrieved by an order of the Tribunal under sub-section (2) may, within a period of thirty days from the date of service of the order, prefer an appeal to the appellate authority, having jurisdiction over the area and in such manner as may be prescribed and in deciding the appeal, the appellate authority shall follow such procedure as may be prescribed and the decision of the appellate authority on such appeal shall be final and shall not be called in question in any court of law:

Provided that before taking a decision on the appeal, the appellate authority shall give the opposite party an opportunity of being heard.

(5) Where an order under sub-section (2) has not been complied with, and –

(a) an appeal has not been preferred within the time allowed for such appeal;
or

(b) an appeal having been preferred, has been dismissed,

the Tribunal shall cause the property to which the order relates to be delivered to the debtor by putting him in possession of that property.

Constitution of Tribunals

5. (1) The Government may, by notification in the Official Gazette, constitute for, such area as may be specified therein a Tribunal for the purpose of performing the functions of a Tribunal under this Act.

(2) A Tribunal shall consist of a sole member who shall be an officer not below the rank of Deputy Tahsildar appointed by the Government.

Appointment of appellate authorities

6. (1) The Government may, by notification in the Official Gazette, appoint for such area as may be specified therein an appellate authority for the purposes of this Act.

(2) An appellate authority shall be an officer not below the rank of Deputy Collector.

Powers of Tribunal and appellate authority

7. (1) Every Tribunal and every appellate authority shall have the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908), in respect of the following matters, namely: -

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) any other matter which may be prescribed.

(2) The decisions of the Tribunals and the appellate authorities under this Act shall have the force of a decree of a Civil Court.

Legal practitioners not to appear before Tribunals and appellate authorities

8. Notwithstanding anything contained in any law for the time being in force, no legal practitioner shall be allowed to appear in any proceedings before a Tribunal or an appellate authority under this Act.

Burden of proof

9. Notwithstanding anything contained in any law for the time being in force, in any suit or other proceedings, the burden of proving that a debtor is not entitled to protection under the provisions of this Act shall be on the creditor.

Bar of jurisdiction of Civil Courts

10. No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is, by or under the Act, required to be decided or dealt with, or to be determined, by the Tribunal or the appellate authority.

Act to override other laws, contracts, etc.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force or any custom, usage or contract, or any decree or order of a court, tribunal or other authority.

Power to make rules

12.(1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.7 OF 1989

The question of bringing a comprehensive legislation providing relief from debt burden to various categories of people was engaging the attention of this Administration. After extensive study and careful examination of the debt relief laws prevalent in the neighbouring States, it has been proposed to provide total discharge of debt to debtors whose annual income does not exceed rupees four thousand and eight hundred.

The Bill seeks to achieve the above object.

THE PUDUCHERRY CO-OPERATIVE SOCIETIES (APPOINTMENT OF SPECIAL OFFICERS) ACT, 1990

(Act No. 7 of 1990)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
2. Definitions
3. Term of office of members of committee or Board of scheduled co-operative societies to expire on the appointed day
4. Appointment of special officers for scheduled co-operative societies
5. Co-operative Societies Act and rules made hereunder to apply to special officer
6. Delegation of powers of Government
7. Protection of action taken in good faith
8. Powers to amend Schedule

SCHEDULE

THE PUDUCHERRY CO-OPERATIVE SOCIETIES (APPOINTMENT OF SPECIAL OFFICERS) ACT, 1990

(Act No. 7 of 1990)

(06-11-1990)

AN
ACT

to provide for the appointment, in the public interest, of special officers for certain co-operative societies in the Union territory of Puducherry.

WHEREAS it is expedient to provide for the appointment of special officers for certain co-operative societies for a limited period in the public interest for the purpose of safeguarding the interest of the members or depositors, for ensuring the proper utilisation of the amounts invested by the Government and for improving the efficiency of the administration of such societies.

BE it enacted by the Legislative Assembly of Puducherry in the Forty-first Year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Co-operative Societies (Appointment of Special Officers) Act, 1990.
- (2) It extends to the whole of the Union territory of Puducherry.
- + (3) It shall come into force on such date as the Government may, by notification in the official gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires, -
 - (a) "appointed day" means, --
 - (i) in relation to any co-operative society included in the Schedule in the first instance, the date appointed by the Government under sub-section (3) of section 1 ; and
 - (ii) in relation to any other co-operative society, the date from which it is included in the Schedule under sub-section (1) of section 8;
 - (b) "Co-operative Societies Act" means the Puducherry Co-operative Societies Act, 1972;

+ This Act came into force w.e.f 08.11.1990 vide notification published in the EG. Pt-I No.154 dated 8.11.1990.

(c) "Schedule" means the Schedule to this Act;

(d) "Scheduled co-operative society" means any co-operative society specified in the Schedule and any other co-operative society included in that Schedule under section 8;

(e) Words and expressions used and not defined in this Act but defined in the Co-operative Societies Act shall have the meanings respectively assigned to them in that Act.

Term of office of members of committee or Board of scheduled co-operative societies to expire on the appointed day

3. Notwithstanding anything contained in the Co-operative Societies Act or in any other law for the time being in force, the term of office of the members of the committee or the Board, as the case may be or any person exercising the powers of such committee or Board of every scheduled co-operative society including its president and vice-president, or Chairman and vice-chairman, as the case may be, holding office as such immediately before the appointed day shall expire on the appointed day and the members shall vacate their office on and from such day.

Appointment of special officers for scheduled co-operative societies

4. (1) Notwithstanding anything contained in the Co-operative Societies Act or in any other law for the time being in force, on and from the appointed day, the Government shall appoint a person as special officer for each scheduled co-operative society for such period or periods not exceeding two years in the aggregate as may be specified by the Government from time to time.

(2) The special officer appointed under sub-section (1) shall, subject to the control of the Registrar and to such directions as he may, from time to time give, have power to exercise all or any of the functions of the committee or the Board, as the case may be, or of any officer of the scheduled co-operative society and to take such action as may be required in the interest of such scheduled co-operative society.

(3) The Government may fix the remuneration payable to the special officer appointed under sub-section (1) and the amount of remuneration so fixed and such other expenditure incidental to the management of the scheduled co-operative society as may be approved by the Registrar, shall be payable from the funds of such scheduled co-operative society.

(4) The special officer appointed under sub-section (1) shall arrange for the constitution of a new committee or Board, as the case may be, in accordance with the provisions of the Co-operative Societies Act and the rules made thereunder and the bye-laws of the scheduled co-operative society so that the new committee or Board, as the case may be, may be constituted and the members thereof come into office at the expiry of the period of appointment of the special officer.

**Co-operative Societies Act and rules made hereunder
to apply to special officer**

5. Except otherwise provided in section 4, the provisions of the Co-operative Societies Act and the rules made thereunder shall apply in relation to a special officer appointed under sub-section (1) of that section as they apply in relation to a special officer appointed under sub-section (1) of section 83 of the Co-operative Societies Act.

Delegation of powers of Government

6. (1) The Government may, by notification, authorise the Registrar to exercise any of the powers vested in it under section 4 in respect of any scheduled co-operative society.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be specified in the notification and subject also to control and revision by the Government.

Protection of action taken in good faith

7. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

Powers to amend Schedule

8. (1) The Government may, by notification, from time to time, include in the Schedule, any co-operative society registered under the Co-operative Societies Act.

(2) All references made in this Act to the Schedule shall be construed as references to the said Schedule as for the time being amended in exercise of the powers conferred by this section.

SCHEDULE

[See section 2 (d)]

1. The Puducherry Co-operative Milk Producers' Union Limited. P.1.
2. The Puducherry State Co-operative Union Limited. P. 259.

—

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 7 OF 1990

The co-operative societies at present are formed and managed under the Puducherry Co-operative Societies Act, 1972. In spite of all the safeguards provided for in the Act, it happens sometimes, in case of certain societies, that they fall into the hands of persons who have little interest in the welfare of the society but who perpetuate themselves in the office and mismanage the affairs of the society. Very often it has also become necessary to secure the investments, if any, made by the Government in such societies. With a view to ensure proper management of these societies, improve the efficiency of their administration and for purpose of safeguarding the interest of the members and depositors, it is proposed to bring about a legislation enabling the Government to appoint special officers for such societies for a limited period of two years with powers and functions of the committee or the Board or any officer of the co-operative society.

This Bill seeks to achieve the above objects.

THE PUDUCHERRY DISTRICT PLANNING COMMITTEE ACT, 1994

(Act No. 6 of 1994)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. Constitution and Composition of District Planning Committee
 4. Functions of the District Planning Committee
 5. Preparation of draft development plan by panchayats and municipal councils
 6. Term of office
 7. Transaction of business
 8. Power of Government to make rules
-

THE PUDUCHERRY DISTRICT PLANNING COMMITTEE ACT, 1994

(Act No. 6 of 1994)

(22-04-1994)

AN ACT

to create and devolve powers upon the District Planning Committee to consolidate the Plans prepared by the panchayats and the municipalities in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Forty-fifth Year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Puducherry District Planning Committee Act, 1994.
- (2) It extends to the whole of the Union territory of Puducherry.
- + (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires, -

- (1) "Committee" means the District Planning Committee constituted under section 3;
- (2) "District" means *[a revenue district;]
- (3) "Government" means the Government of Puducherry;
- (4) "Union territory" means the Union territory of Puducherry;
- (5) words and expressions used herein and not defined but defined in the Puducherry Municipalities Act, 1973 or, as the case may be, the Puducherry Village and Commune Panchayats Act, 1973 shall have the meanings, respectively, assigned to them in those Acts.

+ This Act came into force w.e.f 23.04.94 vide notification published in the EG Pt-II No.12 dt. 23.04.94.

* Substituted vide Act No.3 of 2007 w.e.f 10-3-2007 in Extraordinary Gazette Part -II No.10 dated 20th March 2007.

Constitution and Composition of District Planning Committee

*[3. (1) The Government shall constitute in every district, a District Planning Committee to consolidate the plans prepared by the Village Panchayats, Commune Panchayat Councils and the Municipal Councils and to prepare a draft development plan for the district as a whole.

(2) (a) The committee shall consist of not more than fifteen members representing the following, namely: --

- (i) such number of persons, not less than four-fifth as may be specified by the Government, elected in the prescribed manner from amongst, the elected members of Commune Panchayats and the Municipal Councils in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;
- (ii) Secretary to Government in-charge of the work relating to local self-Government.
- (iii) the Director, Local Administration Department, Government of Puducherry;
- (iv) the District Collector concerned, *ex-officio*.

(b) The following persons shall be permanent special invitees of the committee: --

- (i) the Member of the House of the People who represents the Union territory of Puducherry.
- (ii) the Member of the Council of States whose name is registered as an elector in the Union territory of Puducherry.
- (iii) not more than four members of the Legislative Assembly whose constituencies lie within Puducherry district and not more than two members of the Legislative Assembly whose constituencies lie within Karaikal district, as nominated, from time to time by the Speaker:

Provided that where a Member of Parliament or a Member of the Legislative Assembly of the Union territory is appointed as Minister or elected as Speaker or Deputy Speaker or appointed as the Government Chief Whip or a recognised Leader of the Opposition, he may nominate a person from the area he represents as member to represent him in the committee of the district to which he was a permanent invitee;

- (iv) the Chairpersons of the Commune Panchayat Councils in the district;
- (v) the Chairpersons of the Municipal Councils in the district;
- (vi) the Secretary to Government in-charge of the work relating to finance;
- (vii) the Secretary to Government in-charge of the work relating to planning;
- (viii) such number of persons having special knowledge and experience in matters relating to local self-Government, administration, planning and other allied subjects, as nominated by the Government.

(c) The permanent special invitees referred to in clause (b) shall be entitled to take part in the proceedings of the meetings of the committee.

(3) The Chief Minister of the Union territory of Puducherry shall be the *ex-officio* Chairperson of the every District Planning Committee.

(4) The Director, Local Administration Department, Government of Puducherry shall be the Secretary to every District Planning Committee].

Functions of the District Planning Committee

4. (1) The District Planning Committee shall —

- (i) consolidate the plans prepared by the commune panchayat councils and municipal councils in the district and prepare a draft development plan for the district as a whole;
- (ii) in preparing the draft development plan, —
 - (a) have regard to, —
 - (i) matters of common interest between the panchayats and municipal councils including co-ordinated spatial planning of the district, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - (ii) the overall objectives and priorities fixed by the Government;
 - (iii) the extent and type of available resources, whether financial or otherwise; and

(b) consult such institutions and organisations as the Government may, by order, specify.

(2) The Chairperson of the District Planning Committee shall forward the development plans, as recommended by such Committee, to the Government.

Preparation of draft development plan by panchayats and municipal councils

5. (1) Every village panchayat shall prepare every year a development plan and submit it to the commune panchayat council before such date and in such manner as may be prescribed.

(2) Every commune panchayat council shall prepare every year a development plan of the commune panchayat after including the development plans of the village panchayats and submit it to the District Planning Committee before such date and in such form as may be prescribed.

(3) Every municipal council shall prepare every year a development plan of the municipality and submit it to the District Planning Committee before such date and in such form as may be prescribed.

Term of office

6. (1) The Committee shall continue for a term of five years from the date of its Constitution, but the members shall hold office during the pleasure of the Government.

(2) A person shall cease to be a member of the Committee if he no longer holds office by virtue of which he is a member of the Committee.

Transaction of business

7. The procedure for the transaction of business at the meetings of the Committee shall be such as may be prescribed.

Power of Government to make rules

8. (1) Without prejudice to any power to make rules contained elsewhere in this Act, the Government may, by notification, make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this Act, shall, as soon as may be after it is made, be laid before the Legislative Assembly of Puducherry while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.6 OF 1994

The Constitution (Seventy-third Amendment) Act, 1992 as well as the Constitution (Seventy-fourth Amendment) Act, 1992 had been passed by the Parliament.

2. These Constitution Amendments provide a clear and close relationship between the development activities carried out by the local bodies namely, the municipalities as well as the panchayats.
3. Accordingly it is also mandatory to constitute a District Planning Committee to consolidate the plans prepared by the panchayats and municipalities in the Union territory of Puducherry.
4. The bill enables the District Planning Committee to consolidate the plans prepared by the panchayats and the municipalities and to prepare a development plan, besides attending to the matters of common interest between the panchayats and the municipalities in various activities like planning, sharing of water and natural resources, etc.
5. The Bill seeks to achieve the aforesaid objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.3 OF 2007

In the Puducherry District Planning Committee Act, 1994, the expression "District" in clause (2) of section 2 has been defined as the "whole of the Union territory of Puducherry". At the time of enactment of the said Act, there was only one unitary District viz., Puducherry in the Union territory of Puducherry comprising of four regions, namely, Puducherry, Karaikal, Mahe and Yanam. But on 26-5-2005, the said unitary District of Puducherry has been bifurcated into two districts namely, (i) Puducherry District comprising of Puducherry region, Mahe region and Yanam region and (ii) Karaikal District comprising of Karaikal region vide G.O.Ms. No.37, dated 26-5-2005 of the Confidential and Cabinet Department. Therefore, necessity has now arisen to constitute two District Planning Committees-one in Puducherry District and the other in Karaikal District. Hence, the expression "District" needs to be redefined as "a revenue district" so as to enable to constitute one District Planning Committee in Puducherry District and the other in Karaikal District.

2. Sub-section (2) of section 3 of the said principal Act, provides for the composition of the District Planning Committee. The erstwhile unitary District of Puducherry in the Union territory of Puducherry has been bifurcated into two districts, namely (i) Puducherry District and Karaikal District and it has been decided to fix the strength of the members of the committee at 15 and also to revise the composition of District Planning Committee by treating the Members of Parliament, Members of Legislative Assembly, Chairpersons of Commune Panchayat Councils and Municipal Councils, Secretary to Government (Finance), Secretary to Government (Planning) and experts as nominated by the Government as permanent special invitees of the Committee as was done in the neighbouring State of Tamil Nadu and Kerala.

3. Sub-section (3) of section 3 of the principal Act, provides for choosing the chairperson of the District Planning Committee in such manner as may be prescribed. But the District Planning Committee is a high level committee consisting of high profile dignitaries viz., Members of Parliament, Members of Legislative Assembly, Secretaries to Government and Collector of the District concerned besides, the Chairpersons and elected members of local bodies, it is felt that it may cause difficulties and embarrassment to choose the Chairperson. As the Chief Minister happens to be the vice-chairperson of the State Planning Board, it has been considered that it would be more appropriate in all respects, if he is the chairperson of every District Planning Committee. Accordingly, it has been decided to make the Chief Minister as the ex-officio Chairperson of every District Planning Committee.

4. Clause (1) of sub-section (2) of section 3 of the principal Act, provides to designate the Director, Local Administration Department as the Member-Secretary of the District Planning Committee. Now, it has been decided to redesignate him as the Secretary of every District Planning Committee.

5. Section 2 and section 3 are, therefore, proposed to be substituted incorporating the above-mentioned proposals.

6. The Bill seeks to achieve the above objectives.

**THE PUDUCHERRY MEMBERS OF THE LEGISLATIVE ASSEMBLY
(PREVENTION OF DISQUALIFICATION) ACT, 1994**

(Act No.13 of 1994)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Definition.
3. Certain offices of profit not to disqualify.

SCHEDULE

**THE PUDUCHERRY MEMBERS OF THE LEGISLATIVE ASSEMBLY
(PREVENTION OF DISQUALIFICATION) ACT, 1994**

(Act No.13 of 1994)

[17-11-1994]

An
Act

to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being members of the Legislative Assembly of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Forty-fifth Year of the Republic of India as follows:-

(1) Short title and commencement

1. (1) This Act may be called the Puducherry Members of the Legislative Assembly (Prevention of Disqualification) Act, 1994.

(2) It shall come into force at once.

Definition

2. In this Act, unless the context otherwise requires,-

(a) "compensatory allowance" means any sum of money payable to the holder of an office by way of daily allowance, such allowance not exceeding the amount of daily allowance to which a member of the Legislative Assembly is entitled under the Salary, Allowances and Pension of Members of the Legislative Assembly (Puducherry) Act, 1964 any conveyance allowance, house rent allowance or traveling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office;

(b) " non-statutory body" means any body of persons other than a statutory body;

(c) " Schedule" means the Schedule appended to this Act; and

(d) "statutory body" means any corporation committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the time being in force.

3. Certain offices of profit not to disqualify

It is hereby declared that none of the offices specified in the Schedule shall disqualify the holder thereof for being chosen as, or for being a Member of the Legislative Assembly of Puducherry.

*[SCHEDULE
(see section 3)

The office of Chairman, President, Vice-Chairman, Vice-President, Director or Member of any of the following statutory or non-statutory bodies, namely:-

A. STATUTORY BODIES:

- | | | |
|--|---|--|
| <ol style="list-style-type: none"> 1. Puducherry Market Committee. 2. Karaikal Market Committee. 3. Yanam Market Committee. | } | <p>Registered under the Puducherry
Agricultural Produce Markets
Act, 1973.</p> |
|--|---|--|

4. Puducherry State Social Welfare Board.
5. Puducherry Planning Authority.
6. Puducherry Womens's Commission.
7. Puducherry State Wakf Board.
8. Puducherry Ground Water Authority.
9. Puducherry Seed Certification Agency.
10. Puducherry Building and other Construction Workers Welfare Board.

B. CORPORATIONS:

1. Puducherry Adi-Dravidar Development Corporation Limited (PADCO).
2. Puducherry Agro Service and Industries Corporation Limited (PASIC).
3. Puducherry Agro Products Food and Civil Supplies Corporation Limited (PAPSCO).

1. Puducherry Power Corporation Limited.
2. Puducherry Industrial Promotion Development and Investment Corporation Limited (PIPDIC).
3. Puducherry Distilleries Limited.
4. Puducherry Electronics Limited.
5. Puducherry Textiles Corporation Limited.
6. Swadeshi / Bharathi Textiles Corporation Limited.
7. Puducherry Backward Classes and Minorities Development Corporation Limited.
8. Puducherry Tourism Development Corporation Limited.
9. Puducherry Road Transport Corporation Limited.
10. Puducherry Corporation for the Development of Women and Handicapped Persons Limited.

C. SOCIETIES:

1. Pandit Jawaharlal Nehru College of Agriculture and Research Institute, Karaikal (PAJANCOA & RI).

2. Perunthalaivar Kamarajar Krishi Vigyan Kendra, Puducherry.
3. Krishi Vigyan Kendra, Karaikal.
4. Puducherry Agricultural Workers Welfare Society.
5. Rajiv Gandhi College of Veterinary and Animal Sciences.
6. Bharathiar Palkalai Koodam.
7. Puducherry Institute of Linguistics and Culture.
8. Puducherry Experimental Solar Pond Power Project Society.
9. Fish Farmers Development Agency, Puducherry.
10. Fish Farmers Development Agency, Karaikal.
11. Fish Farmers Development Agency, Yanam.
12. Puducherry State Fishermen Co-operative Federation.
13. Fishing Harbour Management Society.
14. Mahatma Gandhi Post-graduate Institute of Dental Sciences.
15. Mother Theresa Post-graduate and Research Institute of Health Sciences.
16. Perunthalaivar Kamarajar Medical College and Research Institute.
17. Puducherry Medical Relief Society.
18. Puducherry Institute of Post-Matric Technical Education (PIPMATE).
19. Puducherry Engineering College.
20. Perunthalaivar Kamarajar Institute of Engineering and Technology, Karaikal.
21. Puducherry Society for Higher Secondary Education.
22. Puducherry Unorganised Labour Welfare Society.
23. Franco-Indian Vocational Training Institute Society.
25. Puducherry State Sports Council.
26. Rajiv Gandhi School of Sports.
27. Puducherry Society for the Care of the Aged (PONCARE).
28. Puducherry Institute of Hotel Management and Catering Technology.
29. Building Centre, Villianur, Puducherry.
30. Building Centre, Poovam, Karaikal.
31. Puducherry e-governance Society.
32. Puducherry Urban Development Agency.
33. District Institute of Education and Training.
34. Renewable Energy Agency of Puducherry.
35. Puducherry Building Centre.
36. Puducherry Council for Science and Technology.
37. Puducherry Fishermen Distress Relief Society.
38. District Rural Development Agency.
39. Puducherry Management and Productivity Council.
40. Puducherry AIDS Control Society.
41. Sainik Welfare Board:

Provided that the holder of any such office is not in receipt of, or entitled to, any fee or remuneration other than compensatory allowance].

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 13 OF 1994.

The Legislative Assembly of Pondicherry has not so far enacted any separate law for prevention of disqualification of the Members of the Legislative Assembly for their appointment to some statutory and non-statutory bodies, which have been constituted by the Government. The Government have established some corporations which have been registered under the Companies Act and also some non-statutory Boards like the Pondicherry Legal Aid and Advice Board. It is considered that some of the elected representatives may also be appointed as Chairman or Vice-Chairman of the Board of Directors or Director or Members in such Corporations and Boards and therefore such office might be included in the Schedule to the said Bill, so that no disqualification shall be attracted.

2. It is proposed to include at present, the following bodies in the Schedule, namely :—

- (a) The Pondicherry Distilleries Limited ;
- (b) The Pondicherry Agro Service and Industries Corporation Limited ;
- (c) The Pondicherry Agro Products, Food and Civil Supplies Corporation Limited ;
- (d) The Pondicherry Tourism and Transport Development Corporation Limited;
- (e) The Pondicherry Adi Dravidar Development Corporation Limited; and
- (f) The Pondicherry Legal Aid and Advice Board.

3. The Bill seeks to give effect to the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 5 OF 2009.

The Puducherry Members of the Legislative Assembly (Prevention of Disqualification) Act, 1994 was enacted for the purpose of declaring that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being Members of the Legislative Assembly of Puducherry. By virtue of section 3 of the Act it has been declared that none of the office specified in the Schedule shall disqualify the holders thereof for being chosen as, or for being a Member of the Legislative Assembly of Puducherry. Thereafter, as and when the necessity has arisen necessary amendment has been made to the Act for bringing a certain office within the purview of the Schedule thereto.

Now, it has been proposed to bring all Government Societies, Corporations and Statutory Bodies within the purview of the Schedule to the Act so as to protect any person holding any office under the said Societies, Corporations and Statutory Bodies from being disqualified for being chosen as, or for being a Member of the Legislative Assembly, Puducherry. For the said purpose, it is proposed to amend the Act by substituting the Schedule under section 3 thereof.

The Bill seeks to achieve the above objects.

THE PUDUCHERRY LIMITATION (REPEAL OF LOCAL LAWS) ACT, 1994

(Act No. 15 of 1994)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. Repeal of the local laws relating to limitation
 4. Savings
 5. Provisions as to bar of pending suits
-

THE PUDUCHERRY LIMITATION (REPEAL OF LOCAL LAWS) ACT, 1994

(Act No. 15 of 1994)

(03-01-1995)

AN

ACT

to repeal the local laws relating to limitation in force in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of the Union territory of Puducherry in the Forty-fifth Year of the Republic of India as follows: --

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Limitation (Repeal of Local Laws) Act, 1994.

(2) It shall extend to the whole of the Union territory of Puducherry.

+ (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires, --

- (i) "Government" means the Administrator appointed by the President under article 239 of the Constitution; and
- (ii) "local law" means any Act, Ordinance, Regulation, rule, order, bye-law, decree or other provisions (by whatever name called) having the force of law which have been continued to be in force by virtue of sub-section (1) of section 4 of the Puducherry Administration Act, 1962.

Repeal of the local laws relating to limitation

3. All local laws in force in the Union territory of Puducherry or any area thereof, corresponding to the Limitation Act, 1963 (Central Act 31 of 1963) (hereinafter referred to as the Limitation Act) shall stand repealed from the date of coming into force of this Act.

Savings

4. Notwithstanding anything contained in this Act, --

(a) any suit for which the period of limitation prescribed in the Limitation Act is shorter than the period of limitation prescribed by the local laws may be instituted ---

(i) within such shorter period or within a period of one year next after the commencement of this Act, whichever is longer, or

(ii) within the period prescribed for such suit by the local laws, whichever period expires earlier; and

(b) any appeal or application for which the period of limitation prescribed under the Limitation Act is shorter than the period of limitation prescribed by the local laws may be preferred or made,-

(i) within such shorter period or within a period of ninety days next after the commencement of this Act, whichever is longer, or

(ii) within the period prescribed for such appeal or application by the local laws, whichever period expires earlier.

Provisions as to bar of pending suits

5. Nothing in this Act shall, --

(a) enable any suit, appeal or application to be instituted, preferred or made, for which the period of limitation prescribed by the local laws expired before the commencement of this Act; or

(b) after any suit, appeal or application instituted, preferred or made before, and pending at, such commencement.

Explanation.- Any suit, appeal or application which has been filed but which has been returned for resubmission after rectification of defects shall not, for the purposes of the foregoing clause, be deemed to be a suit, appeal or as the case may be, application instituted, preferred or made before and pending at the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 15 OF 1994

The Indian Limitation Act, 1963, was enacted by the Parliament and brought into force from 1-1-1964. The Act came into force in this Union territory from the above date itself. In the meantime, even though, many of the substantive civil laws in force in the other parts of the country were extended to the Union territory of Puducherry repealing the corresponding French Law, the provisions relating to limitation in the French Law like French Civil Code, Code Commercial, etc., have not been specifically repealed. In the result, the French Law of Limitation continues to remain in force side by side with the provisions of the Indian Limitation Act. This has created lot of confusion and this has also unduly prolonged extinction of the causes of action arising from time to time. The position has turned to be such that in one or two cases, the High Court has gone to the extent of even declaring that the Indian Limitation Act has not been extended to Puducherry. The ultimate result is that for every cause of action, the period of limitation pleaded is 30 years. In view of this situation, it is proposed to repeal the French Law of Limitation that remain in force as local law, so that our Union territory can fall in line with the rest of the country in matters relating to law of limitation.

The Bill seeks to achieve the above objects.

**THE PUDUCHERRY OPEN PLACES (PREVENTION OF DISFIGUREMENT)
ACT, 2000**

(Act No. 6 of 2000)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. No person to affix to or inscribe or exhibit on any place open to public view any objectionable advertisement, etc.
 4. Government to specify by notification any area where no person shall deface any place open to public view
 5. Penalty for disfigurement by objectionable advertisements
 6. Penalty for unauthorised disfigurement by advertisements
 7. Penalty for contravention of notification issued under section 4
 8. Punishment of abettors
 9. Burden of proof in certain cases
 - 10 . Offences by companies
 11. Offences under the Act to be cognizable
 - 12 . Indemnity
 13. Power of Government to erase writing, etc.,
 14. Other laws not affected
 15. Power to make rules
-

**THE PUDUCHERRY OPEN PLACES (PREVENTION OF DISFIGUREMENT)
ACT, 2000**

(Act No. 6 of 2000)

(20-12-2000)

AN
ACT

to prevent disfigurement by objectionable or unauthorized advertisements of places open to public view in the Union territory of Puducherry.

Whereas it is expedient of prevent disfigurement by objectionable or unauthorised advertisements of places open to public view in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Fifty-first Year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Open Places (Prevention of Disfigurement) Act, 2000.

(2) It extends to the whole of the Union territory of Puducherry.

+ (3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires, -

(a) "advertisement" includes an effigy or any bill, notice, document, paper or other thing containing any words, signs or visible representations;

(b) "defacement" includes impairing or interfering with the appearance of beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever and the word "deface" shall be construed accordingly;

(c) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;

(d) "objectionable advertisement" means any advertisement which is likely to -

- (i) incite any person to commit murder, sabotage or any offence involving violence; or
- (ii) seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or
- (iii) incite any section of the citizens of India to acts of violence against any other section of the citizens of India; or which—
- (iv) is deliberately intended to outrage the religious feelings of any class of the citizens of India by insulting or blaspheming or profaning the religion or the religious beliefs of that class; or
- (v) is grossly indecent, or is scurrilous or obscene or intended for blackmail.

Explanation. – An advertisement shall not be deemed to be objectionable merely because words or signs or visible representations are used –

(1) expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means;

(2) criticising any social or religious practices without malicious intention and with an honest view to promote social or religious reform or social justice;

(e) "place open to public view" includes any private place or building, monument, statue, post, wall, fence, tree or other thing or contrivance visible to a person being in, or passing along, any public place;

(f) "public place" means any place (including a road, street or way, whether a thoroughfare or not and a landing place) to which the public are granted access or have a right to resort, or over which they have a right to pass.

No person to affix to or inscribe or exhibit on any place open to public view any objectionable advertisement, etc.

3. On and from the commencement of this Act, no person shall affix to, or inscribe or exhibit on, any place open to public view, —

- (i) any objectionable advertisement; or
- (ii) any advertisement without the written consent of the owner or occupier or person in the management of the property in which such place is situated.

Government to specify by notification any area where no person shall deface any place open to public view

4. Notwithstanding anything contained in this Act, or any other law for the time being in force, the Government may, if satisfied, that it is necessary or expedient so to do for purpose of preventing defacement, by notification in the official gazette, direct that from such date and in such area as may be specified in the notification, no person shall deface any place open to public view by writing or marking with ink, chalk, paint or any other material except for the purpose of indicating the name and address of the owner or occupier of such property and for such other purposes, as may be specified in the said notification.

Penalty for disfigurement by objectionable advertisements

5. Whoever affixes to, or inscribes or exhibits on, any place open to public view any objectionable advertisement shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for unauthorised disfigurement by advertisements

6. Whoever affixes to, or inscribes or exhibits on, any place open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both.

Penalty for contravention of notification issued under section 4

7. Whoever defaces any place open to public view in contravention of the notification issued under section 4 shall be punishable for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Punishment of abettors

8. Whoever in any manner whatsoever causes, procures, counsels, aids, abets or is accessory to, the commission of any offence under section 3, section 4 or section 5, shall be punished with the punishment provided for the offence.

Burden of proof in certain cases

9. Where a person is prosecuted for committing an offence under section 6, the burden of proving that he has the written consent referred to in that section shall be on him.

Offences by companies

10. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section —

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

Offences under the Act to be cognizable

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that Code.

Indemnity

12. No suit, prosecution or other legal proceeding shall lie against the Government, any local authority or person for anything which is in good faith done or intended to be done under this Act.

Power of Government to erase writing, etc.,

13. (1) The Government or any officer authorised in this behalf may, by notice require the owner or the person having control over any place open to public view, to erase any writing, free any defacement or remove any mark from such place within such time as may be specified in such notice.

(2) If such erasing, freeing or, as the case may be removing is not carried out within the time specified in the notice given under sub-section (1), the Government or such authorised officer may cause such erasing, freeing or removing to be done and the expenses incurred shall be paid by the owner or such other person and in default of such payment, such expenses shall be recovered from such owner or such other person as if they were arrears of land revenue.

Other laws not affected

14. The provisions of this Act, are in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power to make rules

15. (1) The Government may, by notification, make rules to carry out the provisions of this Act.

(2) All rules made and all notifications issued under this Act, shall, as soon as possible after they are made or issued, be placed on the Table of the Legislative Assembly of the Union Territory and shall be subject to such modification by way of amendment or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session:

Provided however that any modification or annulment shall not affect the validity of anything already done and acted upon under such rules and notifications.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.6 OF 2000

Disfigurement and defacement of places open to public view have of late taken menacing proportions. Besides causing nuisance they also spoil decent surroundings and beauty of such places. Some State Governments and Union Territories have enacted legislations to prevent defacement of properties. The Central Government and the Election Commission of India have impressed on this Administration, the need for such an enactment in this Union Territory to combat the growing menace of defacement of places open to public view by indiscriminate writing and pasting of posters. It is therefore necessary to bring about a legislation to prevent defacement of open places.

It is proposed to prohibit generally any objectionable advertisement or any advertisement without the written consent of the owner or occupier on any place open to public view. Power is also proposed to be vested in the Government to prohibit any defacement of public place in any area. The offences under the legislation are cognizable.

The Bill seeks to achieve the above objects.

THE PUDUCHERRY COMPULSORY ELEMENTARY EDUCATION ACT, 2000

(Act No. 8 of 2001)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. Elementary education to be compulsory
 4. Duty of every parent or guardian of a child of school age
 5. Exemptions
 6. Competent authority
 7. Penalty
 8. Cognizance of offences
 9. Competent authority etc., to be public servants
 10. Power of Government to give directions
 11. Protection of action taken in good faith
 12. Power to make rules
 13. Power to remove difficulties
-

THE PUDUCHERRY COMPULSORY ELEMENTARY EDUCATION ACT, 2000

(Act No. 8 of 2001)

(05-10-2001)

AN ACT

to provide for compulsory elementary education in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Fifty-first Year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Compulsory Elementary Education Act, 2000.

(2) It extends to the whole of the Union territory of Puducherry.

† (3) It shall come into force on such date as the Government may, by notification in the official gazette appoint, and different dates may be appointed for different provisions of this Act.

Definitions

2. In this Act, unless the context otherwise requires, -

(1) "attendance at an elementary school" means presence for instruction at an elementary school for such number of days, and on such days in a year, and at such time or times on each day of attendance, as may be prescribed;

(2) "competent authority" means the competent authority appointed by the Government under section 6;

(3) "elementary education" means education in such subjects and up to such standard as may be prescribed;

(4) "elementary school" means all schools, other than unaided private schools recognised as an elementary school by the competent authority and includes any elementary school in existence on the date of commencement of this Act which has been recognised as such by the Director of Education or by any authority of the Education Department;

(5) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution of India;

(6) "guardian" means any person to whom the care, nurture or custody of any child falls by law or by natural right or by recognised usage, or who has accepted or assumed the care, nurture or custody of any child or to whom the care, nurture or custody of any child has been entrusted by any lawful authority;

† This Act has come into force w.e.f 01-01-2006 vide Notification published in the Gazette of Puducherry No. 7 dated 14-02-2006

(7) "parent" means the father or mother of a child and includes an adopted father or mother;

(8) "school age" in relation to a child means six to fourteen years of age; and

(9) "year" means the academic year commencing on the 1st day of June.

Elementary education to be compulsory

3. (1) Subject to the provisions of this Act, elementary education shall be compulsory for every child of school age.

(2) For giving effect to the provisions of sub-section (1), the Government shall provide such number of elementary schools in the Union Territory with trained teachers, as may be considered necessary.

Duty of every parent or guardian of a child of school age

4. It shall be the duty of every parent or guardian of a child of school age to cause such child to attend an elementary school.

Exemptions

5. Attendance at an elementary school for a child of school age shall not be compulsory, –

(1) if such child is prevented from attending an elementary school by reason of sickness, infirmity or such other cause as may be prescribed;

(2) if such child is attending any unrecognised school provided that the education imparted therein is declared to be satisfactory by the competent authority;

(3) if such child is imparted education under Non-formal Education Programme;

(4) if such child is attending any other programme of alternative schooling at the elementary level recognised by the competent authority; or

(5) if such child is exempted from attendance on any other ground as may be prescribed.

Competent authority

6. (1) The Government, may, by notification, appoint any officer of the Education Department, not below the rank of Chief Educational Officer, to be the competent authority for the purpose of carrying into effect the provisions of this Act and the rules made thereunder and different competent authorities may be appointed for different areas.

(2) The competent authority shall exercise such powers and perform such other functions as may be prescribed.

Penalty

7. Every parent or guardian of a child of school age who fails to discharge his duty under section 4 shall be punishable with fine which may extend to one hundred rupees.

Cognizance of offences

8. No court shall take cognizance of an offence punishable under this Act except on a complaint in writing made by an officer authorised by the Government in this behalf by general or special order.

Competent authority etc., to be public servants

9. The competent authority appointed under section 6 and the officer authorised under section 8 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Power of Government to give directions

10. The Government may, in the public interest, by order, direct the competent authority to make an enquiry or to take appropriate proceedings under this Act in any case specified in the order, and the competent authority shall report to the Government, the result of the enquiry made or the proceedings taken by him within such period as may be prescribed.

Protection of action taken in good faith

11. No suit, prosecution or other legal proceedings shall lie against the Government or an officer of the Government, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Power to make rules

12. (1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Puducherry while it is in session for a total period of fifteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid the Legislative Assembly agrees in making any modification in the rule or agrees that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties

13. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion requires, by order published in the official gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of a period of two years from the date of commencement of this Act.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.8 OF 2001

As per the provisions of Article 45 of the Constitution of India, the state shall endeavour to provide within a period of 10 years from the commencement of the Constitution, for free and compulsory education for all children until they complete the age of 14 years. A policy decision has been taken by the Government of Puducherry to provide compulsory elementary education for all children of school age in this Union territory. In order to give effect to that policy decision, it is necessary to make elementary education compulsory for all such children. It is also necessary to make it obligatory on the part of every parent or guardian of a child to cause the child to attend elementary school. To achieve these objects, it is proposed to enact a law to make elementary education in this Union territory compulsory.

This Bill seeks to achieve the above objects.

THE PUDUCHERRY WOMEN'S COMMISSION ACT, 2001
(Act No. 2 of 2002)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. Act not to apply in certain cases
 4. Application of other laws not barred
 5. Constitution of the Commission
 6. Terms of office and conditions of service of members
 7. Quorum
 8. Disposal of business
 9. Constitution of ad hoc Committees
 10. Acts of the Commission not to be invalidated by infirmity or any vacancy, etc.
 11. Removal of members from office
 12. Appointment of Director and other staff of the Commission
 13. Registration of women's organisations
 14. Powers of the Commission
 15. Functions of the Commission
 16. Grants by Government
 17. Accounts and audit
 18. Inquiry into unfair practices
 19. Initiation of prosecution
 20. Annual report to be laid before the Legislative Assembly
 21. Sittings of the Commission
 22. Authentication of orders, etc., of the Commission
 23. Government consulting the Commission
 24. Members, officers and employees of the Commission to be public servants
 25. Protection of acts done in good faith
 26. Courts not to grant injunctions
 27. Removal of difficulties
 28. Power to make rules
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THE PUDUCHERRY WOMEN'S COMMISSION ACT, 2001

(Act No. 2 of 2002)

(12-01-2002)

**AN
ACT**

to provide for the Constitution of a Women's Commission to improve the status of women in the Union territory of Puducherry and to enquire into unfair practices affecting women and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Puducherry in the Fifty-second Year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Women's Commission Act, 2001.

(2) It extends to the whole of the Union territory of Puducherry.

+ (3) It shall come into force on such date as the Government may, by notification in the Official gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires, -

(a) "Commission" means the Commission constituted under section 5;

(b) "Director" means the Director appointed under section 12;

(c) "Government" means the Administrator appointed by the President of India under article 239 of the Constitution;

(d) "member" means a member of the Commission and includes the Chairperson;

(e) "person" includes a firm, company, corporation or any public undertaking, association of persons or the Government and its agencies including agencies receiving aid from the Government;

(f) "prescribed" means prescribed by the rules made under this Act;

+ This Act has come into force w.e.f 05.10.04 vide GO.Ms.No.35/2004-(wel.sw-IV) dt.05.10.04 published in the Gaz. No.45 dt.09.11.04.

(g) "public servant" means any employee of the Government or a local body or any corporation owned or controlled by the Government or any Government Agency or any public undertaking;

(h) "registered" means registered with the Commission under this Act;

(i) "unfair practice" means any distinction, exclusion or restriction made on the basis of sex for the purpose of or which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women of fundamental constitutional rights, or of human rights, or of fundamental freedom in the political, economic, social, cultural, civil or any other field or the infringement of any right or benefit conferred on women by or under the provisions of any law for the time being in force or the mental or physical torture or sexual excesses on women.

Act not to apply in certain cases

3. This Act shall not apply to —

- (i) the Central Government, or
- (ii) any public sector undertaking of the Central Government, or any other institution owned or controlled or financed directly by the Central Government:

Provided that if any case involving person or persons belonging to these categories comes up before the Commission, the Commission will have the powers to refer the matter to the National Commission with its findings and recommendations.

Application of other laws not barred

4. Save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force, except to the extent the provisions of the other law are inconsistent with the provisions of this Act.

Constitution of the Commission

5. (1) For the purpose of this Act, the Government shall, by notification in the official gazette, constitute a Commission to be known as the Puducherry Women's Commission which shall consist of a Chairperson and not more than six other members to be appointed by the Government provided that at least one member each shall be from amongst persons belonging to the Scheduled Castes and the Scheduled Tribes respectively.

(2) The Chairperson shall be an eminent woman committed to the cause of women with sufficient knowledge and experience in dealing with women's problems.

(3) The members of the Commission shall be persons of ability, integrity, intelligence and standing and having adequate knowledge or experience or have shown ability in dealing with problems relating to safeguarding and promoting the interest of women and protecting their rights.

Terms of office and conditions of service of members

6. (1) Every member including the Chairperson shall hold office for a period of three years.

(2) Notwithstanding anything contained in sub-section (1), a member may --

- (i) by writing under his hand and addressed to the government resign his office at any time;
- (ii) be removed from his office in accordance with the provisions of section 11.

(3) A vacancy arising by reason of resignation or removal of any member of the Commission under sub-section (2) or otherwise shall be filled up in accordance with the provisions contained in section 5:

Provided that a person so appointed shall hold office for the remaining period of the term of the person in whose place such person is appointed.

(4) The remuneration payable to the members shall be fixed by the Government.

Quorum

7. The quorum for a meeting of the Commission shall be three.

Disposal of business

8. (1) The meeting of the Commission shall be presided over by the Chairperson or in her absence a member chosen for the purpose by the members present.

(2) All questions at a meeting of the Commission shall be decided by the majority of the votes, of the members present and voting and in case of equality of votes, the Chairperson or the member presiding, as the case may be, shall have second or casting vote.

(3) The Commission may invite, if it is considered necessary, for such purpose and on such conditions as may be prescribed, any person with expert knowledge in a particular subject to be present at the meeting to assist the Commission in arriving at a decision, but such person shall not be entitled to vote.

(4) In case the outlying regions are not properly represented in the Commission, or if the Commission decides so, the Commission can constitute committees in the outlying regions to help it to dispense with issues thereon, the Constitution of which may be decided by the Commission.

Constitution of *ad hoc* Committees

9. (1) The Commission may for the purpose of transacting any business before it or for any special issue constitute an *ad hoc* committee consisting of –

- (a) not more than two members of the Commission;
- (b) not more than two experts on the particular subject before the Commission.

(2) If the Chairperson is a member of the committee, the Chairperson or any other members shall preside over the meeting of the committee.

(3) The provisions of sections 7,8 and 21 shall *mutatis mutandis* apply to the meetings of the committee.

(4) The final report of the *ad hoc* committee shall be placed before the Commission for its approval and on the approval thereof by the Commission be deemed to be the report of the Commission.

(5) The persons in the *ad hoc* committee shall be paid such remuneration as may be prescribed.

Acts of the Commission not to be invalidated by infirmity or any vacancy, etc.

10. No act or proceeding of the Commission shall be invalidated by reason only of any defect or irregularity in its Constitution or on the ground of existence of any vacancy in the office of any member.

Removal of members from office

11. Any member of the Commission may be removed from office by an order of the Government, if she –

- (a) becomes an undischarged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which involves moral turpitude;
- (c) becomes of unsound mind;
- (d) is without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(e) in the opinion of the Government has so abused the position of Chairperson or member as to render that person's continuance in office detrimental to the public interest:

Provided that a member shall not be removed under this section until that person has been given a reasonable opportunity of being heard in the matter.

Appointment of Director and other staff of the Commission

12. (1) The Government may, in consultation with the Commission, appoint a Director for making investigations for the purpose of this Act and to carry out such directives given to him by the Commission besides the functions conferred on him by this Act. The Government may appoint such other staff as may be necessary to assist the Commission by deputation or by direct recruitment and prescribe their conditions of service. A Law Officer may essentially be appointed.

(2) The qualifications, terms of appointment and other conditions of service of the Director and other staff shall be such as may be prescribed.

(3) In the discharge of their functions under this Act, the Director and other staff referred to in sub-section (1) shall be subject to the administrative control of the Chairperson.

Registration of women's organisations

13. (1) The Commission may register voluntary women's organisations with the Commission for the purpose of enlisting the assistance of such organisations in the discharge of the functions of the Commission.

(2) Any women's organisation governed by written rules, regulations or bye-laws and working for the uplift, development, welfare or promotion of the interest of women or women's wing of any other organisation having all or any of the above activities as one of the objectives may apply to the Director for registration of such organisation with the Commission, in such form and in such manner as may be prescribed.

(3) The Director shall verify the applications in such manner as may be prescribed and recommend to the Commission, the organisations qualified for registration and reject the other applications.

(4) The Commission may consider the recommendations and direct that the name and particulars of the organisations qualified to be registered be entered in the register maintained for the purpose in the manner prescribed and shall issue a certificate of registration in the prescribed form.

(5) The Commission may at any time, either on its own motion or otherwise cancel the registration of any organisation after giving an opportunity to be heard and on being satisfied that it is no longer qualified to continue as a registered organisation.

(6) The party aggrieved by the decision of the Director under sub-section (3) may file an appeal before the Commission within such time and in such manner as may be prescribed and thereupon the Commission shall after conducting such enquiry as it deems fit and giving the party an opportunity of being heard, pass appropriate orders thereon.

Powers of the Commission

14. (1) The Commission shall for the purpose of any inquiry under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any witness and examining him;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public records or copy thereof from any public office;
- (d) issuing commissions for the examination of witnesses.

(2) Any proceeding before the Commission shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commission shall be deemed to be a court for the purpose of section 195 of the Code of Criminal Procedure, 1973.

Functions of the Commission

15. (1) The Commission shall perform all or any of the following functions, namely: -

- (i) inquire into any unfair practice, take decision thereon and to recommend to the Government the action to be taken in that matter;
- (ii) cause investigations to be made by the Director on issues of importance concerning women and issues concerning unfair practices and to report thereon to the Government on the corrective measures to be taken;
- (iii) submit to the Government annual reports on —

(a) the lacunae, inadequacies or short-comings in the laws in force which affect the Constitutional right to equality and fair treatment of women and also on the remedial legislative measures to be taken to meet the situation;

(b) the monitoring of the working of laws in force concerning women with a view to identifying areas where the enforcement of laws is not adequately effective or has not been streamlined and recommending executive or legislative measures to be taken;

(c) monitoring the recruitments and promotions made within the Union territory and scrutinizing the rules and regulations governing such recruitments and promotions with a view to reporting to the Government action, if any, required to guarantee equal opportunity to women in the matter of such recruitments and promotions;

(iv) (a) inspect or cause to be inspected, by the Director or any officer of the Commission authorised by the Commission in that behalf, prisons, police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners or otherwise, or shelters for women or other places run by the Government for the purpose of offering rescue or shelter to women, or hostels intended for women or girls run by any person and such other places wherein unfair practice to women is complained of and cause further inquiries to be made about the treatment that women and girls are subjected to at such places and to report to the Government for remedial action;

(b) in cases where the Commission is of the view that any public servant has been grossly negligent or grossly indifferent in regard to the discharge of his duties in relation to the protection of interest of women, recommend to the concerned disciplinary authority to initiate disciplinary action;

(v) recommend to Government, the welfare measures to be adopted and implemented by the government with a view to ameliorating the conditions of women;

(vi) formulate a comprehensive and affirmative scheme for securing equal opportunities to women and devise a programme for implementing such scheme which shall be forwarded to the Government for approval and on obtaining approval thereof with or without modifications, implement the same;

(vii) empower the Director to recommend to the appropriate authority to take prosecution proceedings in respect of offences committed against women under any statute providing for penalty for violation of the provisions of such statute;

(viii) maintain comprehensive data bank relating to the social, economic and political conditions of the women including comparative study, updating the same from time to time making available such data for use in actions for vindication of the rights of women;

(ix) recommend to Government to initiate legislation for removal of discrimination in the case of inheritance, guardianship, adoption or for matters relating to the safeguarding of the dignity of women and the honor of motherhood;

(x) call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

(xi) participate and advise on the planning process of socio-economic development of women;

(xii) fund litigation involving issues affecting a large body of women;

(xiii) make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;

(xiv) undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement such as, lack of access to housing and basic services, inadequate support services and technologies, for reducing drudgery and occupational health hazards and for increasing their productivity;

(xv) co-operate with and assist and seek co-operation and assistance of the National Commission for Women and other Commissions for Women set up by different State Governments and Union Territory Administrations and also the National Commission for Scheduled Castes and Scheduled Tribes, National Commission for Backward Classes and National Commission for Minorities;

(xvi) any other matter which may be referred to it by the Government.

(2) The Government shall cause all the recommendations or any part thereof, as may be presented to it by the Commission under sub-section (1) which relate to any matter with which the Government is concerned to be laid before the Legislative Assembly of Puducherry along with a Memorandum explaining the action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance, if any, of such recommendations.

Grants by Government

16. (1) The Government shall, after due appropriation made by the Legislative Assembly by law in this behalf, pay to the Commission by way of grants such sums of money as the Government may think fit for being utilised for the purpose of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Accounts and audit

17. (1) The Commission shall maintain proper accounts and other relevant records and prepare annual statements of accounts in such form as may be prescribed, in consultation with the Accountant General, Puducherry and Tamil Nadu.

(2) The accounts of the Commission shall be audited by the Accountant-General, Puducherry and Tamil Nadu, at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant-General.

(3) The Accountant-General, Puducherry and Tamil Nadu and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit of the Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Accountant-General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Government by the Commission.

Inquiry into unfair practices

18. (1) The Commission shall inquire into any unfair practice —

(a) on receiving a written complaint from any woman alleging that she has been subjected to any unfair practice or on a similar complaint from any registered organization;

(b) on its own knowledge or information;

(c) on any request from the Government.

(2) Where the complaint has been made under clause (a) of sub-section (1), the Commission may, before the issue of any process to the person complained against, cause an investigation to be made by the Director in such manner as it may deem fit, for the purpose of satisfying itself that the complaint requires to be inquired into.

(3) Where the person against whom the complaint has been made, appears and shows cause or fails to appear on the day appointed for that purpose, the Commission may proceed to inquire into the matter in the complaint and take a decision thereon and if the Commission finds that there is unfair practice it shall recommend to the Government the action to be taken thereon or initiate prosecution.

(4) The Government shall, within two months from the date of receipt of the recommendations of the Commission under sub-section (3) take a decision thereon and intimate the same to the Commission.

Initiation of prosecution

19. If after investigation into any complaint under section 18, the Commission is satisfied that a person has committed any criminal offence and that he should be prosecuted in a court of law for such offence, then it may pass an order to that effect and initiate prosecution of the person concerned, if there is no necessity for prior sanction, and if prior sanction of any authority is required for such prosecution then notwithstanding anything contained in any law, such sanction shall be granted by that authority within thirty days of the request by the Commission and if such sanction is not granted within the said period, such sanction shall be deemed to have been granted by that authority.

Annual report to be laid before the Legislative Assembly

20. The Annual Report submitted to the Government by the Commission in accordance with clause (iii) of sub-section (1) of section 15 shall be laid, before the Legislative Assembly, as soon as may be, after the report is received by the Government.

Sittings of the Commission

21. (1) The Commission shall hold sittings ordinarily at Puducherry to inquire into any unfair practice but it may hold sittings in any other region of the Union Territory or in Puducherry.

(2) The Commission shall with the previous approval of the Government make regulations for regulating its procedure and the disposal of its business and which regulations shall, after they are made, be published in the official gazette.

(3) The Chairperson may, with the approval of the Commission, assign any function of the Chairperson or of the Commission to any other member or members of the Commission.

Authentication of orders, etc., of the Commission

22. All orders and decisions of all other proceedings or instruments, if any, issued by the Commission shall be authenticated by the signature of the Director or of such other officer as may be authorised by the Commission in this behalf.

Government consulting the Commission

23. The Government shall consult the Commission on all major policy matters affecting women.

Members, officers and employees of the Commission to be public servants

24. All members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of Indian Penal Code.

Protection of acts done in good faith

25. No suit, prosecution or other legal proceedings shall lie against any member of the Commission or any officer of the Commission for anything done in good faith or intended to be done under this Act or rule made thereunder.

Courts not to grant injunctions

26. Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force, no court shall grant any injunction restraining any proceeding which is being or about to be taken under the provisions of this Act.

Removal of difficulties

27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions to remove such difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

(3) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly of Puducherry.

Power to make rules

28. (1) The Government may, by notification in the official gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for –

- (a) the remuneration payable to the members;
- (b) procedure for removal of the members of the Commission under section 11;
- (c) the procedure for registration under section 13 of the Act;
- (d) procedure for inquiries under section 18 of the Act;
- (e) investigations by the Director;
- (f) procedure for inspection of prisons, police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners or otherwise or shelters for women or other places run by the Government or any of its agencies including agencies receiving aid from the Government for the purpose of offering rescue or shelter to women or hostels intended for women or girls run by any person and such other places, wherein unfair practice to women or girls is complained of or for holding of enquiries about the treatment that women or girls are subjected to at such place;
- (g) maintaining a data bank;
- (h) the formulation of a comprehensive and affirmative scheme for securing equal opportunity to women and for improvement and uplift of women and programme for its implementation;
- (i) procedure for recommending prosecution in respect of offences committed against women under any statute;
- (j) any other matter which has to be, or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of 14 days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect, only in such modified form or be of no effect, or as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.2 OF 2002

As early as in 1997, the National Commission for Women, New Delhi, had requested this Union Territory Administration to set up a State Commission for Women in the Union Territory for the purpose of helping the women and for redressed of their grievances in the Union Territory. To achieve the above, the draft legislation titled "The Puducherry Women's Commission Bill" has been prepared and for which the prior approval of the Government of India has been obtained for introduction in the Legislative Assembly. The Bill as such seeks to provide for the constitution of a Women's Commission to improve the status of women in the Union Territory to enquire into unfair practices affecting women and for matters connected therewith.

The Bill seeks to achieve the above objects.

**THE PUDUCHERRY GROUND WATER (CONTROL AND REGULATION)
ACT, 2002**

(Act No. 2 of 2003)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. Establishment of a Ground Water Authority
 4. Staff of the Ground Water Authority
 5. Powers of Government to issue directions and powers to notify areas for control and regulation of ground water development
 6. Grant of permit to extract and use ground water in the notified area
 7. Registration of existing users in notified areas
 8. Registration of user of new wells in non-notified area
 9. Power to alter, amend or vary the terms of the permit
 10. Prohibition of carrying on the business of sinking wells in a notified area
 11. Grant of licence for sinking of wells
 12. Cancellation of permit, certificate of registration or licence
 13. Powers of the Ground Water Authority
 14. Restriction on publication on information and returns
 15. Service of orders, etc.,
 16. Delegation of powers
 17. Members and employees of the Ground Water Authority to be public servants
 18. Protection against action taken in good faith
 19. Cognizance and trial of offences
 20. Offences and penalties
 21. Compounding of offences
 22. Offences by companies
 23. Appeals
 24. Bar of jurisdiction of civil courts
 25. Power to make rules
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**THE PUDUCHERRY GROUND WATER (CONTROL AND REGULATION)
ACT, 2002**

(Act No. 2 of 2003)

(23-01-2003)

AN
ACT

to regulate and control the development of ground water and for matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Fifty-third Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Ground Water (Control and Regulation) Act, 2002.

(2) It shall extend to the whole of the Union Territory of Puducherry.

+ (3) It shall come into force on such date as the Government may, by notification in the official gazette, appoint and different dates may be appointed for different areas in the Union Territory of Puducherry.

Definitions

2. In this Act, unless the context otherwise requires, -

(a) "Authority" means Ground Water Authority established in accordance with section 3 of the Act;

(b) "Government" means the Administrator of the Union Territory of Puducherry appointed by the President under article 239 of the Constitution;

(c) "Ground water" means the water which exists below the surface of the ground at any particular location in any land;

(d) "Notified area" means any area which this Act applies;

(e) "Prescribed" means prescribed by rules made under this Act;

(f) "Sink" with all its grammatical variations and cognate expression in relation to a well includes any digging, drilling or boring of new wells or deepening carried to the existing wells;

(g) "User of ground water" means the person or persons or an institution including a company or an establishment, whether Government or not, who or which use ground water for any purpose including domestic use made either on a personal or community basis or industrial use;

(h) "Well" means a well sunk for the search or extraction of ground water by a person or persons except by the authorized officials of the Union Territory of Puducherry for carrying out scientific investigations, exploration, development or management work for the survey and assessment of ground water resources or for providing water for irrigation and includes open well, dug well, borewell, dug-cum-borewell, tubewell, filter point, collector well and infiltration gallery:

Provided that it will exclude the person or persons who use ground water drawn from a well by manual devices, e.g., hand pump or rope and bucket.

Establishment of a Ground Water Authority

3. (1) The Government shall, by notification in the official gazette, establish with effect from such date as may be specified in the notification, an authority to be known as Ground Water Authority.

(2) The Ground Water Authority shall consist of –

(a) a Chairman to be appointed by the Government:

(b) five official members of the departments of the Government dealing with survey, exploration, development, management and protection of ground water, to be appointed by the Government; and

(c) three non-official members who, in the opinion of the Government, have special knowledge or practical experience in matters relating to ground water, to be appointed by the Government.

(3) The term of office and the manner of filling the vacancies and other conditions of service of the Chairman and other members shall be in such manner as may be prescribed.

Staff of the Ground Water Authority

4. (1) The Government may, for the purpose of enabling the Ground Water Authority to perform its function efficiently or exercise its powers under the Act, appoint such number of technical personnel and other staff as it may consider necessary.

(2) The functions and the terms and conditions of service of such employees shall be such as may be prescribed.

Powers of Government to issue directions and powers to notify areas for control and regulation of ground water development

5. (1) The Government may from time to time, issue to the Ground Water Authority such directions as it may think necessary in the public interest.

(2) Without prejudice to the foregoing provisions, the Ground Water Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Government may give in writing to it from time to time;

Provided that the Ground Water Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(3) The decision of the Government whether a question is one of policy or not shall be final.

(4) If the Ground Water Authority is of the opinion that it is necessary or expedient in the public interest to control and/or regulate the extraction or the use or both of ground water in any form in any area, it will advise the Government to declare any such area to be a notified area for the purposes of this Act with effect from such date as may be specified therein. This declaration will be notified in the official gazette:

Provided that the date so specified in the notification shall not be earlier than three months from the date of publication of the said notification.

(5) Every such notification shall, in addition to its publication in the official gazette, be published in not less than one daily regional language newspaper having wide circulation in the respective regions of the Union Territory of Puducherry and shall also be served in such manner as the Government may think fit and all or any of the following modes may be followed in effecting such service, namely:-

(a) by affixing a copy of the notification to some conspicuous part of the offices of the village panchayats located in the said area; or

(b) by proclaiming by beat of drum or by means of loudspeakers, the contents of the notification in the said area; or

(c) in such other manner as may be prescribed.

(6) If in the opinion of the Authority, the availability of the ground water has improved in a notified area based on satellite imageries or any report of the remote sensing applications in the country under the umbrella of National Natural Resources Management System or any other report published by the Government of India or other State Government or Union Territory, the Authority may advise the Government to identify such area and the Government may do so according to the procedure prescribed in this section for notifying the area.

Grant of permit to extract and use ground water in the notified area

6. (1) Any user of ground water [as defined under sub-section (g) of section 2] desiring to sink a well in the notified area for any purpose either on personal or community basis, shall apply to the Ground Water Authority for grant of a permit for this purpose, and shall not proceed with any activity connected with such sinking unless a permit has been granted by the Ground Water Authority:

Provided that the person or persons will not have to obtain a permit if the well is proposed to be fitted with a hand operated manual pump or water is proposed to be withdrawn by manual devices.

(2) Every application under sub-section (1) shall be made in such form and shall contain such particulars and in such manner as may be prescribed.

(3) On receipt of an application under sub-section (1), if the Ground Water Authority is satisfied that it shall not be against public interest to do so, it may grant, subject to such conditions and restrictions as may be specified, a permit authorising the extraction and use of ground water:

Provided that no person shall be refused a permit, unless he has been given an opportunity of being heard.

(4) The decision regarding the grant or refusal of the permit shall be intimated by the Ground Water Authority to the applicant within a period of 30 days from the date of receipt of the application.

(5) In granting or refusing a permit under sub-section (3), the Ground Water Authority shall have regard to, -

- (a) the purpose or purposes for which ground water is to be used;
- (b) the existence of other competitive users;
- (c) the availability of ground water;

- (d) quality of ground water with reference to use;
- (e) spacing of ground water structures keeping in consideration the purpose for which ground water is to be used;
- (f) long-term ground water level behaviour;
- (g) quantity of ground water utilized with reference to land use in the area; and
- (h) any other factors relevant thereto.

(6) The permit shall be in such form as may be prescribed.

Registration of existing users in notified areas

7. (1) Every existing user of ground water in the notified area shall within a period of one hundred and twenty days from the date specified in the notification under sub-section (4) of section 5, apply to the Ground Water Authority for the grant of a certificate of registration recognising its existing use in such form and in such manner as may be prescribed;

Provided that the Ground Water Authority may entertain any such application after the expiry of the said period of one hundred and twenty days, if it is satisfied that the user was prevented by sufficient cause from filing application in time.

(2) The details to be furnished in an application under sub-section (1) shall include the following, namely:-

- (i) the description of the source of ground water, such as type of well, its exact location;
- (ii) the device used for lifting water;
- (iii) the quantity of ground water withdrawn and hours of operation per day;
- (iv) the total period of use in each year;
- (v) the purpose or purposes for which ground water is being extracted;
- (vi) in case of irrigation well, the location and extent of area irrigated;
- (vii) in the case of water supply, schemes undertaken by the Government or other local authorities, the details of services involved in addition to the quantities of ground water extracted. The diversion or the pumping points and their locations; and
- (viii) in the case of industries, the details such as daily water requirement for various purposes, type of well structure, lifting device used, etc.

(3) On receipt of an application under sub-section (1), if the Ground Water Authority is satisfied that it shall not be against the public interest to do so, it may grant, subject to such conditions and restrictions as may be specified, a certificate of registration authorising the continued use of ground water:

Provided that no person shall be refused a certificate of registration unless he has been given an opportunity of being heard.

(4) The decision regarding the grant or refusal of the certificate of registration shall be intimated by the Ground Water Authority to the applicant within a period of thirty days from the date of receipt of the application.

(5) In granting or refusing a certificate of registration under sub-section (3), the Ground Water Authority shall have regard to, -

- (a) the purpose or purposes for which ground water is to be used;
- (b) the existence of other competitive users;
- (c) the availability of ground water;
- (d) quality of ground water with reference to use;
- (e) spacing of ground water structures keeping in consideration the purpose for which ground water is to be used;
- (f) long-term ground water level behaviour;
- (g) quantity of ground water utilised with reference to land use in the area;
- and
- (h) any other factors relevant thereto.

(6) The certificate of registration shall be in such form as may be prescribed.

(7) Pending the communication by the Ground Water Authority of the decision on an application under sub-section (1), every existing user of ground water in the notified area shall be entitled to the continued use of ground water in the same manner and to the same quantity as he was entitled prior to the date of his application.

(8) If a registered well becomes defunct, this fact should be immediately brought to the notice of the Ground Water Authority by the user of ground water.

Registration of user of new wells in non-notified area

8. (1) All wells sunk in the Union Territory of Puducherry shall have to be registered including the areas not notified under section 5 of the Act;

Provided that the person or persons who use the ground water drawn from a well by manual devices, e.g., hand pumps, rope and bucket, etc., shall be excluded.

(2) The Provisions of sub-section (8) of section 7 shall also be applicable in the case of wells sunk in non-notified areas.

Power to alter, amend or vary the terms of the permit

9. At any time after a permit or certificate of registration, as the case may be has been granted, the Ground Water Authority may, for technical reasons, alter, amend or vary the terms of the permit or certificate of registration, as the case may be:

Provided that the user of ground water has been given an opportunity of being heard:

Provided further that before taking such action, the Ground Water Authority shall ensure that the standing crops are not damaged.

Prohibition of carrying on the business of sinking wells in a notified area

10. No person, either by himself or by any other person acting on his behalf shall, after six months of the enforcement of the Act, carry on the work of sinking of wells or extraction of ground water or any other activity connected with the sinking of wells and/or extraction of ground water in any notified area, except in accordance with a licence granted in this behalf.

Grant of licence for sinking of wells

11. (1) Any person desiring to carry on the business of sinking of wells and/or installation of devices for extraction of ground water in a notified area, may make an application to the Ground Water Authority for the purpose.

(2) Every application under sub-section (1) shall be made in such form, shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) On receipt of an application under sub-section (1), the Ground Water Authority may, after such enquiry as it deems fit and after satisfying itself that the person concerned has the means and the knowledge to undertake sinking operations and/or extracting of ground water, grant a licence in such form as may be prescribed and subject to such conditions as may be specified therein.

Cancellation of permit, certificate of registration or licence

12. If the Ground Water Authority is satisfied either on a reference made to it in this behalf or otherwise, that,-

(a) the permit or certificate of registration or the licence granted under sub-section (3) of section 6, or sub-section (3) of section 7, or sub-section (3) of section 11, as the case may be, has been obtained by fraud or misrepresentation of facts, or

(b) the holder of the permit or certificate of registration or licence has without reasonable cause failed to comply with the conditions subject to which the permit or certificate of registration or licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder, or

(c) a situation has arisen which warrants limiting of the use of extraction of ground water, then, without prejudice to any other penalty to which the holder of the permit or the certificate of registration or licence may be liable under this Act, the Ground Water Authority may, after giving the holder of the permit, certificate of registration or licence, as the case may be, an opportunity to show-cause, cancel the permit, certificate of registration or licence.

Powers of the Ground Water Authority

13.(1) The Ground Water Authority or any person authorized by it in writing in this behalf shall have power,-

(a) to enter on any property (private or Government owned) with the right to investigate and make any measurement concerning the land or the water located on the surface or underground;

(b) to inspect the well which has been or is being sunk and the soils and other materials excavated therefrom;

(c) to take specimens of such soils or other materials or of water extracted from such wells;

(d) to inspect and to take copies of the relevant records or documents and ask any question necessary for obtaining any information (including diameter or depth of the well which is being or has been sunk, the level at which ground water is or was struck and subsequently restored or rested, the types of strata encountered in the sinking of the well and the quality of ground water struck) required for carrying out the purposes of this Act;

(e) to serve or cause to be served a notice requiring any user of ground water other than for agricultural use to furnish such information or returns in such form, at such intervals and with such particulars, as may be prescribed and thereupon such person shall comply with such requisition;

(f) to require the user of ground water other than for agricultural use to install water measuring device on any ground water supplies, when necessary, to properly administer the ground water or where there is reason to believe that the user does not comply with the provisions contained in this Act or for any other sufficient reason for defending the public interest:

Provided that where the user of ground water does not comply with the requisition issued to him within a period of thirty days, the Ground Water Authority

itself may install such water measuring device and recover the cost from the defaulting user of ground water;

(g) to seize any equipment/device utilised for illegal sinking and destroy the work executed fully or partly;

(h) to require any user of ground water, who does not comply with the provisions of this Act and rules framed thereunder, to close down any water supply or destroy any hydraulic work:

Provided that where the user of ground water does not comply with the requisition issued to him within a period of sixty days, the Ground Water Authority itself may carry out the necessary work and recover the cost from the illegal user of ground water;

(i) to enter and search with such assistance, if any, as it considers necessary, any place in which it has reason to believe that offence under this Act has been or is being committed and order, in writing, the person, who has been or is committing the offence, not to extract or use the ground water for a specified period not exceeding thirty days; and

(j) to exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules made thereunder.

(2) The power conferred by this section includes the power to break open the door of any premises where sinking, extraction and use of ground water may be going on:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuses to open the door on being called to do so.

(3) The provisions of the Code of Central Criminal Procedure, 1973 (Central Act 2 of 1974) shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 93 of the said code.

(4) Where the Ground Water Authority seizes any mechanical equipment/device under clause (g) of sub-section (1), it shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof.

Restriction on publication on information and returns

14. Any user of ground water may give notice in writing to the Ground Water Authority to treat as confidential, any specimen taken under clause (c) of sub-section (1) of section 13 or any other information or return furnished by him under clause (e) of sub-section (1) of that section and thereupon the Ground Water Authority shall not allow that specimen or other information or return, except in so far as it contains or affords information as to water resources and supplies and geological conditions, to be published or shown to any person (not being an officer of the Government), unless the person giving the notice consents thereto.

Service of orders, etc.,

15.(1) Every order under clause (d) of sub-section (1) of section 13 and every notice under clause (e) of sub-section (1) of that section shall be served,-

(a) by giving or tendering the order of notice or by sending it by post to the user for whom it is intended; or

(b) if such user cannot be found, by affixing the order of notice on some conspicuous part of his last known abode or place of business or by giving or tendering the order of notice to some adult male member or servant of his family or by causing it to be affixed on some conspicuous part of the land or building in which the well is being sunk.

(2) Where the person on whom an order or a notice is to be served is a minor, service upon his guardian in the manner provided in sub-section (1) shall be deemed to be service upon the minor.

Delegation of powers

16. The Ground Water Authority may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in its order, be exercised or discharged also by an employee of the Ground Water Authority as may be specified in this behalf in the order.

Members and employees of the Ground Water Authority to be public servants

17. All members and employees of the Ground Water Authority shall, when acting or purporting to act in pursuance of the provisions of this Act, or of any rules made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

Protection against action taken in good faith

18. No prosecution, suit or other legal proceeding shall be instituted against the Government or the Ground Water Authority or any other Officer of the Government or any member of other employees of the Ground Water Authority for anything done or intended to be done in good faith under this Act, or the rules made thereunder.

Cognizance and trial of offences

19. (1) No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Ground Water Authority or a person authorised in this behalf by the Ground Water Authority.

(2) No court inferior to that of a Judicial Magistrate of the First Class shall try any offence under this Act.

Offences and penalties

20. (a) If any user having been required to furnish any information or return under clause (e) of sub-section (1) of section 13,-

- (i) wilfully refuses or without lawful excuse, neglects to furnish such information or return, or
- (ii) wilfully furnishes or causes to be furnished any information or return, which he knows to be false,

he shall be punishable, -

- (i) for the first offence with fine, which may extend to five hundred rupees; and
- (ii) for the second and subsequent offence, with fine which may extend to one thousand rupees;

(b) If any user, -

- (i) contravenes or fails to comply with any of the provisions of this Act or any rule made thereunder, or
- (ii) obstructs the Ground Water Authority or any other person authorised by it to exercise any of the powers under this Act,

he shall be punishable, --

- (i) for the first offence with fine which may extend to five thousand rupees; and
- (ii) for the second and subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

Compounding of offences

21. Any offence under this Act as may be prescribed, may, before or after the institution of the proceedings, be compounded by the Ground Water Authority.

Offences by companies

22.(1) Whenever an offence under this Act has been committed by a company, every person who at the time, the offence is committed was in-charge of , or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offences and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation.- For the purpose of this section,-

- (a) "Company" means any body corporate and includes a firm or other association of individuals; and
- (b) "Director" in relation to a firm, means a partner in the firm.

Appeals

23. (1) Any person aggrieved by a decision or action of the Ground Water Authority under this Act may, within a period of thirty days from the date on which the action is taken or the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to such authority as may be specified by the Government in this behalf:

Provided that the appellate authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal within three months from the date of receipt of the appeal petition.

Bar of jurisdiction of civil courts

24. No civil Court shall have jurisdiction in respect of any matter which the Government or the Ground Water Authority is empowered by this Act to determine and no injunction shall be granted by any court or any other authority in respect of any action taken or to be taken in pursuance of any powers conferred by or under this Act.

Power to make rules

25.(1) The Government may, by notification in the official gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the term of office and manner of filling vacancies and other conditions of service among the members and Chairman of the Ground Water Authority;
- (b) the functions and the terms and conditions of service of the employees of the Ground Water Authority;
- (c) any other manner of effecting service of the notification under clause (c) of sub-section (5) of section 5;
- (d) the form of application under sub-section (2) of section 6 and sub-section (2) of section 11 and the particulars that may be furnished with these applications;
- (e) the form of application under section 7;
- (f) fees to accompany the application for licence under sub-section (2) of section 11;
- (g) the form of the permit and certificate of registration under sub-section (6) of section 6 and sub-section (6) of section 7 and the conditions/restrictions that may be specified therein;
- (h) the form of licence under sub-section (3) of section 11 and the condition that may be specified therein;
- (i) the form in which and the interval at which the information or return under clause (e) of sub-section (1) of section 13 shall be furnished and the particulars with such information or return shall contain;

- (j) specifying the appellate authority under sub-section (1) of section 23 and the fees to accompany the application for appeal;
- (k) any other matter which is required to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fifteen days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, or the successive sessions aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule thereafter shall have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification, or annulment shall be without prejudice to the validity of anything done earlier under that rule.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 2 OF 2003

In the early Sixties, irrigation was mainly carried out through major tanks and small ponds. But of late, due to inadequate receipt of monsoon and improper functioning of the system structure, the area commanded by tanks and ponds has declined drastically.

2. The water level was between six to eight metres below the ground level in the early Seventies and there were only about four thousand service connections. Due to the ever increasing demand for agriculture besides industry, education, housing, etc., the dependency on ground water has increased considerably. As a result of this, now the water level in the tube-wells has declined to twenty to fifty, metres below ground level. The decline in water level has been further aggravated by the large-scale installation of deep well submersible pump in place of centrifugal ones for augmenting lift irrigation. Sea water intrusion has also been noticed along the coast. This is a dangerous situation and if left uncontrolled, it will lead to further advance of sea water towards inland and ultimate desertation of the region.

3. The proposed legislation prohibits sinking of tubewells without prior permission of the competent authority. Provision has also been made for taking penal action against those who violate the provisions of the Act.

4. By undertaking this legislation, over exploitation of ground water can be checked, controlled and regulated.

5. This Bill seeks to achieve the above objects.

**THE PUDUCHERRY BOARD OF SECONDARY AND HIGHER SECONDARY
EDUCATION ACT, 2003**

(Act No. 8 of 2004)

ARRANGEMENT OF SECTIONS

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**THE PUDUCHERRY BOARD OF SECONDARY AND HIGHER SECONDARY
EDUCATION ACT, 2003**

(Act No. 8 of 2004)

(01-12-2004)

AN

ACT

to establish a Board of Secondary and Higher Secondary Education and matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Fifty-fourth Year of the Republic of India as follows:-

CHAPTER - I

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Board of Secondary and Higher Secondary Education Act, 2003.

(2) It extends to the whole of the Union territory of Puducherry.

† (3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such dates as the Government may, by notification appoint; and different dates may be appointed for different provisions of this Act and reference to the provision thereof shall be construed as a reference to the date on which that provision comes into force.

Definitions

2. In this Act, unless the context otherwise requires,-

(1) "Affiliation" means formal enrolment of a school into the list of approved schools of the Board for the purpose of admission to the privileges of the Board including its examination;

(2) "Appointed day" means the date or dates on which the remaining provisions of the Act are brought into force under sub-section (3) of section 1;

(3) "Board" means the Board established under the Act;

(4) "Chairman of the Board" means the person appointed as Chairman of the Board constituted under the Act;

† The provisions of section 2 to 49 and 51 of the Act came into force with effect from 01-05-2006 vide Notification published in the Gazette of Puducherry No.6 dated 07-02-2006

(5) "Director of School Education" means the Director of School Education, Puducherry and includes any other officer authorised by him to perform all or any of the functions of the Director under this Act;

(6) "Directorate of School Education" means Directorate of School Education, Government of Puducherry;

(7) "Final examination" means the Secondary School Leaving Examination or the Higher Secondary Course Certificate Examination or such other examinations as may be conducted or caused to be conducted by the Board;

(8) "Government" means the Administrator or the Union Territory of Puducherry appointed by the President of India under article 239 of the Constitution;

(9) "Headmaster" means the person incharge of the academic administration of a high school affiliated to the Board as such;

(10) "Higher Secondary Education" means such general, technical, vocational or special education (including any combined course thereof) which is designed to meet the educational needs of the period of adolescence and which follows, immediately the secondary education and precedes immediately the stage of education controlled by the University leading to grant of Bachelor's Degree but does not include such technical education as immediately follows secondary education, and affiliated to such educational authorities as are dealing exclusively with technical education and leading to grant of diplomas;

(11) "High School" means a school affiliated as such to the Board under clause (1) of section 6;

(12) "Higher Secondary School" means a school affiliated as such to the Board under clause (1) of section 6;

(13) "Institution" means an academic institution imparting secondary or higher secondary education or such other courses of education as are approved or dealt by the Board;

(14) "Prescribed" means prescribed by rules and regulations made under this Act;

(15) "Primary education" means education imparted in a primary school recognised as such by the Government;

(16) "Principal" means the person incharge of the academic administration of a higher secondary school affiliated to the Board as such;

(17) "Regulation" means regulation made by the Government under section 47 and by the Board under section 46 of the Act;

(18) "Secondary education" means such general, technical, vocational or special education (including any combined courses thereof) which is designed to meet the educational needs of the period of adolescence and which follows, immediately the primary education and precedes immediately higher secondary education;

(19) "Teacher" means a member of the teaching staff other than the Headmaster of a high school or Principal of a higher secondary school affiliated as such to the Board;

(20) "Territory" means the Union Territory of Puducherry;

(21) "Text-book" in relation to an examination under this Act means any book recommended or otherwise sanctioned by the Board for use in that examination.

CHAPTER - II

Establishment and incorporation of the Board

3. (1) The Government shall by notification in the Official Gazette, establish a Board for the territory by the name of "the Puducherry Board of Secondary and Higher Secondary Education"

(2) The Board shall be a body corporate by the name mentioned in sub-section (1) and shall have a perpetual succession and a common seal, and shall have power to acquire, hold and dispose of property and to enter into contracts, and may by the said name *sue* and be *sued*.

(3) The Board shall be open to persons of either sex and of whatever race, creed, caste or class and it shall not be lawful for the Board to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be admitted to its privileges, as a teacher or student or to hold any office therein, or to receive certificate thereof:

Provided that nothing in this section shall be deemed to prevent the Board from making special provisions for weaker sections of the people and, in particular, of the Scheduled Castes and Scheduled Tribes.

(4) French nationals of Indian origin who have been permitted long-term residence in the Territory under the provisions of Treaty of Cession shall also be eligible for admission to the privileges of the Board.

Explanation.- Treaty of Cession has the meaning assigned to it in the Puducherry (Administration) Act, 1962 (Central Act 49 of 1962).

Jurisdiction

4. (1) The jurisdiction of the Board shall extend to the whole of Union territory of Puducherry.

(2) Any institution admitted to the privileges of the Board shall cease to be associated with, or be admitted to the privileges of, any other Board.

(3) No institution situated within the local limits of the jurisdiction of the Board, but not admitted to its privileges shall be associated with, or be admitted to the privileges of, any other Board except with the previous approval of the Government.

Aims of the Board

5. The aims of the Board shall be to provide secondary and higher secondary and such other courses of education as it may deem necessary to provide and, for this purpose grant affiliation to the required number of such schools in the territory; to pay special attention to the improvement of the secondary and higher secondary education and such other courses of education as it may deem necessary to do, so that it meets the required needs and standards of economic and social development; to provide adequate facilities for educational and professional advancement of socially and educationally backward communities; to take such steps and such measures as may lead to intellectual, academic, physical and cultural development of the youth.

Powers and duties of the Board

6. Subject to conditions as may be prescribed and subject to such directions as may be issued by the Government from time to time, the Board shall have the following powers and perform the following duties, namely:-

(1) to grant and withdraw affiliation to the secondary and higher secondary schools, and such other institutions;

(2) to advise the Government on matters of policy relating to secondary and higher secondary education in general and on the following matters in particular :-

(a) ensuring a uniform pattern of education;

(b) maintenance of a uniform standard of education in secondary and higher secondary schools;

(c) co-ordination between the national policies and the policies of the Territory in respect of secondary and higher secondary education;

(d) co-ordination between primary, secondary, higher secondary and university education;

(3) to lay down guiding principles regarding curricula and syllabi for the entire secondary and higher secondary and such other courses as it may deem fit and to prescribe courses of instruction and to prepare the detailed syllabi for all standards of secondary and higher secondary education and such other courses as it may deem fit;

(4) to promote learning through French medium of instruction and take all necessary action in this regard;

(5) to formulate general principles for recommending text-books for sanction by the Board, and to sanction such text-books subject to such conditions, as it may deem fit to impose;

(6) to advise the Government in standard requirements in respect of staff, buildings, furniture, equipments, stationery and other amenities required for secondary and higher secondary schools and such other institutions;

(7) to prescribe and prepare text-books for all standards of secondary and higher secondary education;

(8) to conduct or caused to be conducted final examinations as the Board may deem fit, based on such courses as may be prescribed;

(9) to prescribe conditions for admission of regular and private candidates to the final examinations and such other examinations as may be conducted or caused to be conducted by the Board;

(10) to demand and receive payment of fees and other charges as may be prescribed from time to time;

(11) to grant, subject to such conditions as the Board may determine, diplomas or certificates to, and confer other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons and to withdraw any such diplomas, certificates or other academic distinctions for good and sufficient cause;

(12) to institute and award scholarships, stipends, medals, prizes and other rewards and to prescribe conditions therefor and prepare a list of eligible candidates according to merit for this purpose;

(13) to receive bequests, donations, endowments, trusts and other transfers of any property or interest therein, or right thereto;

(14) to hold any property, interest or right referred to in clause (13) above, and to manage and deal with the same;

(15) to apply for and receive grants;

(16) to appoint paper-setters, translators, examiners, moderators, supervisors, evaluators, invigilators and other necessary personnel for conducting final examinations in the Territory or such other examinations as may be conducted final examinations in the Territory or such other examinations as may be conducted by the Board, for evaluation of candidates' performance and for compiling and release of results and also to consider disqualification of all such categories of persons on the recommendation of Examination Committee and Executive Council;

(17) to open centers for the final examinations or such other examinations as are conducted or caused to be conducted by it;

(18) to declare the results of the candidates at the final examinations or such other examinations as are conducted or caused to be conducted by it;

(19) to regulate and enforce discipline among the employees of the Board and candidates appearing at the various examinations conducted or caused to be conducted by it;

(20) to lay down procedures to deal with cases of use of unfair means in the examinations and to prescribe penalties in such cases;

(21) to generally evaluate performance of students in all examinations in secondary and higher secondary schools including the final examinations and such other examinations conducted by it and make, from time to time, necessary recommendations in respect of the same to the Government;

(22) to lay down the manner in which affiliation would be granted to or withdrawn from institutions;

(23) to call for any information from secondary and higher secondary schools and to call for special reports and information from the Director of School Education generally and in particular in the matter of withdrawal of affiliation in cases of secondary schools and higher secondary schools which show poor academic results or commit grave or persistent academic or financial irregularities;

(24) to require institutions affiliated to it and the Department of Education to extend their co-operation in the conduct of final examinations or such other examinations as may be conducted or caused to be conducted by it;

(25) to recommend measures to promote intellectual, physical, moral and social welfare of students in the institutions affiliated to it and to lay down conditions of their residence, health and discipline;

(26) to make arrangements for promoting the health and general welfare of its employees;

(27) to appoint officers and servants of the Board, other than Chairman, Secretary, Under Secretary or Assistant Secretary, in its office and to regulate terms and conditions of their service;

(28) to constitute provident fund for the benefit of the officers and servants of the Board;

(29) to prepare and approve the annual financial statement;

(30) to conduct statistical and other research for the purpose of evaluation and reform of the curricular instruction and examination system;

(31) to appoint such committees as it may think necessary for the efficient discharge of its functions under this Act;

(32) to make regulations for the purpose of carrying into effect the provisions of this Act;

(33) to exercise such other powers and perform such other duties as may be conferred or imposed by or under this Act;

(34) to publish reports, papers, journals, bulletins, etc. giving information of the activities of the Board;

(35) to make special arrangements in respect of women students as the Board may consider desirable;

(36) to do all such acts and things as may be necessary to carry out the purposes of this Act.

CHAPTER - III

Officers of the Board

7. The following shall be the Officers of the Board:-

- (i) Chairman of the Board;
- (ii) the Secretary, Under Secretary and Assistant Secretary of the Board; and
- (iii) such other Officers in the service of the Board, as may be declared by the regulations to be the Officers of the Board.

Chairman and Vice-Chairman of the Board

8. (1) The Chairman of the Board shall be appointed by the Government by a notification published in the official gazette.

(2) The Chairman shall possess a minimum educational qualification of a Master's Degree from a recognized University, with teaching and/or administrative experience of not less than fifteen years in a responsible position of which at least five years shall be in the rank of a Professor of a University or equivalent or in the rank of a Joint Secretary to Government of India or equivalent. The qualifications may, however, be relaxed by the Government in the case of exceptionally meritorious cases otherwise.

(3) The Chairman of the Board shall, subject to any terms and conditions in his contract of service, hold office for a term of four years from the date on which he enters upon his office:

Provided that notwithstanding the expiry of the said period of four years, he shall continue in office until his successor is appointed and enters upon his office.

(4) The Government may, from time to time, extend the term of Office of the Chairman of the Board:

Provided that the term shall not exceed in the aggregate a period of eight years.

(5) No person shall hold or continue to hold the Office of the Chairman of the Board after he completes the age of sixty-five years.

(6) The Chairman of the Board shall be a servant of the Government and shall draw his salaries and allowances from the funds of the Government. The salaries and allowances and other conditions of service of the Chairman of the Board shall be such as may be prescribed by the Government.

(7) The Government shall appoint a Vice-Chairman from amongst the members of the Board, to exercise the powers and duties of the Chairman in his absence.

(8) If the Office of the Chairman becomes vacant due to death, resignation, removal or otherwise, or if he is unable to perform his duties owing to absence, illness or any other cause, the Vice-Chairman shall attend to the duties of Chairman and in his absence, the Government shall nominate from among the members of the Board a person to perform the duties of the Chairman until a new Chairman assumes office or until the existing Chairman attends to the duties of his office, as the case may be:

Provided that the Government shall necessarily appoint a Chairman if the period of absence of the incumbent Chairman is for more than one month or for such other period as the Government may decide in this regard.

Powers and duties of the Chairman

9. (1) The Chairman of the Board shall be the principal academic and controlling officer of the Board and shall preside over the meetings of the Board and any convocation of the Board. He shall be the ex-officio member and the Chairman of the Executive Council, the Academic Council, the Examination Committee, the Finance Committee, the Affiliation Committee and any other committees which the Board may constitute and deem it necessary for him to chair.

(2) He shall be entitled to be present with the right to speak, at any meeting of any authority or body of the Board, but shall not be entitled to vote unless he is a member of that authority or body.

(3) The Chairman of the Board shall have the power to convene meetings of the Board, the Executive Council, the Academic Council, the Examination Committee, the Affiliation Committee and any other body or Committee of the Board. He may delegate, by a regulation, this power to any other officer of the Board.

(4) It shall be the duty of the Chairman of the Board to ensure that the regulations made are faithfully observed and he shall have all powers necessary for this purpose.

(5) If there are reasonable grounds for the Chairman of the Board to believe that there is an emergency which requires immediate action to be taken, he shall take such action as he deems necessary and shall at the earliest opportunity thereafter, report his action to the said authority or body which would have in the ordinary course dealt with the matter. In the event of a dispute arising between the Chairman of the Board and the authority or body as to whether there was an emergency, the matter shall be referred to the Board, the decision of which shall be final.

(6) The Chairman of the Board shall be responsible for the administration of the affairs of the Board in accordance with the regulations made and shall give effect to the decisions of the Executive Council and other authorities or bodies of the Board which are not inconsistent with this Act.

(7) It shall be lawful for the Chairman of the Board, as the principal Executive Officer, to regulate the work and conduct of the officers and members of the administrative and ministerial staff of the Board in accordance with the provisions of this Act and rules and regulations made thereunder.

(8) Where any matter is required to be regulated by a Regulation, the Chairman of the Board may for the time being regulate the matter by issuing such directives as he thinks necessary, and shall at the earliest opportunity thereafter, place them before the Executive Council or other authority or body concerned for approval.

(9) The Chairman of the Board shall exercise such other powers as may be prescribed.

Appointment, duties and powers of Secretary, Under Secretary and Assistant Secretary

10. (1) The Secretary of the Board shall be a whole time salaried officer of the Board. He shall be appointed by the Government. His emoluments and terms and conditions of service shall be as may be prescribed. The Secretary shall possess a minimum educational qualification of a second class Master's Degree from a recognized University. He shall preferably have a teaching and/or administrative experience of not less than ten years.

(2) Next to the Chairman of the Board, the Secretary of the Board shall maintain control and discipline over all the employees of the Board.

(3) The Secretary shall act as Secretary of the Board, the Executive Council, the Academic Council, the Examination Committee, the Finance Committee, the Affiliation Committee and all such other committees of the Board which the Board may desire him to do so, but he shall not be entitled to vote.

(4) Subject to the control of the Executive Council, the Secretary shall have the power to enter into agreements, sign documents and authenticate records on behalf of the Board.

(5) He shall be the custodian of the records, the Common Seal and such other properties of the Board as the Executive Council may commit to his charge.

(6) He shall keep the minutes of all meetings of the Board, the Executive Council, the Academic Council, the Examination Committee, the Affiliation Committee and all such other committees and bodies where he may be permitted to act as the Secretary by the Chairman of the Board.

(7) The Secretary shall ensure, in accordance with the directions of the Chairman of the Board, and wherever necessary in consultation with the Examination Committee, the proper organisation and conduct of final examinations and such other tests and examinations as may be conducted by the Board and declaration of results thereof.

(8) The Secretary shall exercise such other powers and perform such other duties as may be prescribed or are required from time to time by the Executive Committee or the Chairman of the Board.

(9) The Government may appoint one or more Under Secretaries and Assistant Secretaries for the Board on the recommendation of the Board. Such Under Secretaries and Assistant Secretaries shall exercise such powers and perform such duties as may be assigned to them by the Secretary under the general or special orders of the Board.

(10) When the Office of the Secretary of the Board falls vacant or when Secretary is, by reason of illness, or absence or any other cause, unable to perform the duties of his office, such duties shall be performed by such person as the Chairman of the Board may appoint for the purpose from among the Under Secretaries. The Secretary, Under Secretaries and Assistant Secretaries appointed under this Act, shall be the servants of the Government and shall draw their salaries and allowances from the Consolidated Fund of the Union Territory. The salaries and allowances of these officers shall be such as may be prescribed by the Government.

Appointment of other officers and servants of the Board

11.(1) The Board may appoint such other officers and servants as it considers necessary for the efficient performance of its functions under this Act.

(2) The salaries and allowances and other terms and conditions of service of the officers and other servants appointed by the Board under sub-section (1) shall be such as may be determined by it by regulations made under this Act.

CHAPTER – IV

Authorities of Board

12.(1) The following shall be the Authorities of Board, namely:-

- (a) the Board;
- (b) the Executive Council;
- (c) the Academic Council;
- (d) the Finance Committee;
- (e) the Examination Committee;
- (f) the Affiliation Committee;
- (g) the Board or Boards of Studies; and
- (h) such other bodies of the Board as may be declared by the regulations of the Board to be authorities of the Board.

(2) The Board may appoint such other committees as it thinks necessary for the efficient performance of its functions.

(3) The Constitution of every committee appointed by the Board, the term of office of its members, the duties and functions to be discharged by it, shall be such as may be laid down by regulations made in this behalf.

Board

13.(1) The Board shall be the principal authority for all financial estimates and budgetary appropriations and shall consist of the Chairman and Vice-Chairman of the Board appointed by the Government under section 8, and of the following, namely:-

(i) Ex-officio Members:

- (a) The Director of School Education.
- (b) The Joint Director of Education (Higher Secondary)
- (c) The Deputy Director of Education (Elementary).
- (d) The Additional Director of Technical Education, Puducherry.
- (e) A nominee of the Finance Department, Puducherry.
- (f) The Head of the State Training Centre, Puducherry.

(ii) Nominated Members:

- (a) Principal of a higher secondary school.
- (b) Headmaster of a high school.
- (c) A teacher engaged in teaching at the level of higher secondary education.
- (d) A teacher engaged in teaching at the level of Secondary education.
- (e) A teacher engaged in teaching at the level of elementary education.
- (f) Principal of a private matriculation school.
- (g) Two representatives on academic side of the Puducherry University nominated by the Vice-Chancellor of the said University.
- (h) Five eminent educationists nominated by the government.
- (i) A nominee of the National Council of Education, Research and Training to be nominated by the Head of such organisation.
- (j) A nominee of the National Council for Teacher Education to be nominated by the Head of such organisation.
- (k) A college teacher with proven academic record.
- (l) One member representing Fine Arts:

Provided that, a person shall cease to hold office as a member of the Board if he ceases to be in the employ of the Puducherry University or the State Training Centre located in the Territory or, National Council of Education Research and Training or National Council for Teacher Education or to be a Principal or Headmaster or teacher of a secondary school or higher secondary school or elementary school as the case may be or, in the management of privately managed secondary/higher secondary school or matriculation school, as the case may be.

(2) The name of persons, not being the ex-officio members, who have been nominated, from time to time, as members of the Board shall be published by the Board in the official gazette.

(3) No employee of the Board shall be eligible to be nominated to the Board.

(4) No person shall be nominated as member of the Board or continue to be such member for more than two consecutive terms.

(5) When a person ceases to be a member of the Board he shall automatically cease to be a member of any council/committee of the Board to which he has been appointed by the Board.

Term of office and allowances of members of Board

14. (1) The members nominated under section 13 shall hold office for a term of four years from the date on which the names are published in the official gazette:

Provided that, the term of office of the outgoing members shall extend to and expire, on the date immediately preceding the date on which the names of their successors are published in the official gazette.

(2) As near as may be one-fourth of the members nominated under section 13 shall retire at the end of each year after the first year in the manner to be prescribed.

(3) When the term of office of a member, other than an ex-officio member, expires, the vacancy so arising shall be filled as soon as may be, and to this end all necessary steps be taken by the Chairman of the Board within three months before expiry of the term of office of the said member.

(4) Members shall be entitled to such allowances as are determined by the regulations made by the Board.

Disqualification of Chairman, Vice-Chairman and members

15.(1) A person shall be disqualified whether appointed, nominated or designated as, or from continuing as a Chairman, Vice-Chairman or a member of the Board or of any Committee appointed under this Act, -

(a) if he directly or indirectly by himself or his partner has or had any share or interest in any text-book published:

Provided that a person who had any share or interest in the text-book concerned shall not be deemed to have incurred disqualification under this clause if five years had lapsed from the date of publication of such book;

(b) if he directly or indirectly by himself or his partner, has any share or interest in any work done by the order of, or any contract entered into on behalf of the Board;

(c) if he is an undischarged insolvent;

(d) if he is adjudged to be of unsound mind by a competent authority; or

(e) if he is a person against whom an order of removal from office has been made by the Government by specific proven charges involving moral turpitude or disgraceful conduct or action detrimental to the interest of the Board:

Provided that a person against whom such order is made would not be deemed to be disqualified under this clause if five years or lesser period as the Government may specify has elapsed from the date of his removal from office.

Explanation.- For the purpose of clause (a) –

- (i) the publication of text-book includes its republication;
- (ii) a person shall be deemed to have incurred disqualification by reason of his having any share or interest in the business of the publisher of such text-book.

(2) All cases of disqualification of incumbent Chairman, Vice-Chairman or members of the Board will have to be necessarily approved by the Board which may for the purpose, make such enquiry as it may deem fit. In the event of such approval being granted by the Board, in the case of incumbent member, he shall stand disqualified and removed from the office; and in the event of such approval being granted by the Board in the case of incumbent Chairman or Vice-Chairman, the Government shall remove from office on the recommendation of the Board:

Provided that, no such approval shall be given by the Board unless the incumbent Chairman, Vice-Chairman or member to whom it relates has been given a reasonable opportunity of showing cause why such disqualification should not be effected:

Provided further that when the Board considers the disqualification of any incumbent member, Vice-Chairman or Chairman, he shall not have any right to vote during such discussions and in the case of discussions regarding the disqualification of incumbent Chairman, he shall not chair the meeting and the post of the Chairman for the limited purpose of presiding over such meetings shall be filled up by the Government in accordance with the procedure laid down under sub-section (8) of section 8 of this Act.

Resignation of members

16. (1) A member of the Board not being an ex-officio member, may, resign his office at any time by tendering his resignation in writing to the Chairman of the Board, and such member shall be deemed to have vacated his office as soon as the Chairman has accepted his resignation.

(2) The name of any member whose resignation has been accepted by the Chairman under sub-section (1) shall be published by the Board in the official gazette.

Removal of Chairman, Vice-Chairman and member

17.(1) A person appointed to the post of Chairman shall, subject to the provisions contained in section 15, ordinarily hold office for the entire period of his tenure unless removed from office by the Government on specific proven charges involving moral turpitude or disgraceful conduct or actions detrimental to the interest of the Board.

(2) The Government may, on the recommendation of the Board and after making such further enquiry as it may think fit to make, remove the Vice-Chairman or any member of the Board or of any committee/council appointed from office, if such member has been convicted of an offence involving moral turpitude or has been guilty of any disgraceful conduct which in the opinion of the Board renders him unfit to be continued as a member or has acted in any manner detrimental to the aims and objectives of the Board.

(3) No such removal or recommendation for removal as contained in sub-sections (1) and (2) aforesaid shall be made unless the Chairman/vice-Chairman/member to whom it relates, has been given a reasonable opportunity of showing cause why such removal/recommendation for removal should not be made.

(4) The name of any Chairman/Vice-Chairman/member who has been removed from office under sub-sections (1) and (2) shall be published by the Board in the official gazette.

Vacancy of Chairman, Vice-Chairman or member

18.(1) If the Chairman or a member of the Board or any committee/ council appointed under this act, becomes, disqualified under section 15, his office shall become vacant.

(2) If the resignation tendered by the Chairman, Vice-Chairman or a member of the Board or of any committee/council appointed is accepted by the Government or the Chairman as the case may be, his office shall become vacant.

(3) If the Chairman, Vice-Chairman or a member of the Board or of any committee/council appointed is removed, his office shall become vacant.

(4) If a member nominated or designated by the Board remains absent without the permission of the Board from three consecutive meetings thereof, his office shall thereupon become vacant; and all such vacancies shall be notified by the Board in the official gazette.

(5) If any question arises as to whether the Office of the Chairman, Vice-Chairman or the member has become vacant under sub-sections (1) to (4) above, the question shall be referred to the Government and its decision in the matter shall be final.

Casual vacancies

19. Every casual vacancy among the members of the Board or any committee or council constituted under this Act, shall be filled up as soon as may be, by nomination or designation as the case may be, and the person nominated or designated under the casual vacancy shall hold office so long as the member in whose place he has been nominated or designated would have held it if the vacancy had not occurred.

Acts and proceedings

20. No Act or proceeding of the Board or the Executive Council or the Academic Council or any other authority or committee of the Board, shall at any time, be deemed invalid on the ground only that it is not duly constituted or that there is a defect in its constitution or that there is a vacancy in the membership thereof, and the validity of such act or proceedings shall not be questioned in any Court or before any authority merely on any such ground.

Meetings of the Board

21.(1) The Board shall, on a date to be fixed by the Chairman of the Board, meet not less than three times in every year, and not more than four months shall ordinarily intervene between two such consecutive meetings.

(2) The Chairman of the Board,-

- (a) if he thinks fit, may, and
- (b) upon a requisition in writing signed by not less than one-third of the total number of members of the Board, shall,

convene a special meeting of the Board, after giving a notice of seven days in the case of clause (a) and on a date not later than 21 days from the date of receipt of the request by the Chairman in the case of clause (b).

Power to invite experts and officers at meetings

22.(1) The Board may invite any person who in its opinion is an expert in some field of education or any official of the Government not below the rank of a Deputy Director or equivalent or any person who because of his knowledge or experience in some specific area, may, in the opinion of the Board, rendered valuable assistance in decision making, to attend its meeting or any meeting of its committees, if a subject with which the expert or the officer or such person is concerned with, is likely to come up or comes for discussion or consideration at such meetings.

(2) The experts, officers and persons invited under sub-section (1) to the meetings of the Board or its committees shall have no power to vote.

The Executive Council

23.(1) The Executive Council shall be the executive authority of the Board and shall consist of the following:-

- (i) the Chairman of the Board as the ex-officio Chairman,
- (ii) the Director of School Education,
- (iii) two members to be nominated by the Chairman of the Board from amongst the ex-officio members referred to in clause (i) of sub-section (1) of section 13,
- (iv) two members to be nominated by the Chairman of the Board from amongst the nominated members referred to in clause (ii) of sub-section (1) of section 13.

(2) The term of office of the nominated members shall be four years.

(3) If a member other than an ex-officio member nominated to the Executive Council remains absent without permission of the Council for three consecutive meetings thereof, his office shall be deemed to have been vacated.

Duties and functions of the Executive Council

24. (1) Subject to the provisions of this Act and the rules made thereunder, the Executive Council shall have the following duties and functions, namely:-

- (i) to determine the form, provide for the custody and regulate the use of the Common Seal of the Board;
- (ii) to transfer and accept transfer, hold, control, administer and deal with any property, movable or immovable and funds of the Board, and to enter into contract on behalf of the Board provided that no transfer of movable or immovable property shall be made without the previous sanction of the Board;
- (iii) to apply for and receive grants;
- (iv) to manage and regulate the finances, accounts and investments of the Board;

- (v) to invest, subject to the provisions of this order any money belonging to the Board, including any unapplied income, in any of the securities as may be prescribed or in the purchase of immovable property within India, or to place in fixed or call deposits in any Scheduled Bank, any portion of such money not required for immediate expenditure;
- (vi) to charge and collect such fees as may be prescribed by the rules and regulations framed hereunder;
- (vii) to accept, receive, hold, control, administer and deal with any funds, donations, endowments and other transfers of any property or interest therein or right thereto placed at the disposal of the Board for specific purpose;
- (viii) to consider the annual, revised or supplementary budget estimates and the annual accounts of income and expenditure of the Board and the recommendation of the Finance Committee of the Board thereon and to submit them to the Board;
- (ix) to recommend the number of Under Secretaries and Assistant Secretaries to be appointed by the Government among the officers of the Board;
- (x) to fix and determine the rates of traveling and other allowances to the members of the Board and its committees;
- (xi) to sanction –
 - (a) the number of posts of officers and servants to be appointed by the Board under section 11 and to suspend, hold in abeyance or abolish any such posts;
 - (b) the payment of special pay and other allowances at such rates and subject to such conditions as it may deem fit in respect of :-

(1) specialised nature of duties or additional duties performed by the employees of the Board;

(2) duties performed on Sundays and holidays by the employees of the Board;

(3) duties performed by the employees of the Board beyond normal hours;

(4) any remunerative jobs done by the employees of the Board outside their office hours;

- (xii) subject to the budget provisions approved by the Board under section 38 to sanction purchase or hire of stores, paper, forms, stationery, furniture or other equipments required for the Board's office, after calling for tender and to scrutinize them when received and to enter into contract:

Provided that it should not be necessary to call for any tender if the value of stores, papers, forms, stationery or other equipment required or the expenditure involved in the contract is less than ₹ 5,000 or such other amount as may be prescribed by the Board from time to time, or if the above articles are urgently required or the work in respect of which the contract is entered into needs to be urgently carried out or the Executive Council does not think it advisable to call for the tenders for reasons to be recorded by it;

- (xiii) to enter into, vary, carry out and cancel on behalf of the Board, a contract for the provisions of the buildings and supply of materials for proper discharge of duties assigned to it;
- (xiv) to write off irrecoverable sums due in respect of stores, priced publication, statement of marks and unserviceable articles of dead stock, if the amount of the dues in each case exceeds ₹ 100 but does not exceed ₹ 1,000;
- (xv) generally to advise the Chairman of the Board on any matter connected with the work of the Board which it deems fit or which the Chairman may refer to it;
- (xvi) to report to the Board upon any matter concerning which its view may be invited by the Board or in respect of which it considers that it should tender advice to the Board;
- (xvii) to make recommendations to the Board concerning framing or amending the rules and regulations of the Board after considering the recommendations, if any, from the committees of the Board;
- (xviii) to institute and make provisions for the grant of scholarships, awards, medals, prizes and other rewards and to prescribe conditions therefor;
- (xix) to accept, reject or refer back any proposal, recommendations or report from the Academic Council, the finance Committee, the Examination Committee, the Affiliation Committee or other committee of the Board;
- (xx) to recommend the Board, for approval, rates of travelling allowance and remuneration, etc. to the paper-setters, moderators, examiners, translators, invigilators and other personnel after taking into consideration the recommendations of the other committees of the Board;
- (xxi) to authorise such advance as it may from time to time consider necessary, to remain in the hands of the Secretary to meet legitimate petty expenditure;

- (xxii) to direct inspection of secondary and higher secondary schools and other affiliated institutions in order to assess academic performances and needs, to issue instructions where necessary, for maintaining efficiency and ensuring adequate amenities for students;
- (xxiii) to recommend to the Government, the withholding of grant or taking of such other disciplinary measures in respect of secondary and higher secondary schools and institutions which do not comply with the instructions issued from time to time by the Board;
- (xxiv) to undertake printing and publication of books prepared and/or compiled by the Board and approved as text-books by the Board.

(2) The quorum for the meeting of the Executive Council shall be one-half of the total number of the members of the Executive Council.

(3) The Executive Council shall report to the Board all acceptance or transfer of property done by the Executive Council.

The Academic Council

25. (1) The Academic Council shall be the Chief Academic Authority of the Board and shall consist of the following members, namely:-

- (i) the Chairman of the Board as ex-officio Chairman;
- (ii) three members to be nominated by the Chairman of the Board from amongst the ex-officio members referred to in clause (i) of sub-section (1) of section 13;
- (iii) three members to be nominated by the Chairman from eminent educationist;
- (iv) one member to be nominated by the Chairman of the Board from amongst the nominated members referred to in clause (ii) of sub-section (1) of section 13.
- (v) the convenors of the Board of Studies.

(2) The term of office of the members of the Academic Council shall be four years.

Duties and functions of the Academic Council

26. The Academic Council shall be the chief academic body and shall have the right to advise the Board on all academic matters. Without prejudice to the generality of this provision, the Academic Council shall have the following duties and functions, namely:-

- (i) to formulate guiding principles for determining curricula and syllabus for the entire secondary, higher secondary education and for such other courses as it may deem fit;
- (ii) to consider and submit its recommendations to the Executive Council on the detailed syllabi for all standards, after taking into consideration the recommendations of the respective Boards of studies thereon;
- (iii) to consider and submit its recommendations to the Executive Council on the curricula and detailed syllabi prepared by the Boards of studies for the final and other examinations;
- (iv) to formulate general principles for preparing text-books;
- (v) to prepare or recommend for prescription to the Executive Council text-books for the standard leading to the final examinations, after taking into consideration the recommendations of the respective Boards of Studies thereon;
- (vi) to recommend to the Executive Council standard requirements in respect of staff, building, furniture, equipment, stationery and other things required for secondary and higher secondary schools and such other institutions;
- (vii) to recommend to the Board measures to promote intellectual, physical, cultural, moral and social welfare of students in institutions affiliated to the Board and the conditions of their residence and discipline;
- (viii) to consider and submit its recommendations to the Executive Council on the following matters pertaining to the final examinations after receipt of the recommendations of the Boards of Studies –
 - (a) the total number of compulsory and optional subjects;
 - (b) proposals for introduction of new subjects and exclusion of existing subjects;
 - (c) the formation of groups of subjects and the alteration of such groups;
 - (d) the number of question papers to be set in each subject;
 - (e) the maximum and minimum marks, time, duration and standard length for written, oral or practical tests in different subjects or groups of subjects;
- (ix) to conduct statistical or other research for the purpose of evaluation and reform of curricula, instruction and examination system;

- (x) to co-ordinate the work of the Boards of Studies and to scrutinise the recommendations in regard to various matters with which each Board of Studies is concerned;
- (xi) to recommend to the Board, refresher course, lectures, demonstrations, educational exhibition and such other measures as are necessary to raise and maintain standard of secondary, higher secondary and such other forms of education.

The Finance Committee

27. There shall be a Finance Committee consisting of –

- (i) the Chairman of the Board as ex-officio Chairman;
- (ii) the Director of Accounts and Treasuries;
- (iii) two members to be nominated by the Chairman of the Board from amongst the ex-officio members referred to in clause (i) of sub – section (1) of section 13;
- (iv) one member to be nominated by the Chairman of the Board from amongst the nominated members referred to in clause (ii) of sub – section (1) of section 13;

Duties and functions of the Finance Committee

28. The Finance Committee shall act as an advisory body on all matters concerning the finance of the Board. Its duties and functions shall be as under:-

- (i) to prepare and submit to the Executive Council with its recommendations the annual, revised or supplementary budget estimate of the annual accounts of income and expenditure of the Board;
- (ii) to make recommendations to the Executive Council on matters relating to finances of the Board including investments and borrowings etc.;
- (iii) to examine every proposal of new expenditures and to advise the Executive Council thereon;
- (iv) to review and report periodically to the Executive Council on the financial position of the Board;
- (v) generally to devise means for effecting economy, without impairing efficiency;
- (vi) to consider proposals for fixation of pay scales for new posts and revision of pay scales and all proposals concerning allowances, remunerations, wages and honoraria and advise the Executive Council thereon.

The Examination Committee

29. The Examination Committee shall consist of -

- (i) the Chairman of the Board as the ex-officio Chairman;
- (ii) five members to be nominated by the Chairman of the Board from amongst the ex-officio members referred to in clause (i) of sub-section (1) of section 13;
- (iii) one member to be nominated by the Chairman of the Board from amongst the nominated members referred to in clause (ii) of sub-section (1) of section 13;

Duties and functions of the Examination Committee

30. Subject to provisions of the Act and the rules made thereunder, the Examination Committee shall have the following duties and functions, namely:-

- (i) to supervise and co-ordinate activities pertaining to the final examination and such other examinations conducted or caused to be conducted by the Board;
- (ii) to recommend to the Executive Council general principles to be followed by the Board in regard to the preparation of panel and appointment of paper-setters, moderators, translators, examiners, etc.;
- (iii) to fix the centers and dates for each examination;
- (iv) to lay down instructions to be issued to the candidates, superintendents of examination centers, examiners and others;
- (v) to recommend to the Executive Council suitable forms of applications to be filled by the candidates applying for permission to appear at the final examination and suitable forms of certificates and provisional certificates to be issued to successful candidates and statement of memorandum of marks to all candidates in respect of the final or such other examinations;
- (vi) to lay down the procedure and specific penalties to be imposed in dealing with cases of use of unfair means by the candidates seeking admission to or appearing at the examinations conducted under the authority of the Board;
- (vii) to consider and forward its observations to the Academic Council on any proposal to amend the scheme of the final examination and such other examinations as set out from time to time;

- (viii) to recommend to the Executive Council, the rates of travelling allowance, remuneration or honoraria for various items of work connected with the final and other examinations;
- (ix) to recommend to the Executive Council on qualification and disqualification of paper-setters, translators, moderators, examiners and other officials connected with the work of conduct of final and other examinations;
- (x) generally review the results of the final examinations on the declaration of the same and submit its observations to the Academic Council.

The Affiliation Committee

31. The Affiliation Committee shall consist of –

- (i) the Chairman of the Board as the ex-officio Chairman;
- (ii) two members to be nominated by the Chairman of the Board from amongst the ex-officio members referred to in clause (i) of sub-section (1) of section 13;
- (iii) one member to be nominated by the Chairman of the Board from amongst the nominated members referred to in clause (ii) of sub-section (1) of section 13.

Duties and functions of the Affiliation Committee

32.(1) The Affiliation Committee shall consider and make recommendations on all matters relating to the grant or withdrawal of affiliation of secondary and higher secondary schools and such other institutions in accordance with the prescribed procedure.

(2) It shall be competent for the Affiliation Committee to suggest and recommend any alterations or any additions to the regulations regarding condition of affiliation of institution for the purpose of admitting them to the privileges of the Board including examinations conducted by it.

Board or Boards of Studies

33.(1) The Board shall constitute a Board or Boards of Studies for different subjects or groups of subjects, as may be considered necessary from time to time.

(2) Each Board of Studies shall ordinarily consist of such number of members, but not less than five and not more than seven members all of whom need not be the members of the Board, as the Board may decide.

(3) The Convenor and the members of the Board of Studies shall be appointed by the Board.

(4) Any two or more Boards of Studies may, with the consent of the Chairman of the Board and shall, when so required by the Board, meet and act in concurrence and render a joint report on any matter with which they are severally and jointly concerned. In such cases the quorum of the joint meeting will be majority of the members of the Board of Studies meeting jointly. The Chairman of the joint session shall be elected by the joint meeting.

(5) All the proceedings of the Board of Studies shall be treated as confidential and in particular the discussions on the merits and demerits of text-books shall not be divulged.

Duties and functions of Board of Studies

34.(1) It shall be the duty of Board of Studies to consider and make recommendations to the Academic Council in respect of the subjects with which it is concerned, regarding –

- (i) the detailed syllabi for all standards;
- (ii) the curricula and detailed syllabi for the final examination and such other examinations as the Board may decide;
- (iii) the preparation or prescription of text-books in conformity with the syllabus and suggest such conditions, if any, as may be deemed fit, after considering the reports of the reviewers;
- (iv) any matter relating to the subject or subjects within its purview referred to it by the Executive Council, Academic Council or other authorities of the Board;
- (v) the standard and quality of question papers (including the model answers, if any) set for the final examination and such other examinations conducted by the Board and the observations of the respective Board of Studies thereon.

(2) A Board of Studies may bring to the notice of the appropriate authorities of the Board any matter connected with the final examination, the courses of studies laid down therefor, the text-books prepared or prescribed and other connected matters of academic importance.

Other Board authorities and committees

35.(1) The Executive Council may, by regulation, constitute and define the functions of such other committees or authorities as, it may, from time to time, think necessary, for the purposes of carrying out the work of the Board.

(2) The powers and duties of such authorities and committees and the procedure to be followed at their meetings, shall be indicated in the respective regulations.

CHAPTER – V

Finance, Annual Accounts and Annual Report

Board's Fund, custody and investment

36.(1) The Board shall establish a fund to be called Board's Fund.

(2) The following shall form part of, or paid into the Board's Fund:-

- (a) all contributions, assignments, loans and grants, if any;
- (b) all income of the Board from any source whatsoever including income from fees, royalties and charges levied by the Board;
- (c) all income or moneys from trusts, bequests, donations and endowments or other contributions, if any;
- (d) interest on, and sale proceeds of any securities vested in the Board;
- (e) any sums borrowed from the banks or other financial institutions, with the permission of the government; and
- (f) other moneys received by or on behalf of the Board.

(3) The Board's Fund shall, at the discretion of the Executive Council, be kept in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934.), or in such other manner as may be prescribed by the Government.

Procedure for withdrawal of Board's Fund

37. No payment shall be made by a Bank out of the Board's Fund, except upon a cheque or letter of credit signed by an officer serving under the Board duly authorised by the Board in this behalf.

Annual Accounts and Financial Estimates

38.(1) The Annual Accounts of the Board shall be prepared by the Finance Committee under the direction of the Executive Council and shall be audited by the auditors appointed by the Board.

(2) The accounts when audited shall be published by the Executive Council and a copy thereof shall, together with the copy of the audit report, be submitted to the Board.

(3) The Finance Committee shall prepare, before such date and in such manner as may be prescribed, the budget estimates of income and expenditure for the next financial year.

(4) The annual accounts and the estimates as approved by the Executive Council, shall be submitted to the Board which shall consider and approve them with such modifications as it may deem fit.

(5) The Board shall, after the approval of the budget estimates forward the same to the Government for its information. The Government may on scrutiny of the budget communicate such advice with respect to the budget estimates of the Board as it thinks fit, and it shall be the duty of the Board to strive to implement such advice.

Annual Report

39. The annual report of the Board shall be prepared under the direction of the Executive Council and shall be submitted to the Board on or before such date as may be prescribed and which shall be considered by the Board in its annual meeting. The Board may pass resolutions thereon and communicate them to the Executive Council which shall consider and take such action thereon as it thinks fit; and the Executive Council shall then inform the Board in its next meeting, the actions taken by it or its reasons for taking no action on such resolutions, if any.

CHAPTER – VI

Miscellaneous Provisions

Submission of students by affiliated institutions or otherwise for examinations to be conducted by the Board

40. Only such candidates as are sent by the affiliated secondary or higher secondary or any such affiliated institutions and such other candidates as may be specifically permitted by the Board under the rules and regulations to be framed hereunder, shall be eligible to appear at the final examination or, any such examination to be conducted by the Board, subject to such conditions as may be specified from time to time by the Board and in such manner as may be prescribed.

Conditions of service

41.(1) The emoluments and terms and conditions of service of all the employees of the Board shall be as may be prescribed.

(2) All salaried officers and employees of the Board including those appointed by the Board for specified periods or for specified work or who receive remuneration such as allowances, fees or other payments from the Board's Fund shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

Acting Chairman of the meetings

42. Where no provision is made by or under this Act, for the Chairman to preside over a meeting of any authority or committee of the Board or where the Chairman so provided for is absent, and no provision is made for any other person to preside, the members present shall elect a person from amongst themselves to preside at the meeting.

Question regarding interpretation and disputes regarding Constitution of Board's authority or body, etc

43. If any question arises regarding interpretation of any provision of the Act or the rules and regulations made thereunder, or as to whether a person has been duly appointed, as, or is entitled to be, a member of any authority or body of the Board, the matter may be referred, on petition by any person or body directly affected or by the Chairman of the Board, to the Government which shall, after taking such advice as it thinks necessary, decide the question, and the decision of the Government shall be final:

Provided that such reference shall be made by the Chairman of the Board to the Government upon a requisition signed by not less than 15 members of the Board.

Protection of acts and orders

44. All acts and orders duly and in good faith done or passed by the Board, or any of its authorities, bodies or officers shall be final and accordingly no suit or legal proceedings shall be instituted against or maintained, or damages claimed from the Board or its authorities, bodies or officers for anything done or passed in good faith or in pursuance of the provisions of this Act and the rules and regulations framed thereunder.

Power of Government to make rules

45.(1) The Government may, by notification in the official gazette, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely: -

- (i) manner and time of preparation of Budget Estimates of the annual income and expenditure of the Board;
- (ii) various examinations that may be listed as final examinations to be conducted by the Board;

- (iii) the admission of candidates to the final examination and conditions governing such admissions;
- (iv) the fee for admission to the final examination and other fees and charges payable in respect of other matters connected with those examinations.
- (v) the arrangements for the conduct of final examinations and arrangements for the publication of results;
- (vi) the qualification of paper-setters, translators, examiners, moderators, supervisors and other necessary personnel, their powers and duties in relation to the final examination and their remuneration;
- (vii) the award of various certificates;
- (viii) the qualification and scale of pay of officers and servants of the Board in its office and the conditions of their service;
- (ix) the constitution of the provident fund for the benefit of the officers and servants of the Board;
- (x) the control, administration and safe custody and management in all respect of the finances of the Board;
- (xi) any other matter which is to be or may be prescribed under this Act.

Power to make regulations

46. The Board may make regulations consistent with this Act and the rules made thereunder to provide for all or any of the following matters, namely: -

- (a) the procedure to be followed at the meetings of the Board and the committees appointed by the Board and the number of members required to form a quorum for such meetings;
- (b) the allowances which may be drawn by members of the Board and the committees appointed by the Board;
- (c) any matter that solely concerns the Board and its authorities and has not been provided for by this Act and the rules made thereunder.

First Regulations

47. Notwithstanding anything contained in section 46, the first Regulations on the matters detailed therein, shall be made by the Government and they shall continue to be in force until new regulations on the same subject are duly made by the Board.

Information, returns, etc., to be provided by the Board

48.(1) The Board shall furnish to the Government such reports, returns and statements as may be required by the Government and such further information relating to any matters connected with its work as the Government may call for.

(2) The Government may, after considering any such report, return, statement or information furnished, give such directions consistent with this Act as may be necessary and the Board shall comply with such directions.

Powers of Government to issue directions

49.(1) The Government shall have the power, after considering the suggestions or recommendations, if any, tendered by the Board, to issue to the Board such directions as it may consider necessary in regard to all or any of the matters specified in sub-clause (2) of section 6. The Board shall comply with such directions.

(2)(a) The Government shall have also the right to address the Board with reference to anything it has conducted or done or, is conducting or doing or, intends to conduct or do and to communicate to the Board its views in the matter.

(b) The Board shall report to the Government such action, if any, as it proposes to take or has taken upon the communications and shall furnish an explanation if it fails to take action.

(c) If the Board does not, within a reasonable time, take action to the satisfaction of the Government, the Government may, consider explanation, furnished if any, or representation made by the Board and issue directions consistent with this Act as it may think fit, and the Board shall comply with such directions.

(3) The Government may, by order in writing specifying the reasons thereof, suspend the execution of any resolution or order of the Board and prohibit the doing of the action ordered to be or purporting to be ordered to be done by the Board, if the Government is of the opinion that such, resolution, order or act is in excess of the power conferred by or under this Act upon the Board.

Transitional provisions

50.(1) On the appointed day, all institutions affiliated and admitted to the privileges of the Tamil Nadu Board of Secondary Education or Andhra Pradesh Board of Secondary Education or the Kerala Board of Secondary Education before the appointed day as the case may be, shall be deemed to be affiliated and admitted to the privileges of the Puducherry Board of Secondary and Higher Secondary Education established under this Act, save in so far as such affiliation or privileges may be withdrawn, restricted or modified by or under the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1) above in particular and in this Act in general, any student prosecuting studies in the higher secondary education stage, and who immediately before the admission of such institution imparting such higher secondary education to the privileges of the Puducherry Board of Secondary and Higher Secondary Education was studying for Higher Secondary Course Certificate of the Tamil Nadu Board of Higher Secondary Education, Intermediate Course Certificate of the Andhra Pradesh Board of Intermediate Education and pre-degree Course Certificate of Calicut University, shall be permitted by the Puducherry Board of Secondary and Higher Secondary Education to complete his course for that certificate, as the case may be and such institutions shall provide for the instructions and examination of such student in accordance with the syllabi of studies of the respective affiliating bodies.

Government's interpretation to be final

51. If any question arises regarding the interpretation of any provision of any regulation made under section 46 or section 47, the matter may be referred by the Board to the Government for decision and in such circumstances, the decision of the Government shall be final.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.8 OF 2004

Presently, the educational institutions in the four regions of the Union Territory of Puducherry are affiliated to the respective Boards of the neighbouring States of Tamilnadu, Andhra Pradesh and Kerala. As a result, there is no uniformity in curriculum and standard of education. To overcome this problem, it is proposed to set up an independent Board of Secondary and Higher Secondary Education in the Union Territory of Puducherry.

2. The Bill sees to achieve the above objects.

**THE PUDUCHERRY PROTECTION OF INTERESTS OF DEPOSITORS IN
FINANCIAL ESTABLISHMENTS ACT, 2004**

(Act No. 1 of 2005)

SECTION

ARRANGEMENT OF SECTIONS

1. Short title, extent and commencement
 2. Definitions
 3. Fraudulent default by Financial Establishment
 4. Attachment of properties on default of return of deposits
 5. Appointment of Competent Authority
 6. Duties and powers of Competent Authority
 7. Assessment of assets and deposit liabilities
 8. Report by the Competent Authority
 9. Powers of the Designated Court regarding realization of assets and payment to depositors
 10. Designated Court
 11. Power of Designated Court regarding attachment
 12. Attachment of property of *mala fide* transferees
 13. Security *in lieu of* attachment
 14. Administration of property attached
 15. Appeal
 16. Special Public Prosecutor
 17. Procedure and powers of Designated Court regarding offences
 18. Act to override other laws
 19. Protection of action taken in good faith
 20. Power to make rules
 21. Power to remove difficulties
-

**THE PUDUCHERRY PROTECTION OF INTERESTS OF DEPOSITORS IN
FINANCIAL ESTABLISHMENTS ACT, 2004**

(Act No. 1 of 2005)

(15-3-2005)

AN
ACT

to protect the interests of depositors in the Financial Establishments in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Fifty-fifth Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Protection of Interests of Depositors in Financial Establishments Act, 2004.

(2) It extends to the whole of the Union territory of Puducherry.

(3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires, -

(a) "competent authority" means the authority appointed under section 5;

(b) "Deposit" includes and shall be deemed always to have included any receipt of money or acceptance of any valuable commodity by any Financial Establishment to be returned after a specified period or otherwise, either in cash or in kind or in the form of a specified service with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include-

(i) amounts raised by way of share capital or by way of debenture, bond or any other instrument covered under the guidelines given and regulations made, by the Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992 (Central Act 15 of 1992);

(ii) amounts contributed as capital by partners of a firm;

(iii) amounts received from a Scheduled Bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949);

(iv) any amount received from, -

(A) the Industrial Development Bank of India;

(B) a State Financial Corporation;

(C) any financial institution specified in or under section 4A of the Companies Act, 1956 (Central Act 1 of 1956); or

- (D) any other institution that may be specified by the Government in this behalf;
- (v) amounts received in the ordinary course of business by way of,
 - (A) security deposit;
 - (B) dealership deposit;
 - (C) earnest money; and
 - (D) advance against order for goods or services;
- (vi) any amount received from an individual or a firm or an association of individuals registered under any enactment relating to money lending which is for the time being in force in the Union territory of Puducherry; and
- (vii) any amount received by way of subscriptions in respect of a Chit.

Explanation I -- "Chit" has the meaning as assigned to it in clause (b) of section 2 of the Chit Funds Act, 1982 (Central Act 40 of 1982).

Explanation II – Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be a deposit for the purpose of this clause;

(c) "Designated Court" means the Designated Court constituted under section 10;

(d) "Financial Establishment" means any person or group of individuals or a firm carrying on business of accepting deposits under any scheme or arrangement or in any other manner but does not include a corporation or a co-operative society owned or controlled by the Government, any State Government or the Central Government, or a banking company as defined under section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949);

(e) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution.

Fraudulent default by Financial Establishment

3. If any Financial Establishment, which fraudulently defaults any repayment of deposit on maturity alongwith any benefit in the form of interest, bonus, profit or in any other form as promised or fraudulently fails to render service as assured against the deposit, every person including the promoter, partner, director, manager or any other person or an employee responsible for the management of or conducting of the business or affairs of such Financial Establishment shall, on conviction, be punished with imprisonment for a term which may extend to six years and with fine which may extend to one lakh rupees and such Financial Establishment shall also be liable for a fine which may extend to an amount equivalent to five lakh rupees or where such deposit is quantifiable in terms of money twice the amount involved in such default whichever is more:

Provided that in the absence of special and adequate reasons recorded in the judgement of the Designated Court, the imprisonment shall not be less than for three years and the fine shall not be less than twenty thousand rupees as against each individual and not less than one lakh rupees as against such Financial Establishment.

Explanation. – For the purpose of this section, a Financial Establishment, which commits default in repayment of such deposit with such benefits in the form of interest, bonus, profit or in any other form as promised or fails to render any specified service promised against such deposit, or fails to render any specific service agreed against the deposit with an intention of causing wrongful gain to one person or wrongful loss to another person or commits such defaults due to its inability arising out of impracticable or commercially not viable promises made while accepting such deposit or arising out of deployment of money or assets acquired out of the deposits in such a manner as it involves inherent risk in recovering the same when needed, shall be deemed to have committed a default or failed to render the specific service, fraudulently.

Attachment of properties on default of return of deposits

4. (1) The Government or the District Magistrate may, *suo moto* or on receipt of a complaint, cause investigation of the complaint, or fraudulent transaction referred to in section 3. The District Magistrate shall forward his report together with the complaint to the Government at the earliest.

(2) Notwithstanding anything contained in any other law for the time being in force,-

- (i) where, upon complaints received from the depositors, or otherwise, the Government is satisfied that any Financial Establishment has failed-
 - (a) to return the deposit after maturity or on demand by the depositor; or
 - (b) to pay interest or other assured benefit; or
 - (c) to provide the service against such deposit; or
- (ii) where the Government has reason to believe that any Financial Establishment is acting in a calculated manner detrimental to the interests of the depositors, with an intention to defraud them; or
- (iii) where the Government is satisfied that such Financial Establishment is not likely to return the deposits or make payment of interest or other benefits assured or to provide the services against which the deposit is received.

the Government may, in order to protect the interests of the depositors of such Financial Establishments, after recording reasons in writing, issue an order by publishing it in the Official Gazette, attaching the money or property believed to have been acquired by such Financial Establishment either in its own name or in the name of any other person

from and out of the deposits collected by the Financial Establishments, and where it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said Financial Establishments or the personal assets of the promoters, partners, directors, managers or members or any other person of the said Financial Establishments.

(3) On the publication of the order under sub-section (2), all the properties and assets of the Financial Establishment and of the persons mentioned therein shall forthwith vest in the Competent Authority appointed by the Government pending further orders from the Designated Court.

Appointment of Competent Authority

5. (1) The Government shall while issuing the order under sub-section (2) of section 4, appoint any of its officers not below the rank of Deputy Collector as the Competent Authority to exercise control over the money and the properties attached by the Government under section 4.

(2) The Competent Authority shall, apply within fifteen days from the date of the publication of the said order, to the Designated Court, accompanied by one or more affidavits stating the grounds on which the Government has issued the said order under section 4 and the amount of money or other property believed to have been acquired out of the deposits and the details, if any, of persons in whose name such property is believed to have been invested or acquired or any other property attached under section 4, for such further orders as the Designated Court may find necessary.

(3) The competent authority may also make an application to any Special Court or Designated Court or any other judicial forum established or constituted or entrusted with the powers by any other State Government under any similar enactment for adjudicating any issue or subject matter pertaining to money or property or assets belonging to or ostensibly belonging to a Financial Establishment or any person notified under this Act situated within the territorial jurisdiction of that Special Court or Designated Court or any judicial forum as the case may be, for passing appropriate orders to give effect to the provisions of this Act.

Duties and powers of Competent Authority

6.(1) Without prejudice to the generalities of sub-section (1) of section 5, the Competent Authority may carry out the purposes of this Act.

(2) (i) On receipt of order of appointment, the Competent Authority shall take such necessary action as may be necessary or expedient for taking physical possession of all the monies and assets of the concerned financial establishment expeditiously and the Competent Authority shall have all the powers which are necessary for the aforesaid purpose.

(ii) Without prejudice to the generality of the powers vested under clause (i), the Competent Authority shall be entitled to –

(a) require assistance of any police authority or any other authority or person and on such requisition it shall be the duty of the police authority or such other authority or person to extend necessary assistance;

(b) Open bank accounts in any scheduled commercial bank and credit all monies realized and operate the bank accounts while dealing with the money received in his capacity as Competent Authority;

(c) require any person believed to be in possession or control over any money or assets of the Financial Establishment, to furnish necessary information, to hand over possession of such assets to the Competent Authority and such person shall comply with the requisition without any loss of time;

(d) appoint legal practitioner or chartered accountant or any other person whose services are necessary for taking possession of assets and realization of the assets of the Financial Establishment;

(e) sell, receive, transfer, endorse, negotiate, or otherwise deal with any marketable security or negotiable instrument belonging to or in the control of the Financial Establishment and give proper discharge for the same;

(f) sell, transfer or otherwise realize any movable or immovable property belonging to or in the control of the Financial Establishment either by public auction or with the prior approval of the Designated Court by private arrangements:

Provided that the perishable items of assets shall be sold by public auction as soon as the Competent Authority deems fit;

(g) make payment as per the orders passed by the Designated Court from out of the bank accounts; and

(h) do all and every act and deed which would be necessary for the speedy realization of the assets of the Financial Establishment

Explanation. – For the purpose of this section, the expression “Financial Establishment” includes the directors, promoters, managers or member of said establishment or any other person whose property or assets have been attached under section 4.

Assessment of assets and deposit liabilities

7. (1) Within thirty days from the date of appointment, the Competent Authority shall assess the deposit liabilities and the assets of the Financial Establishment and submit the statement thereof to the Designated Court.

(2) The Competent Authority thereafter shall issue notice either individually or by means of effective media publication, inviting claims by secured creditors, if any, and also the depositors of the Financial Establishment to submit their claims with proper proof to establish the same.

(3) Every notice under sub-section (2) sent to or deemed to have been effected to claimants shall state that if the statement of claim is not sent to the Competent Authority before the expiry of the period of one month from the date of notice, the claims shall not be treated as a claim entitled to be paid under the provisions of this Act.

(4) Every notice sent to a secured creditor shall require him to value the security before the expiry of the period of one month from the date of the notice and such notice shall also state that if the statement of the claim together with the valuation of the security is not sent to the Competent Authority, the Competent Authority himself shall value the security and his valuation shall be binding on such secured creditors.

(5) If the claimant fails to comply with the notice as per sub-section (4), such security shall be valued by the Competent Authority in his best judgement.

Report by the Competent Authority

8. After making a report as per section 7, the Competent Authority shall make an application to the Designated Court seeking permission to make payment to the depositors from out of the money realized. While making such application, the Competent Authority shall assess the liability to the depositors and the other liabilities and in case the money realized or realizable is not sufficient to meet the entire liability, make a submission to the Designated Court seeking permission for making payment to the depositors and disburse the money as per the orders of the Designated Court.

Powers of the Designated Court regarding realization of assets and payment to depositors

9. (1) The Designated Court shall have all the powers for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, the Designated Court may,--

(a) give any direction to the Competent Authority as it deems fit, for effective implementation of the provisions of this Act;

(b) approve the statement of dues of the Financial Establishment due from various debtors, assessment of the value of the assets of the Financial Establishment, finalise the list of the depositors and their respective dues;

(c) direct the Competent Authority to take possession of any assets belonging to or in the control of the Financial Establishment and sell, transfer or realize the attached assets either by public auction or by private sale as may be deemed fit, depending upon the nature of assets and credit the sale proceeds thereof to the bank accounts;

(d) approve the necessary expenditure to be incurred by the Competent Authority for taking possession and realization of the assets of the Financial Establishment;

(e) order for payment to the depositors by the Competent Authority or order for proportionate payment to the depositors in the event of the money so realized being not sufficient to meet the entire deposit liability; and

(f) pass any order which the Designated Court deems fit for realization of the assets of the company and repayment to the depositors of the Financial Establishment or on any matter or issue incidental thereto.

Explanation. – For the purpose of this section, the expression “Financial Establishment” includes the directors, promoters, managers or member of said establishment or any other person whose property or assets have been attached under section 4.

Designated Court

10.(1) For the purposes of this Act, the Government may, with the concurrence of the Chief Justice of the Madras High Court, by notification, in the Official Gazette, constitute one or more Designated Courts in the cadre of District and Sessions Judge including Additional District and Sessions Judge for such area or areas or for such case or class or group of cases, as may be specified in the notification.

(2) No Court other than the Designated Court shall have jurisdiction in respect of any matter to which the provisions of this Act are invoked.

(3) Any pending case in any other court in respect of which the provisions of this Act are invoked shall stand transferred to the Designated Court from the date of order issued under sub-section (2) of section 4 of this Act.

Power of Designated Court regarding attachment

11.(1) Upon receipt of an application under section 5, the Designated Court shall issue to the Financial Establishment or to any other person whose property is attached and vested in the Competent Authority by the Government under section 4, a notice accompanied by application and affidavits and of the evidence, if any, recorded calling upon the said establishment and the said person to show cause on or before a date to be specified in the notice, why the order of attachment should not be made absolute.

(2) The Designated Court shall also issue such notice, to all other persons represented to it as having or being likely to claim, any interest or title in the property of the Financial Establishment or the person to whom the notice is issued under sub-section (1) calling upon all such persons to appear on the same date as specified in the notice and make objection if they so desire to the attachment of the property or any portion thereof on the ground that they have an interest in such property or portion thereof.

(3) Any person claiming an interest in the property attached or any portion thereof may, notwithstanding that no notice has been served upon him under this section, make an objection as aforesaid to the Designated Court at any time before an order is passed under sub-section (4) or sub-section (6).

(4) The Designated Court shall if no cause is shown and no objections are made on or before the specified date, under sub-section (1) forthwith pass an order making the ad-interim order of attachment absolute.

(5) If cause is shown or any objection is made as aforesaid, the Designated Court shall proceed to investigate the same, and in so doing, as regards the examination of the parties and in all other respects, the Designated Court shall, subject to the provisions of this Act, follow the summary procedure as contemplated under the Code of Civil Procedure, 1908 (Central Act V of 1908), and exercise all the powers of a court in hearing a suit under the said Code. Any person making an objection shall be required to adduce evidence to show that on the date of attachment he had some interest in the property attached.

(6) After investigation under sub-section (5), the Designated Court shall pass an order either making the ad-interim order of attachment absolute or varying it by releasing a portion of the property from attachment or cancelling the ad-interim order of attachment:

Provided that the Designated Court shall not release from attachment any interest, which it is satisfied that the Financial Establishment or the person referred to in sub-section (1) has in the property, unless it is also satisfied that there will remain under attachment an amount or property of value not less than the value that is required for repayment to the depositors of such Financial Establishment.

(7) Where the Designated Court passes an order under sub-section (6) making the order of attachment absolute or varying the orders of the attachment, it may issue such direction as may be necessary for realization of assets attached and for equitable distribution amongst the depositors of the money realised from and out of the assets so attached.

(8) Where an application is made by any person or authority duly authorised or constituted or specified by any other State Government under a similar enactment empowering him to exercise control over any money or property or assets attached by that State Government, the Designated Court shall exercise all its powers, as if, such an application were made under this Act and pass appropriate order or direction on such application so as to give effect to the provisions of such enactment.

Attachment of property of *mala fide* transferees

12. (1) Where the assets available for attachment of a Financial Establishment or other person referred to in section 4 are found to be less than the amount or value which such Financial Establishment is required to repay to the depositor and where the Designated Court is satisfied, by affidavit or otherwise, that there is reasonable cause for believing the said Financial Establishment has transferred (whether before or after the commencement of this Act) any of the property otherwise than in good faith or for proper consideration, the Designated Court may, by notice, require any transferee of such property (whether or not he received the property directly from the said Financial Establishment) to appear on a date to be specified in the notice and show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

(2) Where the said transferee does not appear and show cause on the specified date, or where after investigation in the manner provided in sub-section (5) of section 11, the Designated Court is satisfied that the transfer of property to the said transferee was not in good faith or for proper consideration, the Designated Court shall order the attachment of so much of the said transferee's property as in the opinion of the Designated Court equivalent to the proper value of the property transferred.

Security *in lieu of* attachment

13. Any Financial Establishment or person whose property has been or is about to be attached under this Act may at any time, apply to the Designated Court for permission to give security *in lieu of* such attachment and where security offered and given is, in the opinion of the Designated Court, satisfactory and sufficient, it may cancel the ad-interim order of attachment or, as the case may be, refrain from passing, the order of attachment.

Administration of property attached

14. The Designated Court may, on the application of any person interested in any property attached and vested in the Competent Authority under this Act, and after giving the Competent Authority an opportunity of being heard, make such orders as the Designated Court considers just and reasonable for –

(a) providing from such of the property attached and vested in the Competent Authority as the applicant claims an interest, in such sums as may be reasonably necessary for the maintenance of the applicant and of his family, and for expenses connected with the defence of the applicant where criminal proceedings have been instituted against him in the Designated Court under section 3;

(b) safeguarding so far as may be practicable the interest of any business affected by the attachment and in particular, the interest of any partners in such business;

(c) discharging any liability, statutory or otherwise, of such financial establishment.

Appeal

15. Any person including the Competent Authority, aggrieved by an order of the Designated Court, may appeal to the High Court within thirty days from the date of order.

Special Public Prosecutor

16. The Government shall, by notification in the Official Gazette, appoint an advocate of not less than ten years standing as a Special Public Prosecutor for the purpose of conducting the cases in the Designated Court.

Procedure and powers of Designated Court regarding offences

17.(1) The Designated Court may take cognizance of the offence without the accused being committed to it for trial and, in trying the accused person, shall follow the procedure prescribed in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) for the trial of sessions cases.

(2) Except the provisions of section 467, all the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, so far as may be, apply to the proceedings before a Designated Court and for the purpose of the said provisions a Designated Court shall be deemed to be a Magistrate.

Act to override other laws

18. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

Protection of action taken in good faith

19. No suit or other proceedings shall lie against the Government or the Competent Authority or an officer or employee of the Government for anything which is in good faith done or intended to be done under this Act.

Power to make rules

20.(1) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) All rules made and notifications issued under this Act shall be published in the Official Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(3) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the Table of the Legislative Assembly, and if before the expiry of the session in which it is so placed or the next session the Legislative Assembly agrees in making any modification in any such rule or notification or the Legislative Assembly agrees that the rule or notification should not be made or issued, the rule or notification shall, thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Power to remove difficulties

21.(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by order, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary to remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly of Puducherry.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.1 OF 2005

The last few years have witnessed a rapid growth of non-banking Financial Establishments and deposit taking unincorporated bodies not covered under the Reserve Bank of India, Act, 1934 in different parts of the country. In the recent past, certain financial institutions have also sprung up in this Union Territory with the sole object of receiving deposits from the public (primarily middle class and the poor) on the promise of unprecedented high rate of interest but without any obligation to refund the deposits to the investors at the time of maturity. Many of these Financial Establishments have in fact defaulted in the return of such deposits to the investors thus paving way for public resentment and insecurity. The Reserve Bank of India have in fact been seized of the situation prevalent in the country and have therefore addressed all State Governments and Union Territory Administrations to protect the interests of such depositors by having a legislation enacted in the matter.

Since this Union Territory has also seen the mushroom growth of such Financial Establishments in question in the last few years, it is proposed to undertake a legislation which seeks to protect the deposits made by the public in Financial Establishments not being a company registered under the Companies Act, 1956, or a corporation or a co-operative society owned or controlled by the State Government or the Central Government or a banking company under Banking Regulation Act. The more salient features of the proposed draft legislation cover the following:

Attachment by the Government of moneys or properties of such Financial Establishments who default in return of deposits;

Constitution of a Designated Court with powers, among others, to pass orders or issue directions for the equitable distribution among the depositors of the money realised out of the property attached.

The Bill seeks to achieve the above objects.

- 21. Zero rated transactions
- 22. Stages of levy of taxes in respect of imported and exported goods
- 23. Burden of proof

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ASSESSMENT

- 24. Assessment of tax
- 24 A. Provisions relating to payment of penalty for delay in payment of tax.
- 25. Fair market value
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- 29. Assessment of legal representative
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- 31. Power of Government to notify reductions of tax
- 32. Liability to tax persons not observing restrictions and conditions notified under section 31
- 33. Liability of firms
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COLLECTION AND RECOVERY

- 35. Collection of tax by dealer
- 36. Levy of penalty in certain cases
- 37. Payment and recovery of tax
- 38. Recovery of penalty
- 39. Further mode of recovery
- 40. Provisional attachment of property to protect revenue in certain cases
- 41. Recovery of tax where business of dealer is transferred
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- 44. Appellate Tribunal
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- 67. Bar of certain proceedings
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- 70. Appearance before any authority in proceedings
- 71. Power to make rules
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- 73. Power to rectify any error apparent on the face of record
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- 75. Power to amend Schedules
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- 77. Clarification and Advance Rulings
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- 81. Repeal and saving
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THE FIRST SCHEDULE

THE SECOND SCHEDULE

THE THIRD SCHEDULE

THE FOURTH SCHEDULE

THE FIFTH SCHEDULE

THE SIXTH SCHEDULE

THE PUDUCHERRY VALUE ADDED TAX ACT, 2007

(Act No. 9 of 2007)

(01-12-2007)

AN

ACT

to provide for the levy and collection of value added tax on the sale or purchase of goods in the Union territory of Puducherry and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative assembly of Puducherry in the Fifty-eighth year of the Republic of India as follows:-

CHAPTER - I

PRELIMINARY

Short title, extent and commencement

- 1.(1) This Act may be called the Puducherry Value Added Tax Act, 2007.
- (2) It extends to the whole of the Union territory of Puducherry.
- (3) It shall be deemed to have come into force on the 1st day of July, 2007.

Definitions

2. In this Act, unless the context otherwise requires,-

- (a) "Appellate Assistant Commissioner" means any person appointed to be an Appellate Assistant Commissioner of Commercial Taxes under section 3 of this Act;
- (b) "Appellate Tribunal" means the Puducherry Value Added Tax Appellate Tribunal appointed under section 44 of this Act;
- (c) "assessee" means a dealer by whom tax is payable either by collecting the same or otherwise;
- (d) "assessing authority" means any officer not below the rank of Assistant Commercial Tax Officer authorised by the Commissioner to make any assessment under this Act;
- (e) "assessment" means determination of business turnover of a dealer in the prescribed manner to ascertain the tax liability under this Act by self-assessment, re-assessment, and assessment by scrutiny and best judgment assessment;

(f) "Assistant Commercial Tax Officer" means any person appointed by the Commissioner by name or by virtue of his office, to exercise the powers of an Assistant Commercial Tax Officer;

(g) "Assistant Commissioner" means any person appointed to be an 'Assistant Commissioner of Commercial Taxes' under section 3 of this Act;

(h) "authorised" means authorised by the Commissioner to perform any duties and exercise any powers under this Act;

+[(h-A) "branded means any goods sold under a name or a trade mark registered or pending registration or pending registration of transfer under the Trade and Merchandise Marks Act 1958 (Central Act 43 of 1958) or the Trade Marks Act, 1999 (Central Act 47 of 1999).]

(i) "business" includes ---

- (i) any trade, commerce, manufacture, or any adventure or concern in the nature of trade, commerce, manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern; and
- (ii) any transaction in connection with or incidental or ancillary to such trade, commerce, manufacture, adventure or concern;

(j) "Capital goods" means plant, machinery and equipment used in the business including manufacture of goods;

(k) "Casual trader" means a person who, whether as principal, agent or in any other capacity, undertakes occasional transactions of a business nature involving the buying, selling, supplying or distributing of goods in the Union territory, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and who does not reside or has no fixed place of business within the Union territory;

(l) "Commercial Tax Officer" means any person appointed to be a Commercial Tax Officer under section 3 of this Act;

(m) "Commissioner" means any person appointed to be a 'Commissioner of Commercial Taxes' under section 3 of this Act;

(n) "dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes –

- (i) a company, Hindu undivided family (HUF), partnership firm or other association of persons, whether incorporated or unincorporated which carries on such business;
- (ii) a casual trader;
- (iii) a commission agent, a broker or a del-credere agent or an Auctioneer or a factory or any other mercantile agent, by whatever name called and whether of the same description as hereinbefore or not, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal;
- (iv) every local branch of a firm or company or association situated outside the Union territory and a non-resident dealer or an agent of a non-resident dealer;
- (v) a person who sells goods produced by him by manufacture or otherwise;
- (vi) a person engaged in the business of transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
- (vii) a person engaged in the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (viii) a person engaged in the business of delivery of goods on hire-purchase or any system of payment by instalments;
- (ix) a person engaged in the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
- (x) a person engaged in the business of supplying by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;
- (xi) a society (including a co-operative society), club or firm or an association which, whether or not in the course of business, buys or sells goods from or to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration;
- (xii) an industrial, commercial, banking, insurance or trading undertaking whether or not of the Central Government or any of the State Governments or of a local authority; and
- (xiii) a department of the Central Government or any State Government or any Union territory Administration or a local authority by name of any panchayat, municipality, Development Authority or any autonomous or statutory body including a Port Trust and the like

which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash, or for deferred payment, or for commission, remuneration or other valuable consideration;

(o) "Deputy Commercial Tax Officer" means any person appointed by the Commissioner by name or by virtue of his office, to exercise the powers of a Deputy Commercial Tax Officer;

(p) "Deputy Commissioner" means any person appointed to be a 'Deputy Commissioner of Commercial Taxes' under section 3 of this Act;

(q) "document" means title deeds, writing or inscriptions and includes electronic data stored in tape, disc or such other form that furnishes evidence;

(r) "goods" means all kinds of movable property (other than newspapers, actionable claims, stocks and shares and securities) and includes live stock, all materials, commodities and articles including the goods (tangible or intangible) and property in goods (whether as goods or in some other form) involved in the execution of a works contract, transfer of right to use or hire-purchase or those goods to be used in the fitting out, improvement or repair of movable property and all growing crops, grass or things attached to or forming part of the land which are agreed to be severed before sale or under a contract of sale;

(s) "Government" means the Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(t) "Government representative" means any person appointed to be the Government representative under section 3 of this Act and includes an officer authorised by the Commissioner under that section to perform the functions on behalf of the Government in proceedings before the Appellate Tribunal, such as –

- (i) to prepare and sign applications, appeals and other documents;
- (ii) to appear, represent, and plead;
- (iii) to receive notices and other processes; and
- (iv) to do all other acts connected with such proceedings;

(u) "input" means goods purchased by a dealer in the course of his business for resale including deemed sales or for use in manufacturing, processing, packing of other goods for sale;

(v) "input tax" means tax on inputs paid or payable;

(w) "Joint Commissioner" means any person appointed to be a 'Joint Commissioner of Commercial Taxes' under section 3 of this Act;

(x) "manufacture" includes any activity that brings out a change in an article or articles as a result of some process, treatment, labour and results in transformation into a new and different article so understood in commercial parlance having a distinct name, character, use but does not include any such activity as may be notified by the Government as not manufacture for the purposes of this clause;

(y) "output" means goods sold by a dealer;

(z) "output tax" in relation to a dealer means the tax charged or chargeable in respect of goods sold by that dealer;

(za) "place of business" means any place where a dealer purchases or sells goods and includes warehouses, godowns or other places where a dealer stores his goods, processes, produces or manufactures goods or any other place where business activity takes place including the place where the books of accounts are maintained and kept;

(zb) "prescribed" means prescribed by the rules made under this Act;

(zc) "registered dealer" means a dealer registered under this Act;

(zd) "rules" means rules made under this Act;

(ze) "sale" with all its grammatical variations and cognate expressions means every transfer of property in goods (other than by way of mortgage, hypothecation, charge or pledge) by one person to another in the course of business for cash, deferred payment or other valuable consideration and includes-

- (i) a transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
- (ii) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (iii) a delivery of goods on hire-purchase or any system of payment by instalments;
- (iv) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payments or other valuable consideration;
- (v) a supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;
- (vi) a supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;

- (vii) every transfer of property in goods, by a department of the Central Government or any State Government or Union territory Administration or a local authority by name of any panchayat, municipality, Development Authority or any autonomous or statutory body including a Port Trust and the like, for cash or for deferred payment or other valuable consideration, whether or not in the course of business.

Explanation - I. - Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, two independent sales or purchases shall, for the purpose of this Act, be deemed to have taken place.-

(a) when the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser;

(b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if in either case the agent is found ---

(1) to have sold the goods at one rate and to have passed on the sale proceeds to his principal at another rate; or

(2) to have purchased the goods at one rate and to have passed the same on to his principal at another rate; or

(3) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal; or

(4) to have acted for a fictitious or non-existent principal.

Explanation - II - The sale or purchase of goods shall be deemed, for the purposes of this Act, to have taken place in the Union territory, wherever the contract of sale or purchase might have been made, if the goods are within the Union territory-

(a) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made, and

(b) in the case of unascertained or future goods at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation;

(zf) "Schedule" means the Schedules appended to this Act;

(zg) "Secretary" means the Secretary to the Government of Puducherry in- charge of Commercial Taxes;

(zh) "special economic zone unit" means a unit established in the special economic zone as notified under the proviso to sub-section (4) of section 3 and sub-section (1) of section 4 of the Special Economic Zones Act, 2005 (Central Act 28 of 2005) and under section 76-A of the Customs Act, 1962 (Central Act 52 of 1962) and includes units established under the 100 per cent export oriented scheme, export processing zone scheme, electronic hardware technology park scheme or software technology park scheme, as framed under Export and Import Policy, as formulated

under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (Central Act 22 of 1992) and as amended from time to time;

Explanation. -- For the purposes of this clause, the expression "Special Economic Zone Unit" will also include a "Co-Developer" and a "Developer" as defined respectively in clauses (f) and (g) of section 2 of the Special Economic Zones Act, 2005 (Central Act 28 of 2005);

(zi) "tax" means value added tax, and includes any other tax chargeable under this Act;

(zj) "tax invoice" means a document of sale issued by a dealer to a buyer at the time of sale describing the goods sold, the quantity, value and tax collected thereon and such other information as may be prescribed;

(zk) "tax period" means a calendar month;

(zl) "taxable turnover" means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed;

(zm) "total turnover" means the aggregate turnover in all goods of a dealer at all places of business in the Union territory, whether or not the whole or any portion of such turnover is liable to tax;

(zn) "turnover" means the aggregate amount for which goods are bought or sold or delivered or supplied or otherwise disposed of in any of the ways referred to in clause (ze), by a dealer either directly or through another, on his own account or on account of others, whether for cash or for deferred payment or other valuable consideration, provided that the proceeds of the sale by a person of agricultural or horticultural produce, other than tea grown within the Union territory by himself on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise shall be excluded from his turnover.

Explanation-I. – The expression "agricultural or horticultural produce" shall not include such produce as has been subjected to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting or drying.

Explanation-II. – Subject to such conditions and restrictions, if any, as may be prescribed in this behalf –

(a) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before the delivery thereof;

(b) any cash or other discount on the price allowed, in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover; and

Explanation-III. – “Turnover” in relation to the transfer of property in goods (whether as goods or in some other form) involved in execution of works contract includes such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for execution of such works contract, the amount representing labour and other charges incurred and profit accrued not in connection with transfer of property in goods for such execution;

(zo) “Union territory” means the Union territory of Puducherry;

(zp) “works contract” includes any agreement to carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning, of any movable or immovable property;

(zq) “year” means the financial year; and

(zr) “zero rated transaction” means a transaction of sale of goods on which no tax is chargeable but credit for the input tax related to such sales is allowable.

Appointment of various authorities under this Act

3. The Government may appoint a Commissioner of Commercial Taxes and as many Joint Commissioners of Commercial Taxes, Deputy Commissioners of Commercial Taxes, Appellate Assistant Commissioners of Commercial Taxes, Assistant Commissioners of Commercial Taxes, a Government representative, Commercial Tax Officers and such other persons with such designations as may be necessary for the purposes of performing the functions respectively conferred on them by or under this Act and such officers shall perform the said functions within such local limits as the Government or any authority or officer authorised in this behalf may assign to them.

CHAPTER - II

REGISTRATION

Dealers liable for registration

4. Every dealer-

(i) carrying on business before the commencement of this Act; or
 (ii) commencing business after the commencement of this Act,
 and ⁺[whose total turnover in any year is not less than rupees five lakhs] shall be liable to be registered under this Act.

Provided that a dealer exclusively dealing in goods mentioned in the First Schedule shall not be liable for registration.

Insertion of new section 4A.

^{*}[4 A. Notwithstanding anything contained in section 4, but subject to the proviso thereunder and other provisions of this Act, every dealer who purchase and sell goods exclusively within the Union Territory and whose total turnover in a year is not less than rupees ten lakhs shall be liable to be registered under this Act.].

Compulsory registration

5. Notwithstanding anything contained in section 4, the following classes of dealers shall be liable for registration under this Act, irrespective of their quantum of total turnover:-

- (i) every casual trader;
- (ii) every dealer importing goods in the course of business from outside the territory of India to the Union territory for sale;
- (iii) every dealer exporting goods from the Union territory to outside the territory of India.
- (iv) every dealer registered or liable to be registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956);
- (v) every dealer residing outside the Union territory, but carrying on business in the Union territory and the agent of such non-resident dealer;

⁺ Amended vide Act 7 of 2008 w.e.f 01-11-2008.

^{*} Inserted vide Act 7 of 2008 w.e.f 01-11-2008.

- (vi) every commission agent, broker, del-credere agent, auctioneer, or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal;
- (vii) every dealer in Indian Made Foreign Liquor including beer; and
- (viii) every dealer in Bullion and Specie.

Deemed registration

6. (1) At the time of commencement of this Act, all dealers registered under the Puducherry General Sales Tax Act, 1967 (Act No. 6 of 1967), shall be deemed to be provisionally registered under this Act and required to submit the prescribed application within one month from the date of commencement of this Act for final registration.

(2) Where any dealer, other than the dealer mentioned under sub-section (1), liable to be registered under this Act, but failed to do so, shall be deemed to have been registered by the prescribed authority, as if an application to register had been made.

Voluntary registration

7. A dealer who is not liable to register may also opt for registration in accordance with the provisions of this Act.

Procedure for registration

8. (1) The Commissioner shall appoint as many number of officers, as may be required from time to time, not below the rank of Assistant Commercial Tax Officer to discharge the function of registering authority.

(2) An application for registration shall be made to the registering authority, in such manner and within such period as may be prescribed and shall be accompanied by a fee of –

- (i) ten thousand rupees in respect of medium and large-scale industries;
- (ii) five thousand rupees in respect of dealers in Indian Made Foreign Liquor;
and
- (iii) one hundred rupees in respect of other cases.

(3) If the registering authority is satisfied that the application is in order, it shall register the applicant and issue to him a certificate in the prescribed form specifying all his places of business.

(4) A certificate issued under sub-section (3) shall be valid for a year and shall be renewed from year to year on payment of the fee specified in sub-section (2):

Provided that when a dealer has ceased to do business in any year, and gives notice of the same to the prescribed authority he shall not be liable to pay any registration fee from the commencement of the following year unless he resumes business.

(5) A registered dealer may apply to the registering authority for a copy or copies of the registration certificate for each additional place of business, such as branch, godown, etc. along with a fee of one hundred rupees for each copy, and if the registering authority is satisfied that the application is in order, it shall issue to the registered dealer a copy or copies of the registration certificate.

(6) If the registering authority is satisfied that a registration certificate or a copy thereof is lost or accidentally destroyed, it shall, on an application made by the registered dealer accompanied by a fee of one hundred rupees, issue to him a duplicate of the registration certificate.

(7) No application for registration or for a copy or duplicate of the certificate and no renewal under this section shall be refused, unless the dealer concerned has been given an opportunity of being heard.

(8) A registered dealer shall exhibit at each place of his business the registration certificate, or a duplicate or a copy thereof.

(9) All registered dealers shall quote the registration number in the return, challan, or other document used for the purposes of this Act.

Security

9. (1) The registering authority shall have power for good and sufficient reasons to demand from time to time from any registered dealer or from a dealer, who has applied for registration under this Act, security or as the case may be, additional security for proper payment of tax and such other amount as may be due, for an amount not exceeding one-half of the tax payable on the turnover of the dealer for the year or as estimated by the registering authority.

(2) The whole or a part of the security furnished by a dealer may be adjusted towards any amount due under this Act or rules framed thereunder:

Provided that the dealer shall be given an opportunity of being heard before the adjustment of the security furnished by him.

Granting of exemption in certain cases

10. (1) The Government may, from time to time, by notification, exempt from or vary the operation of anyone or all of the provisions of this Act related to registration in respect of specified dealers or class of dealers in any specified goods or class of goods.

(2) Any exemption under sub-section (1), -

- (i) may extend to the whole of the Union Territory or to any specified area or areas therein; and
- (ii) may be made subject to such restrictions and conditions as may be specified in the notification.

(3) The Government may, by notification, cancel or vary any notification issued under sub-section (1).

Amendment of registration certificate

11. (1) (a) A registered dealer shall inform the registering authority, in the following circumstances within thirty days, if-

- (i) he sells or otherwise disposes of his business or any part thereof, or
- (ii) there is any change in ownership of the business including any change in the status, or
- (iii) the business is discontinued or the place of business is changed, or
- (iv) any change in the name, style or nature of the business,
for necessary amendments to be made in the registration certificate.

(b) In case of death of the registered dealer, his legal representative shall inform the registering authority within thirty days for any amendments or may surrender the registration certificate.

(2) The registering authority on receipt of application for amendment or otherwise on his own motion may amend the registration certificate or reject the application, within thirty days of the date of receipt of such application, after making such enquiry as he deems fit and after giving reasonable opportunity of being heard.

(3) An amendment of a certificate shall take effect from the date of the event referred to in sub-section (1) which necessitates the amendment, whether or not the information in that behalf is furnished within the time specified in that sub-section:

Provided that, where in consequence of a change in the ownership of a business, the liability to pay tax of a dealer ceases, the amendment of the certificate of registration shall take effect from the date of the submission of application to the registering authority.

(4) Any amendment of a certificate of registration shall be without prejudice to any liability for tax or any such amount due or livable or for any prosecution for an offence under this Act.

(5) If a dealer fails without sufficient cause to comply with the provisions of sub-section (1), the registering authority may, after giving the dealer a reasonable opportunity of being heard, direct him to pay a penalty of five hundred rupees in addition to the penalty chargeable on the tax due at the rate provided under sub-section (4) of section 37 of this Act.

(6) For removal of doubt, it is hereby mentioned that where a registered dealer, -

- (i) effects a change in the name of his business; or
- (ii) is a firm and there is a change in the constitution of the firm without dissolution thereof; or
- (iii) is a trustee of a trust and there is a change in the trustees thereof; or
- (iv) is a Hindu undivided family and the business of such family is converted into a partnership business with all or any of the co-parceners as partners thereof; or
- (v) is a firm or a company or a trust or any other organisation and a change occurs in the management of the organisation such as any change of directors or managing directors of the company as the case may be,

then merely by reason of the circumstances aforesaid, it shall not be necessary for the registered dealer to apply for a fresh certificate of registration but it shall be sufficient, on information being furnished, to get the registration amended.

Cancellation of registration

+ [12.(1) In the case of any registered dealer, where –

- (i) the business has been discontinued, transferred as a whole or otherwise disposed of, or
- (ii) the total turnover for two preceding consecutive years is less than rupees *[five lakhs], or
- (iii) any dealer registered under this Act has committed the offence of evasion of tax, or
- (iv) the dealer dies,

the registering authority may, either of his own motion or on the application of the dealer, in the case of death on the application by his legal representative, in the prescribed manner, cancel the registration from such date, as he considers fit having regard to the circumstances of the case.

(1-A) Notwithstanding anything contained in sub-section (1), the registering authority shall have power, for good and sufficient reasons, to cancel, modify or amend any registration certificate issued by it.]

(2) The cancellation of the registration shall not affect the liability of the dealer to pay tax, any penalty and interest or other amount due for any period prior to the date of cancellation whether such tax, penalty and interest or other amount is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

(3) On cancellation of registration, in any case, where the dealer has availed input tax credit, any taxable stock and capital goods held shall be deemed to have been sold and tax shall be payable on such goods at their fair market value, except where the business is transferred as going concern to another registered dealer and in accordance with the rules prescribed in this respect under this Act.

(4) A dealer shall, until his registration is cancelled, be liable to pay the registration fees specified in sub-section (2) of section 8 for every year subsequent to that in which he is registered.

+ Substituted vide Act 6 of 2009 w.e.f 29.09.2009.

* Amended vide Act 7 of 2008 w.e.f 1.11.2008.

Issue of permit

13. (1) Every registered dealer who transacts business at places other than his registered place or places of business or employs a travelling salesman or representative to transact business as aforesaid shall obtain a permit issued under this Act authorizing himself or, as the case may be, the travelling salesman or representative so to do.

(2) The entire turnover of business carried on under the permit shall be included and accounted for by the registered dealer in his account and returns and shall be dealt with as if it were the turnover of business done by the registered dealer himself at the registered place of business.

(3) Every permit holder shall carry the permit on his person and shall produce it on demand by any officer empowered by the Government in this behalf. He shall maintain and produce on demand to any such officer a true and correct account of all the transactions carried on under the permit and also a stock book showing the quantities of goods entrusted to him by the registered dealer, the quantities disposed of from day-to-day by sale or otherwise and the balance on hand at the end of each day.

(4) An application for permit referred to in sub-section (1) shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

Explanation. – A separate application with a separate fee shall be necessary for the registered dealer and for each travelling salesman or representative employed by him.

(5) If the prescribed authority is satisfied that the application is in order, it shall issue the permit in the form as may be prescribed.

(6) A permit issued under sub-section (5) shall be valid for a year and shall be renewed from year to year on receipt of an application from the registered dealer accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(7) If the prescribed authority is satisfied that the permit issued under sub-section (5) is lost or accidentally destroyed, it shall on application by the registered dealer accompanied by a fee of one hundred rupees, issue to him a duplicate of the permit.

- (8) The prescribed authority shall cancel a permit, -
- (a) on requisition made in writing by the registered dealer; and
 - (b) on the cancellation of the certificate of registration.

(9) The prescribed authority may cancel a permit if the permit holder has contravened any of the terms or conditions of the permit or any of the provisions of this Act or the rules made thereunder.

(10) No application for a permit or for a duplicate thereof shall be refused and no permit shall be cancelled under clause (b) of sub-section (8) unless the registered dealer has been given a reasonable opportunity of being heard and no permit shall be cancelled under sub-section (9) unless the permit holder has been given a reasonable opportunity of being heard.

CHAPTER - III

INCIDENCE AND LEVY OF TAX

Levy and incidence of tax

14. (1) Every dealer registered or liable to be registered under this Act, (other than a casual trader, a non-resident dealer) whose total turnover for a year exceeds *[rupees five lakhs] and every casual trader or agent of a non-resident dealer, whatever be his turnover for the year, shall pay a tax on the taxable turnover in each tax period at the rate and at the point as specified in the Schedules.

+[(1A) Notwithstanding anything contained in sub-section (1) of this section, any dealer registered or liable to be registered under this Act (other than a casual trader, a non-resident dealer) who purchases and sells goods exclusively within the Union Territory and whose total turnover in a year is not less than rupees ten lakhs, shall pay tax on the taxable turnover in each tax period at the rate and at the point as specified in the Schedules.]

(2) **[Omitted]

++["(3) The parts, spares and accessories to the goods shall be taxable at the same rates as applicable to such goods."]

* Substituted vide Act 7 of 2008 w.e.f 1.11.2008.

+ Inserted vide Act 7 of 2008 w.e.f 1-11-2008.

** Omitted vide Act 7 of 2008 w.e.f 1-11-2008.

++ Substituted vide Act 6 of 2009 w.e.f 29-09-2009.

(4) When goods are sold in containers or packed in any packing material, the rate of tax applicable to such containers or packing materials, as the case may be, shall, whether the price of the containers or packing materials is charged separately or not, be the same as those applicable to the goods contained or packed therein and the turnover in respect of such containers and packing materials shall be included in the turnover of such goods.

(5) When goods contained in container or packed in packing material is exempt from tax, then the sale of such containers or packing materials shall also be exempt from tax.

(6) Notwithstanding anything contained in this Act, every dealer registered under sub-section (3) of section 7 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall, whatever be the quantum of his turnover, pay tax, for each year, in respect of the sale of the goods with reference to the purchase of which he has furnished a declaration under sub-section (4) of section 8 of the said Central Act, in accordance with the provisions of this Act.

Tax liability for works contract

15. (1) Every dealer who executes any works contract shall be liable to pay tax on the sale value of goods involved in the execution of works contract whether or not the transfer of property on such goods occurred in the same form or in some other form, at the rate specified in Schedules for such goods.

(2) However the dealer executing works contract may opt to pay tax by way of composition a tax at four per cent on seventy per cent of the value of the consideration received or receivable. Such option shall be in force for a period of not less than three years.

(3) Deduction of tax at source in works contract, -

(i) Notwithstanding anything contained in this Act, every person responsible for paying any sum to any dealer for execution of works contract shall, at the time of payment of such sum, deduct an amount calculated, at the rates as specified under section 14 or as specified in sub-section (2) of this section:

Provided that no deduction under clause (i) shall be made where-

(a) no transfer of property in goods (whether as goods or in some other form) is involved in the execution of works contract; or

(b) transfer of property in goods (whether as goods or in some other form) is involved in the execution of works contract in the course of inter-State trade or commerce or in the course of import; or

(c) the dealer produces a certificate in such form as may be prescribed from the assessing authority concerned that he has no liability to pay or has paid the tax under section 14 or under sub-section (2) of this section, as the case may be.

+["Provided further that no such deduction under clause (i) of this sub-section shall be made, where the amount or the aggregate of the amount paid or credited or likely to be paid or credited, during the year, by such person to the dealer for execution of the works contract including civil works contract does not or is not likely to, exceed rupees one lakh."]

Explanation.- For the purpose of this section,-

(I) the term 'person' shall include-

- (i) the Central or a State Government or a Union territory Administration including National Capital Territory of Delhi;
- (ii) a local authority;
- (iii) a corporation or body established by or under a Central or State Act or under any law passed by the Union territory Legislature;
- (iv) a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956) including a Central or State Government undertaking;
- (v) a society including a co-operative society;
- (vi) an educational institution; or
- (vii) a trust;

(II) the term "civil works contract" includes civil works of construction of new buildings, bridge, road, runway, dam or canal including any lining, tiling, painting or decorating which is an inherent part of the new construction and any repair, maintenance, improvement or upgradation of such civil works by means of fixing and laying all kinds of floor tiles, mosaic tiles, slabs, stones, marbles, glazed tiles, painting, polishing, partition, wall panelling, interior decoration, false ceiling, carpeting and extra fittings, or any manner of improvement on an existing structure.

(ii) Any person making such deduction shall deposit the sum so deducted to such authority, in such manner and within such time, as may be prescribed.

(iii) Any person who makes the deduction and deposit, shall within *[three days] of such deposit, issue to the said dealer a certificate in the prescribed form for each deduction separately, and send a copy of the certificate of deduction to the assessing authority, having jurisdiction over the said dealer together with such documents, as may be prescribed.

+ Inserted vide Act 6 of 2009 w.e.f 29.09.2009

* Substituted vide Act 6 of 2009 w.e.f 29.09.2009

(iv) On furnishing a certificate of deduction referred to in clause (iii), the amount deposited under clause (ii), shall be adjusted by the assessing authority towards tax liability of the dealer under section 14 or this section as the case may be, and shall constitute a good and sufficient discharge of the liability of the person making deduction to the extent of the amount deposited:

Provided that the burden of proving that the tax on such works contract has already been deposited and of establishing the exact quantum of tax so deposited shall be on the dealer claiming the deduction.

(v) Any person who contravenes the provisions of clause (i) or clause (ii), shall pay, in addition to the amount required to be deducted and deposited, penalty at two per cent per month of such amount for the entire period of default.

(vi) Where the dealer proves to the satisfaction of the assessing authority that he is not liable to pay tax under section 14 or under sub-section (2) of this section, the assessing authority shall refund the amount deposited under clause (ii), after adjusting the arrears of tax, if any, due from the dealer, in such manner as may be prescribed.

(vii) The tax or penalty or interest under this section shall become due without any notice of demand on the date of accrual for the payment by the person as provided under clauses (i) and (ii).

(viii) If any person contravenes the provisions of clause (i) or clause (ii), the whole amount of tax payable shall be recovered from such person and all provisions of this Act for the recovery of tax including those relating to levy of penalty and interest shall apply, as if the person is an assessee for the purpose of this Act.

Tax payable

16. (1) *Input Tax Credit (ITC)* – For the purpose of calculating the net tax (VAT) payable by a dealer for each tax period, an input tax credit shall be allowed against the output tax subject to such conditions or restrictions or adjustments, if any, as may be prescribed for the purposes of this section:

Provided that, -

(i) for all capital goods except those provided under sub-section (2), the input tax credit shall be allowed in three years by equal monthly instalments commencing from the month following the commencement of commercial production or sale of taxable goods;

(ii) when the input is transferred, either in same form or otherwise, other than by way of sale and if such transfer is outside the Union Territory, the input tax credit shall be allowed for the input tax paid in excess of the rate prescribed under sub-section (1) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956).

- (2) The input tax credit shall not be allowed, -
- (i) when the input is used for manufacture of exempted goods;
 - (ii) when the goods purchased are consumed for own use (*i.e*) not connected with the business of the dealer;
 - (iii) in respect of following goods:-
 - (a) Indian Made Foreign Liquor;
 - (b) sugarcane (sugarcane is taxable at the point of purchase and such purchase tax is not eligible for input tax credit);
 - (c) all kinds of pan masala with or without tobacco;
 - (d) narcotics;
 - (e) civil structure and immovable goods or properties;
 - (f) building material used in construction activity, except when used by a works-contractor;
 - (g) office equipment;
 - (h) capital goods purchased prior to the date of commencement of this Act or capital goods purchased by dealers in IMFL, rectified spirit, narcotics, pan masala with or without tobacco after the commencement of this Act;
 - (i) petrol, diesel, aviation turbine fuel and other motor spirit;
 - (j) Molasses; and
 - (k) Rectified spirit;
 - (iv) for goods purchased prior to twelve months from the date of commencement of this Act:

Provided that input tax credit will be allowed for the stock held on the date of commencement of this Act subject to such terms and conditions as may be prescribed:

Provided further that such goods are falling within the list of goods specified in Part-A of the Second Schedule, Part-A of the Third Schedule or Part-A of the Fourth Schedule to this Act;

- (v) for goods purchased from non-taxable dealers;
- (vi) for goods purchased from a dealer paying tax on compounded rate, as provided under sub-section (2) of section 15 and under section 19 of this Act; and
- (vii) for a casual trader.

+[(viii) for the dealers paying tax under sub-section (2) of section 15 of this Act.]

(3) The input tax credit shall, at no time, exceed the amount of tax payable at the prescribed rate in the Schedule applicable to the input.

(4) Where the dealer has not adjusted the input tax credit or has not made a claim for refund within the prescribed period from the date of accrual of such input tax credit, such credit shall lapse to Government.

(5) Where input tax credit is availed by a dealer on a taxable purchase and such input tax credit shall be liable for reversal in such circumstances and subject to such conditions as may be prescribed.

(6) No registered dealer shall be entitled to input tax credit in respect of –

(a) goods purchased and accounted for in business but utilized for the purpose of providing facility to the proprietor or partner or Director including employees and in any residential accommodation; or

(b) purchase of all automobiles including commercial vehicles, two wheelers and three wheelers and spare parts for repair and maintenance thereof, unless the registered dealer is in the business of dealing in such automobile or spare parts; or

(c) purchase of air conditioning units unless the registered dealer is in the business of dealing in such units.

(7) No input tax credit shall be allowed to any registered dealer in respect of any goods purchased by him for sale but given away by him by way of free sample or gift or goods consumed for personal use.

(8) No input tax credit shall be available to a registered dealer for tax paid or payable at the time of purchase of goods, if such –

(i) goods are not sold because of any theft, loss or destruction for any reason, including natural calamity. If a dealer has already availed input tax credit against purchase of such goods there shall be reversal of tax credit; or

(ii) inputs destroyed in fire accident or lost while in storage even before use in the manufacture of final products; or

(iii) inputs damaged in transit or destroyed at some intermediary stage of the manufacture.

(9) Calculation of taxable turnover when sale price is inclusive of tax.- Notwithstanding the provisions in clause (zj) of section 2, when sale price shown in a tax invoice is inclusive of tax, the taxable turnover for that invoice may be calculated applying the following formula, namely:-

Tax inclusive of sale proceeds × 100

(100 + Rate of Tax)

Refund of tax paid in certain cases

17. (1) Where a tax at the point of last purchase in the Union territory has been levied and collected under this Act in respect of goods liable to tax at such point and where the said purchase ceases to be the last purchase in the Union territory by reason of a subsequent purchase of such goods by another dealer in the Union territory, the tax so levied and collected shall be refunded to the dealer concerned in such manner and subject to such conditions as may be prescribed.

(2) The Government may, by rules made under this section, provide for refund of tax levied and collected under this Act on any taxable goods in the series of sales or purchases.

Tax under this Act to be in addition to tax under the Central Sales Tax Act, 1956 or any other law

18. The provisions of this Act relating to taxation of successive sales or purchases inside the Union territory shall apply only to sales or purchases inside the Union territory (other than sales or purchases in the course of inter-State trade or commerce) and the tax under this Act shall be levied in addition to any tax levied under the Central Sales Tax Act, 1956 (Central Act 74 of 1956.) or any other law for the time being in force.

Payment of tax at compounded rates

19. +[(1) Notwithstanding anything contained in section 14, any dealer who effects second and subsequent sales of goods purchased within the Union Territory and whose total turnover under this Act, 1956 (Central Act 74 of 1956) does not exceed rupees fifty lakhs in a year may at his option, instead of paying the tax at the rates specified in the Schedules, pay by way of composition, tax at the rate of 0.5 per cent. of his taxable turnover :

Provided that,

(i) such dealer will not be eligible for input tax credit;
 (ii) the dealers in the following goods are not eligible to exercise the option under this section,-

- (a) Indian Made Foreign Liquor,
- (b) Sugarcane,
- (c) all kinds of pan masala with or without tobacco,
- (d) narcotics, and
- (e) rectified spirit.]

(2) Any dealer other than a casual trader who estimates his sales turnover under this Act and under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) for a year to be not more than rupees fifty lakhs, may apply to the assessing authority to be permitted to pay the tax under this section and on being so permitted, he shall pay the tax due during the year in monthly or in prescribed instalments and for that purpose, shall submit such returns in such manner as may be prescribed:

Provided that any dealer paying tax under any other section and desirous of paying tax for any year under this section may, at any time, within one month of the commencement of that year, exercise his option to pay tax under this section and for that purpose shall submit such returns in such manner as may be prescribed:

Provided further that any dealer paying tax under this section and desirous of paying tax under any other sections may, at any time, within one month of the commencement of that year, exercise his option to pay tax in accordance with that sub-section or section and for that purpose shall submit such returns in such manner as may be prescribed.

(3) The permission granted by the assessing authority under sub-section (2) shall continue in force so long as the dealer is eligible to be assessed under this section and has not withdrawn his option to be so assessed:

Provided that during the course of a year if the turnover of any dealer, permitted to be assessed under this section, exceeds rupees fifty lakhs, the permission so granted shall be deemed to have been cancelled from the end of that tax period in which his sales turnover under this Act and under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) so exceeded.

(4) The tax paid under sub-section (2) shall be subject to such adjustment as may be prescribed.

(5) A dealer who has been permitted to pay the tax under sub-section (2) shall not collect any amount by way of tax or purporting to be by way of tax on the sales so long as he opts to pay the tax as provided under sub-section (1).

Exemption from tax

20. Subject to such restrictions and conditions as may be prescribed, a dealer who deals in the goods specified in the First Schedule shall not be liable to pay any tax under this Act in respect of such goods.

Zero rated transactions

21. The sale of goods falling within the scope of section 3 and sub-sections (1), (3) and (5) of section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) and *[the sale of goods to Special Economic Zone Unit as defined under] clause (zh) of section 2 of this Act shall be zero rated transactions as defined under clause (zr) of section 2.

Stages of levy of taxes in respect of imported and exported goods

22. Where in the case of any goods tax is leviable in a series of sales or purchases, such series shall, --

(a) in the case of goods imported into the Union Territory either from outside the territory of India or from any other State in India, be deemed to commence at the stage of the sale or purchase effected immediately after the import of such goods;

(b) in the case of goods exported out of the Union Territory to any place outside the territory of India or to any other State in India, be deemed to conclude at the stage of sale or purchase effected immediately before the export of such goods:

Provided that in the case of goods exported out of the Union Territory to any place outside the territory of India, where the sale or purchase effected immediately before export of such goods is, under sub-section (3) of section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), a sale or purchase in course of export, the series of sales or purchases of such goods shall be deemed to conclude at the stage of the sale or purchase immediately preceding such sale or purchase in the course of export.

Burden of proof

23. (1) The burden of proving that any dealer or any of his transactions is not liable to tax under this Act shall lie on such dealer.

(2) For the purpose of claim of input tax credit, the burden of proving such claim shall lie on such dealer.

CHAPTER - IV

ASSESSMENT **Assessment of tax**

24. (1) Every registered dealer shall file a tax return for each tax period within fifteen days after end of the period in such manner as may be prescribed.

(2) The returns submitted by the dealer along with tax due thereon shall be accepted as self-assessed:

* Inserted Act 6 of 2009 w.e.f 29.09.2009.

Provided that the assessing authority may select either at his discretion or as directed by the Commissioner, any dealer for detailed assessment +[for a tax period or tax periods] by scrutiny of accounts and may make best judgement assessment if so required, where-

(a) a person fails to file a return as required under sub-section (1); or

(b) the assessing authority is not satisfied with the correctness and completeness of a return filed by a person; or

(c) the Commissioner has reasonable ground to believe that a person will become liable to pay tax under this Act but is unlikely to pay the amount due.

(3) When making any assessment under sub-section (2), the assessing authority may also direct the dealer to pay in addition to the tax assessed, a penalty not exceeding double the amount of tax due on the turnover that was not disclosed by the dealer in his return or, in the case of failure to submit a return, double the amount of tax assessed, as the case may be:

Provided that before taking action under this sub-section, the dealer shall be given a reasonable opportunity of being heard.

(4) The assessing Authority shall serve a notice of assessment on completion of assessment under this section and the dealer shall pay the balance of tax in accordance with the terms of that notice.

(5) Subject to sub-section (6) of this section, no assessment under this section for any year shall be made after a period of three years from the end of the year to which the return under this Act relates.

(6) Where, for any reason, the input tax credit has been availed wrongly or where any dealer produces false invoice, vouchers, declaration certificate or any other documents with a view to support his claim of input tax credit or refund, the assessing authority shall, at any time, within a period of five years from the end of the year to which the return relates, reverse input tax credit availed and determine the tax due after making such an enquiry as it may consider necessary:

Provided that no order shall be passed under this sub section without giving the dealer a reasonable opportunity to show cause against such order.

+ [Provisions relating to payment of penalty for delay in payment of tax.]

24A. Notwithstanding anything contained in the proviso to sub-section (2) of section 24 and in sub-section (1) and (4) of section 37 but subject to the other provisions of sub-section (1) and (2) of section 24, any tax due or payable under this Act by any dealer or any person in respect of any tax period shall be paid in such manner and within such time as prescribed under this Act or under the rules framed under this Act:

Provided that if any such dealer or person fails to pay such tax due or payable along with the return within the time prescribed therefore, the dealer or person shall pay by way of penalty, in addition to the amount due or payable, a sum equal to two per cent. of such amount for each month of default or part thereof after the date prescribed for its payment subject to the condition that the penalty in respect of part of a month shall be computed proportionately and for this purpose, a month shall mean a period of thirty days:

Provided further that if any default is made in payment of such tax, the whole amount outstanding on the date of default along with the penalty prescribed in the first proviso shall become immediately due and shall be the first charge on the properties of the dealer or person liable to pay the tax or penalty and such tax and penalty shall be recovered as per sub-section (3) of section 37 of this Act.].

Fair market value

25. (1) Where the authority prescribed has reason to believe that any goods of a fair market value exceeding ₹ 5,000/- (Rupees five thousand only) have been sold or purchased by a dealer, to or from another dealer or person, as the case may be, for a consideration which is less than fair market price of the goods and that consideration for such sale or purchase as agreed to between the parties has not been truly stated in the invoice or delivery challan or any other document relating thereto, with the object of facilitating the reduction or evasion of the tax payable under this Act, the authority prescribed may, subject to the provisions of this section, initiate proceedings for seizure and the acquisition of such goods.

(2) The powers conferred under sub-section (1) shall be exercised by the authority prescribed in respect of goods sold or purchased which are in transit or in the possession of the seller or buyer or his agent.

(3) In any proceedings under this section in respect of any goods which have been sold or purchased for a consideration which is less than its fair market price, it shall be presumed, unless the contrary is proved, that the consideration for such sale as agreed to between the parties has not been truly stated in the invoice, or sale bill or other documents related thereto with such object as is referred to in sub-section (1).

(4) Before initiating such proceedings, the authority prescribed shall record his reasons for doing so and no orders shall be passed under sub-section (1) without giving the dealer concerned an opportunity of being heard.

(5) No such proceedings shall be initiated unless the authority prescribed has reason to believe that the fair market price of the goods exceeds the consideration therefor by more than twenty per cent.

(6) Where any goods are acquired under this section the authority prescribed shall pay for such acquisition compensation which shall be a sum equal to the aggregate of the amount of sale price of the goods mentioned in the invoice or delivery challan or any document related thereto and any expenditure incurred on freight or any other incidental expenses incurred by the dealer concerned in relation to those goods.

Explanation.-For the purposes of this section, 'fair market value' means the price that the goods would ordinarily fetch on sale in the open market on the date of sale or despatch or transfer of such goods.

(7) If the assessing authority is satisfied that a dealer has, with a view to evade the payment of tax, shown in his accounts, sales or purchases of any goods, at prices which are abnormally low compared to the prevailing market price of such goods, it may at any time within a period of five years from the expiry of the year to which the tax relates, assess or re-assess the dealer to the best of its judgement on the turnover of such sales or purchases after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity to show cause against such assessment.

Revised return

26. If any registered dealer discovers any mistake or error in any return furnished by him, he may furnish a revised return subject to following conditions:

(a) A dealer shall not be eligible to furnish revised return if any action, either has been initiated or is pending under section 24 or section 30 or under any other section of this Act.

(b) If any amount is becoming due for refund as per revised return, such revised return shall be furnished within three months from the close of the year to

which such return relates to and shall be accompanied by an application stating the circumstances on which the revised return is filed. The refund will be due only after confirmation by the assessing authority by issue of a notice as may be prescribed.

(c) If any amount is due to be paid by a dealer as per revised return, such return may be furnished at any time and will be accepted by the assessing authority, if the return is accompanied by the proof of payment of balance tax as per the revised return and penalty as prescribed under sub-section (4) of section 37 of this Act.

Adjustment

27. When a dealer receives in any year any amount, due to price variation which would have been in his turnover for any previous tax period if it had been received by him during that period, it shall be deemed to be the turnover during the tax period in which such amount was received and he shall, during the tax period in which such amount was received, include such amount in the return separately for the tax period and the assessing authority shall proceed to assess the tax payable on such amount as his turnover of that tax period.

Assessment not voidable

28. No assessment or other proceedings purporting to be made, issued or executed under this Act, shall be, --

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect or omission therein, if it is in substance and effect, in conformity with this Act or the rules made thereunder and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

Assessment of legal representative

29. Where a dealer dies, his executor, administrator, or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer, provided that in respect of any tax or fee assessed as payable by any such dealer or any tax or fee which would have been payable by him under this Act if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

Assessment of escaped turnover

30. (1) Where, for any reason, the whole or any part of turnover of business of a dealer has escaped assessment to tax, the assessing authority may, subject to the provisions of sub-section (3), at any time within a period of five years from the expiry of the year to which the return under this Act relates, determine to the best of its judgment the turnover which has escaped assessment and assess the tax payable on such turnover

after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity to show cause against such assessment.

(2) Where, for any reason, the whole or any part of the turnover of business of a dealer has been assessed at a rate lower than the rate at which it is assessable, the assessing authority may, at any time within a period of five years from the expiry of the year to which the return under this Act relates, re-assess the tax due after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity to show cause against such re-assessment.

(3) In making an assessment under sub-section (1), the assessing authority may, if it is satisfied that the escape from assessment is due to non-disclosure of assessable turnover by the dealer, direct the dealer to pay, in addition to the tax assessed under sub-section (1), a penalty of double the amount of the tax so assessed:

Provided that no penalty shall be imposed under this section unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

(4) The powers under sub-section (1) or sub-section (2) may be exercised by the assessing authority even though the original order of assessment, if any, passed in the matter has been the subject matter of an appeal or revision.

(5) In computing the period of limitation for assessment or re-assessment under this section, the time during which the proceedings for assessment or re-assessment remained stayed under the orders of a Civil Court or other authority shall be excluded.

Power of Government to notify reductions of tax

31. The Government may, by notification, reduce the tax payable under +[omitted] section 14 of this Act in respect of any goods, subject to such restrictions and conditions as may be specified in the notification.

Liability to tax persons not observing restrictions and conditions notified under section 31

32. If any restriction or condition notified under section 31 is contravened or is not observed by a dealer, the sales or purchases of such dealer may, with effect from the commencement of the year in which such contravention or non-observance took place, be assessed to tax or taxes under the appropriate provisions of this Act as if the provisions of the notification under section 31 did not apply to such sales or purchases.

+ Deemed to have been omitted w.e.f 1.4.2009 vide Act 6 of 2009.

Liability of firms

33.(1) Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax or any amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax or other amount remaining unpaid at the time of his retirement and any tax or other amount due up to the date of retirement, though un-assessed.

Payment of tax when Hindu undivided family, firm or other association of persons is partitioned or dissolved

34. Where a dealer is a Hindu undivided family, firm, or other association of persons, and such family, firm or association is partitioned, or dissolved, as the case may be, --

(a) the tax payable under this Act by such family, firm, or association of persons for the period up to the date of such partition or dissolution shall be assessed as if no such partition or dissolution had taken place and all the provisions of this Act apply accordingly; and

(b) every person who was at the time of such partition, or dissolution a member or partner of the Hindu undivided family, firm or association of persons and the legal representative of any such person who is deceased shall, notwithstanding such partition or dissolution, be jointly and severally liable for the payment of the tax, penalty or other amount payable under this Act, by such family, firm or association of persons, whether assessment is made prior to or after such partition or dissolution.

CHAPTER – V

COLLECTION AND RECOVERY

Collection of tax by dealer

35. No person who is not a registered dealer shall collect any amount by way of tax under this Act; nor shall a registered dealer make any such collection except in accordance with such conditions and restrictions, if any, as may be prescribed.

Levy of penalty in certain cases

36. If any person after purchasing any goods in respect of which he has made a declaration fails without reasonable excuse to make use of the goods for the declared

purpose, the assessing authority may, after giving him a reasonable opportunity of being heard, by order in writing impose upon him by way of penalty, double the amount of tax payable on the turnover relating to the sale of such goods at a rate which is equal to the rate prescribed in the Schedules less the tax already paid on such turnover:

Provided that no prosecution for an offence under section 59 shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

Payment and recovery of tax

37. (1) The tax assessed under this Act shall be paid in such manner and in such instalments, if any, and within such time as may be specified in the notice of assessment, not being less than twenty-one days from the date of service of the notice. If default is made in paying according to the notice of assessment, the whole of the amount outstanding on date of default shall become immediately due and shall be a first charge on the properties of the dealer liable to pay the tax under this Act.

(2) Where during the pendency of any proceedings under this Act, or after the completion thereof, any dealer or person creates a charge on, or parts with the possession by way of sale, mortgage, gift, exchange, or any other mode of transfer whatsoever, of any of his assets in favour of any other person, with the intention to defraud the revenue, such charge or transfer shall be void as against any claim in respect of any tax, or any other sum payable by the dealer as a result of completion of such proceedings or otherwise:

Provided that, such charge or transfer shall not be void if it is made,-

(a) for adequate consideration and without notice of the pendency of such proceeding or as the case may be without notice of such tax or any other sum payable by such dealer; or

(b) with the previous permission of the assessing authority.

(3) Any tax assessed, any fee or any other amount due under this Act from a dealer or person +[omitted], may, without prejudice to any other mode of collection be recovered, --

(a) as if it were an arrear of land revenue under the law for the time being in force in that behalf; or

(b) on application to any Judicial Magistrate, by such Judicial Magistrate as if it were a fine imposed by him.

++["Provided that no proceedings for such recovery shall be taken or continued as long as he has, in regard to the payment of such tax, other amount or free, as the case may be, complied with an order by any of the authorities to whom the dealer or person has appealed or applied for revision, under sections 45,47, 49, 50, or 51."]

(4) If the tax assessed under this Act or any instalment thereof is not paid by any dealer or person within the time specified therefor in the notice of assessment or in the order permitting payment in instalment, the dealer or person shall pay by way of penalty, in addition to the amount due, a sum equal to two per cent of such amount for each month or part thereof after the date specified for its payment.

(5) If any person collects any amount by way of tax and his turnover for the year falls short of the taxable limit specified, the sum so collected shall be remitted to the Government and forfeited wholly.

Recovery of penalty

38. Any penalty payable under this Act shall be deemed to be tax under this Act for the purposes of collection and recovery and shall be without prejudice to the institution of any proceeding for an offence under this Act, or for the recovery of the entire amount remaining unpaid under this Act.

Further mode of recovery

39. (1) The assessing authority may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the assessing authority) require any person from whom money is due or may become due to the dealer or any person who holds or may subsequently hold money for or on account of the dealer to pay to the assessing authority, either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax or fee or the whole of the money when it is equal to or less than the arrears of tax or fee.

(2) The assessing authority may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing authority shall constitute good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person making any payment to the dealer after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the payment made or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the dealer, or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof to the assessing authority.

(6) Any amount which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrear of land revenue.

Explanation. - For the purposes of this section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

Provisional attachment of property to protect revenue in certain cases

40. (1) Where, during the pendency of any proceeding for the assessment of any turnover or for the assessment or reassessment of any turnover which has escaped assessment, an officer not below the rank of the Assistant Commercial Tax Officer, who is empowered to perform the function of Collector under the Puducherry Revenue Recovery Act, 1970 (Act No. 14 of 1970) is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, may, by order in writing, attach provisionally in the prescribed manner any property belonging to the dealer or person:

Provided that the stock-in-trade in the case of a trader and plant and machinery and inputs in the case of a manufacturer shall not be liable for provisional attachment.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1) of this section:

Provided that the officer who is exercising powers under sub-section (1) may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years.

Recovery of tax where business of dealer is transferred

41. Where the ownership of the business of a dealer liable to pay tax or other amount is transferred, any tax or other amount payable under this Act in respect of such business and remaining unpaid at the time of the transfer and any tax or other amount due up to the date of transfer though un-assessed, may, without prejudice to any action that may be taken for its recovery from the transferor, be recovered from the transferee as if he was the dealer liable to pay such tax or other amount:

Provided that the recovery from the transferee of the arrears of taxes due for the period prior to the date of the transfer shall be limited to the value of the assets he obtained by transfer.

Special powers for recovery

42. For the purposes of recovery of any amount due under this Act, any Joint Commissioner of Commercial Taxes, Deputy Commissioner of Commercial Taxes or Assistant Commissioner of Commercial Taxes shall have the powers of a Collector under the Puducherry Revenue Recovery Act, 1970, (Act No. 14 of 1970) and shall follow for recovering such amounts the procedures laid down in that Act.

Withholding issue of statutory forms and seizure of goods

43. (1) Notwithstanding that any recovery proceeding initiated under this Act, the Assessing Officers or any other officers authorised in this regard, shall have power to withhold issue of statutory or other declaration forms to a dealer from whom any tax or penalty, interest or any other amount payable under this Act is due.

(2) The Assessing Officer or any other authorised officer empowered in this regard shall also have the power to seize and confiscate goods being transported by a dealer from whom tax, penalty, interest or any other amount payable under this Act is due.

CHAPTER - VI

APPEAL AND REVISION

Appellate Tribunal

44. (1) The Government shall appoint a Judicial Officer who is otherwise qualified to be appointed as a District and Sessions Judge to be the Appellate Tribunal and to exercise the functions conferred under the Act:

Provided that the Government may entrust the duties of the Appellate Tribunal to the Principal District and Sessions Judge, Puducherry.

(2) The Appellate Tribunal shall, with the previous sanction of the Government, make, by notification, regulations consistent with the provisions of this Act and the rules made thereunder for regulating the procedure and the disposal of its business.

Powers of revision of Commissioner

45. (1) Any person objecting to an order passed or proceeding recorded under this Act, for which an appeal has not been provided for in section 47 may, within a period of thirty days from the date on which a copy of the order or proceeding was served on him in the manner prescribed, file an application for revision of such order or proceeding to the Commissioner:

Provided that the Commissioner may admit an application for revision presented after the expiration of the said period of thirty days, but within a period of ninety days, if he is satisfied that the applicant had sufficient cause for not presenting the application within the period of thirty days:

Provided also that no application shall be entertained under this sub-section unless it is accompanied by a satisfactory proof of the payment of the tax admitted by the applicant to be due or of such instalment thereof as might have become payable, as the case may be, and fifty per cent of the difference of the tax assessed by the assessing authority and the tax admitted by the applicant.

(2) An application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On admitting an application for revision, the Commissioner may call for and examine the record of the order or proceeding against which the application has been preferred and may make such inquiry or cause such enquiry to be made and, subject to the provisions of this Act, pass such order thereon as he thinks fit within ninety days from the date of admission of revision application.

(4) Notwithstanding that an application has been preferred under sub-section (1), the tax, fee or other amount shall be paid in accordance with the order or proceeding against which the application has been preferred:

Provided that the Commissioner may, in his discretion, give such directions as he thinks fit, in regard to the payment of such tax, fee or other amount, if the applicant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

(5) No order under this section shall be passed unless both the applicant and the authority whose order has been disputed have had a reasonable opportunity of being heard.

Special powers of Secretary

46. (1) The Secretary may, of his own motion, call for and examine an order passed or proceeding recorded by an authority under this Act and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act may pass such order thereon as he thinks fit.

(2) The Secretary shall not pass any order under sub-section (1) if, --

- (a) the time for appeal or revision against that order has not expired; or
- (b) the order has been made the subject of an appeal to the Appellate Tribunal or of a revision in the High Court; or
- (c) more than four years have expired after the passing of the order; or
- (d) that is prejudicial to the revenue.

(3) No order under this section shall be passed unless the concerned person and the authority whose order is under revision have had a reasonable opportunity of being heard.

(4) In computing the period referred to in clause (c) of sub-section (2), the time during which the proceedings before the Secretary remained stayed under the orders of a Civil Court or other competent authority will be excluded.

Appeal to the Appellate Assistant Commissioner

47. (1) Any person objecting to an order passed by the appropriate authority under section 17, section 24, section 25, section 26, section 27, section 29, sub-section (1), sub-section (2) or sub-section (3) of section 30, section 32, section 36 section 41, sub-section (4) of section 55 or sub-section (2) of section 58 or sub-section (3) of section 80 may, within a period of thirty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the Appellate Assistant Commissioner having jurisdiction:

Provided that the Appellate Assistant Commissioner may admit an appeal presented after the expiration of the said period of thirty days, but within a further period of thirty days, if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the period of thirty days:

Provided also that in the case of an order under section 17, section 24, section 25, section 26, section 27, section 29, sub-section (1), sub-section (2) or sub-section (3) of section 30, no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such instalments thereof as might have become payable, as the case may be and twelve and half percent of the difference of the tax assessed by the Assessing Authority and the tax admitted by the appellant:

Provided further that the Appellate Assistant Commissioner may, if he thinks fit for reasons to be recorded in writing and subject to furnishing of such security as he deems fit, admit an appeal against such order with part payment or without any payment of the disputed amount of tax required under this sub-section with a view to mitigate undue hardship which is likely to be caused to the person if the payments of such disputed amount is insisted on.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) In disposing of an appeal, the Appellate Assistant Commissioner may, after giving the appellant a reasonable opportunity of being heard,

(a) in the case of an order of assessment-

- (i) confirm, reduce, enhance or annul the assessment or the penalty or both; or
- (ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed, or
- (iii) pass such other orders as he may think fit; and

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that at the hearing of any appeal against an order of the assessing authority such assessing authority shall have the right to be heard either in person or by a representative.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against, the Appellate Assistant Commissioner may authorise the assessing authority to amend such order accordingly and on such amendment being made, any amount overpaid by the appellant shall be refunded to him without interest, or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(5) Notwithstanding that an appeal has been preferred under sub-section (1) the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred:

Provided that the Appellate Assistant Commissioner may, in its discretion, give such directions as he thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to his satisfaction, in such form and in such manner as may be prescribed.

Power to transfer appeals

48.(1) The Secretary may, either on his motion or on application, for reasons to be recorded in writing, transfer an appeal pending before an Appellate Assistant Commissioner to another Appellate Assistant Commissioner.

(2) The Secretary may, when exercising the powers under sub-section (1), direct the stay of further proceedings before an Appellate Assistant Commissioner.

(3) No order under this section, adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

Appeal to the Appellate Tribunal

49. (1) Any person objecting to an order passed by the Appellate Assistant Commissioner under sub-section (3) of section 47 or an order passed under the proviso to sub-section (4) of section 77 may, within a period of sixty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the Appellate Tribunal:

Provided that the Appellate Tribunal may admit an appeal presented after the expiration of the said period of sixty days, but within a further period of sixty days, if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the period of sixty days:

Provided further that no appeal filed by any person objecting to an order passed under sub-section (3) of section 47 shall be entertained unless it is accompanied by satisfactory proof of the payment of tax admitted by the appellant to be due or of such instalments thereof as might have become payable, as the case may be, and twenty five percent of difference of the tax as ordered by the Appellate Assistant Commissioner and the tax admitted by the appellant:

Provided also that the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing and subject to furnishing of such security as the Appellate Tribunal may deem fit, admit an appeal against the order of the Appellate Assistant Commissioner with part payment or without any payment of tax as ordered by the Appellate Assistant Commissioner required under this sub-section with a view to mitigate undue hardship which is likely to be caused to the person if the payment of such amount is insisted on.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(3) In disposing of an appeal, the Appellate Tribunal may, after giving the appellant a reasonable opportunity of being heard,

(a) in the case of an order of assessment –

- (i) confirm, reduce, enhance or annul the assessment or penalty or both;
or
- (ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or
- (iii) pass such other orders as it may think fit; and

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that at the hearing of any appeal against an order of the Appellate Assistant Commissioner, the assessing authority shall have the right to be heard either in person or by a representative.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against, the Appellate Tribunal may authorise the assessing authority to amend such order accordingly and on such amendment being made, any amount overpaid by the appellant shall be refunded to him without interest, or the further amount of tax, if any, due from him shall be collected in accordance with provisions of this Act, as the case may be.

(5) Notwithstanding that an appeal has been preferred under sub-section (1) the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred:

Provided that the Appellate Tribunal may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed:

Provided further that where an order of stay is made in any proceeding relating to an appeal filed under sub-section (1), the Appellate Tribunal shall dispose of the appeal within a period of ninety days from the date of such order:

Provided also that if such appeal is not disposed of within the period specified in the above proviso, the stay order shall, on the expiry of that period, stand vacated and no further stay shall be granted.

(6) (a) The appellant or the respondent may apply for review of any order passed by the Appellate Tribunal under sub-section (3) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made:

Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed and where the application is preferred by any party other than a departmental authority it shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(7) Except as provided in the rules made under this Act, the Appellate Tribunal shall not have power to award costs to either of the parties to the appeal or review.

(8) Every order passed by the Appellate Tribunal under the third proviso to sub-section (1), sub-section (3), proviso to sub-section (5) and sub-section (6) shall be communicated in the manner prescribed to the appellant, the respondent, the authority from whose order the appeal was preferred, the Commissioner if he is not such authority, and the Secretary.

(9) Every order passed by the Appellate Tribunal under sub-section (3) shall, subject to the provisions of sub-section (6) and section 51 be final.

Appeal to the High Court

50. (1) Any person objecting to an order passed by the Commissioner under section 45 or by the Secretary under section 46 may, within a period of sixty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the High Court:

Provided that the High Court may admit an appeal preferred after the expiry of the aforesaid period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) In disposing of an appeal, the High Court may, after giving the appellant a reasonable opportunity of being heard, --

(a) in the case of an order of assessment-

- (i) confirm, reduce, enhance, or annul the assessment or penalty or both;
or
- (ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or
- (iii) pass such other orders as it may think fit; and

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that at the hearing of any appeal the respondent shall have the right to be heard either in person or by a representative.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against, the High Court may authorise the respondent to amend such order accordingly and on such amendment being made, any amount over paid by the appellant shall be refunded to him without interest, or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(5) Every order passed in appeal under this section shall be final.

(6) Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the appeal has been preferred:

Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

(7) (a) The appellant or respondent may apply for review of any order passed by the High Court under sub-section (3) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made.

(b) The application for review shall be preferred within such time and in such manner as may be prescribed, and shall, where it is preferred by the appellant, be accompanied by a fee of one hundred rupees.

Revision by High Court

51. (1) Within sixty days from the date on which a copy of the order under sub-section (3) of section 49 is served in the manner prescribed, any person who objects to such order or the Commissioner or any other authority as may be prescribed may prefer a petition to the High Court on the ground that the Appellate Tribunal has either decided erroneously or failed to decide any question of law:

Provided that the High Court may admit a petition preferred after the period of sixty days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within the said period.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, where it is preferred by any party other than the Commissioner or other authority prescribed in this behalf be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard.

(4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal, with the opinion of the High Court on the question of law raised or pass such order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter under clause (a) with its opinion on the question of law raised, the Appellate Tribunal shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4) the High Court may, if it considers it necessary so to do remit the petition to the Appellate Tribunal, and direct it to return the petition with its finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the revision has been preferred:

Provided that the High Court may, in its discretion, give such direction as it thinks fit in regard to the payment of the tax before the disposal of the petitions, if the petitioner furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

(7) If as a result of the petition any change becomes necessary in such assessment, the High Court may direct the assessing authority to amend the assessment accordingly, and on such amendment being made, any amount overpaid by the assessee shall be refunded to him without interest, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(8) (a) The petitioner or the respondent may apply for review of any order passed by the High Court under clause (a) of sub-section (4) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made.

(b) The application for review shall be preferred within such time, and in such manner as may be prescribed, and shall where it is preferred by any party other than the Commissioner or the prescribed authority be accompanied by a fee of one hundred rupees.

(9) In respect of every petition or application preferred under sub-section (1), or clause (a) of sub-section (8), the costs shall be at the discretion of the High Court.

**Petitions, applications and appeals to High Court to be heard
by a Bench of not less than two judges**

52.(1) Every appeal preferred to the High Court under section 50 and every petition under section 51 shall be heard by a Bench of not less than two judges.

(2) Where an appeal is heard by a Bench of two or more judges, the appeal shall be decided in accordance with the opinion of such judges or of the majority (if any) of such judges.

(3) Where there is no such majority, which concurs in a judgement varying or reversing the order appealed from, such order shall be confirmed:

Provided that where the Bench hearing the appeal is composed of two judges and judges composing the Bench differ in opinion on a point of law, they may state the point of law upon which they differ and the appeal shall then be heard upon that point only by one or more other judges of the High Court and such point shall be decided according to the opinion of the majority, if any, of the judges who have heard the appeal including those who first heard it.

CHAPTER – VII
RECORDS AND INVESTIGATION
Maintenance of true and correct accounts and records by dealers

53. Every person registered under this Act, every dealer liable to get himself registered under this Act, and every other dealer who is required so to do by the prescribed authority by notice served in the prescribed manner shall keep and maintain in relation to his business true and correct accounts and such other records as may be prescribed in any of the languages specified in the Eighth Schedule to the Constitution, or in English, showing such particulars as may be prescribed; and different particulars may be prescribed for different classes of dealers.

Accounts to be audited by Chartered Accountants or Cost Accountants

54. Every dealer whose total turnover in a year exceeds rupees fifty lakhs shall get his accounts audited by Chartered Accountants or Cost Accountants and shall submit a copy of the audited statement of accounts and certificate in the manner prescribed.

**Powers to order production of accounts and
powers of entry, inspection, etc.**

55. (1) Any officer empowered by the Commissioner in this behalf may, for the purposes of this Act, require any dealer to produce before him the accounts, registers, records and other documents and to furnish any other information relating to his business.

(2) All accounts, registers, records and other documents maintained by a dealer in the course of his business, the goods in his possession and his offices, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such officer:

Provided that no residential accommodation not being a place of business-*cum*-residence shall be entered into and searched by such officer except on the authority of a search warrant issued by a Judicial Magistrate having jurisdiction over the area, and all searches under this sub-section shall, so far as may be, be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(3) If any such officer has reason to suspect that any dealer is attempting to evade the payment of any tax, fee or other amount due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers, records or other documents of the dealer as he may consider necessary, and shall give the dealer a receipt for the same. The accounts, registers, records and documents so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act:

Provided that such accounts, registers and documents shall not be retained for more than thirty days at a time except with the permission of the next higher authority.

(4) Any such officer shall have power to seize and confiscate any goods which are found in any office, shops, godowns, vessel, vehicle, or any other place of business or any building or place of the dealer, but not accounted for by the dealer in his accounts, registers, records and other documents, maintained in the course of his business:

Provided that before ordering the confiscation of goods under this sub-section, the officer shall give the person affected an opportunity of being heard and make an inquiry in the prescribed manner:

Provided also that the officer ordering the confiscation shall give the person affected option to pay *in lieu* of confiscation ---

(a) in cases where the goods are taxable under this Act, in addition to the tax recoverable, a sum of money not exceeding one thousand rupees or double the amount of tax recoverable, whichever is greater; and

(b) in other cases, a sum of money not exceeding one thousand rupees.

Establishment of check-post or barrier and inspection of goods while in transit

56. If the Government considers that with a view to prevent or check evasion of tax under this Act, in any place or places in the Union territory, it is necessary so to do, it may, by notification, direct the setting up of a check-post or the erection of a barrier or both, at such place or places as may be notified.

Possession and submission of certain records by owners of goods vehicle and boats

57. (1) In case of goods vehicle the owner or other person in charge of a goods vehicle shall carry with him ---

- (i) bill of sale or delivery note;
- (ii) goods vehicle record or trip sheet; and
- (iii) such other documents as may be prescribed.

(2) In case of boats the owner or other person in charge of boat shall carry with him -

- (i) bill of sale or delivery note;
- (ii) log book; and
- (iii) such other documents as may be prescribed.

Powers of check post officers

58. (1) At every check-post or barrier mentioned in section 56 or at any other place when so required by any officer empowered by the Government in this behalf, the driver or any other person in charge of any vehicle or boat shall stop the vehicle or boat, as the case may be, and keep it stationary as long as may reasonably be necessary, and allow the officer-in-charge of the check-post or barrier, or the officer empowered as aforesaid, to examine the contents in the vehicle or boat and inspect all records relating to the goods carried, which are in the possession of such driver, or other person in charge, who shall, if so required, give his name and address and the name and address of the owner of the vehicle or boat as well as those of the consignor and the consignee of the goods.

(2) The officer-in-charge of the check-post or barrier, or the officer empowered as aforesaid shall have powers, --

- (a) to detain the goods vehicles or the goods;
- (b) to direct the driver or any other person to furnish any security;
- (c) to collect the tax payable and to levy a penalty of three times the amount of tax payable;
- (d) to seize and confiscate and dispose of any goods in accordance with the rules made under this Act,

where there is a reason to believe that the goods are not properly accounted for, in the documents accompanying the goods or where the identity of consignor or consignee is not clearly ascertainable from the documents accompanying the goods.

CHAPTER - VIII

OFFENCES AND PENALTIES

Offences and penalties

59. (1) Any person who, ---

- (a) being an assessee under this Act, fails to submit a return as required by the provisions of this Act, or the rules made thereunder, or
 - (b) being a person obliged to register himself as a dealer under this Act, does not get himself registered, or
 - (c) being a person obliged to obtain a permit under this Act, does not obtain such permit, or
 - (d) collects any amount by way of tax under this Act, in contravention of the provisions of section 35,
- shall on conviction by a Judicial Magistrate, not below the rank of a Second-Class Judicial Magistrate, be liable to a fine of rupees one thousand.

(2) Any person who, ---

- (a) wilfully submits an untrue return, or, not being already an assessee under this Act, fails to submit a return as required by the provisions of this Act, or the rules made thereunder, or
 - (b) fraudulently evades the payment of any tax assessed on him or any fee or other amount due from him under this Act, or
 - (c) dishonestly objects to a notice issued to him under sub-section (1) of section 39, or
 - (d) wilfully acts in contravention of any of the provisions of this Act, or
 - (e) after purchasing any goods in respect of which he has made a declaration as prescribed but fails without reasonable excuse to make use of goods for the declared purpose,
- shall on conviction by a Judicial Magistrate of the First Class, be liable to a fine of rupees two thousand and in the event of a second or subsequent conviction, to simple imprisonment which may extend to six months or a fine of rupees three thousand or both.

(3) Any person who, ---

- (a) prevents or obstructs inspection, entry, search or seizure by an officer empowered under section 55, or

(b) prevents or obstructs inspection of any goods vehicle, or boat carrying goods, by an officer-in-charge of a check post or barrier or any officer empowered under section 58,

shall on conviction, be liable to simple imprisonment which may extend to six months or a fine of rupees five thousand or both.

Offences by companies

60. (1) Where an offence under this Act or the rules made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or the rules made thereunder has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section, -

(a) 'Company' means a body corporate and includes a firm or other association of persons or body of individuals whether incorporated or not; and

(b) 'Director' in relation to a firm means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

Improper use of taxpayer identification number

61. A person who knowingly uses a false tax payer identification number, including the tax payer identification number of another person with a view to evade or avoid or shift the liability to pay the tax in a return or other document prescribed or used for the purposes of this Act, is guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year, or both.

Composition of offences

62. (1) The prescribed authority may, whether on application made to it in this behalf or otherwise, give any person who has committed or is reasonably suspected of, having committed an offence under this Act, or any rule framed under this Act, option to pay within a specified period by way of composition of such offence,-

(a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding five thousand rupees or double the amount of the tax recoverable, whichever is greater; and

(b) in other cases, a sum of money not exceeding five thousand rupees.

(2) Where the prescribed authority compounds an offence under this section, he shall serve an order on the dealer who committed the offence specifying, -

(a) the offence committed; and

(b) the sum of money to be paid and due date for payment, and such order shall be final and not subject to any appeal.

(3) On payment of such sum of money and the tax, if any, recoverable under this Act, no prosecution for an offence under this Act shall be instituted in respect of the same offence on which a composition has been allowed under this section.

(4) Where the prescribed authority, on application made under sub-section (1), passes an order refusing to allow composition under this section, it shall record in writing the reasons therefor and furnish to the applicant on request a brief statement of the same unless in any case the prescribed authority is of the opinion that it will not be in the public interest to furnish such statement.

Cognizance of offences, etc.

63.(1) No court shall take cognizance of any offence under this Act or rules made thereunder except with the previous sanction of the Commissioner.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) all offences punishable under this Act or the rules made thereunder shall be cognizable and bailable.

Investigation of offences

64. (1) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Act.

(2) Every Officer or person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) upon an officer-in-Charge of a police station for the investigation of a cognizable offence.

**Chapter XXXVI of the Code of Criminal Procedure, 1973,
not to apply to certain offences**

65. Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall apply to-

- (a) any offence punishable under this Act; or
- (b) any other offence which under the provisions of that Code may be tried along with such offence;

and every offence referred to in clause (a) or clause (b) above may be taken cognizance of by the Court having jurisdiction under this Act as if the provisions of that Chapter were not enacted.

Assessment, etc., not to be questioned in prosecution

66. (1) The order of assessment made under this Act shall be conclusive evidence in any prosecution or other proceedings.

(2) The validity of the assessment of any tax, or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any Criminal Court in any prosecution or other proceeding, whether under this Act or otherwise.

CHAPTER - IX

**MISCELLANEOUS
Bar of certain proceedings**

67. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceedings if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Limitations for certain suits and prosecutions

68. No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Bar of suits and proceedings to set aside or modify assessments except as provided in this Act

69. No suit or other proceedings shall, except as expressly provided by or under this Act, be instituted in any Court to set aside or modify any assessment made under this Act.

Appearance before any authority in proceedings

70. Any person which is entitled to appear before any authority other than the High Court in connection with any proceedings under this Act may be represented before such authority –

- (a) by his relative or a person regularly employed by him, if such relative or person is duly authorised by him in writing in this behalf; or
- (b) by a legal practitioner; or
- (c) subject to such conditions, as may be prescribed, by an accountant or a value added tax practitioner possessing the prescribed qualifications and duly authorised by him in writing in this behalf.

Power to make rules

71.(1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for ---

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) determining the total turnover of a dealer for the purposes of this Act;
- (c) the assessment of tax under this Act, of business which is discontinued or the ownership of which has changed;
- (d) the assessment of tax under this Act, of any Hindu undivided family, firm or other association of persons, where such family, firm or association is partitioned or dissolved;
- (e) the assessment of tax under this Act, of business owned by minors and other incapacitated persons or by persons residing outside the Union territory;

(f) the assessment of a business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator-General, the Official Trustee, or any receiver or manager appointed by or under any order of a Court;

(g) the administration of the check-post set up and barriers erected under this Act and the regulation of the work therein;

(h) the disposal of goods confiscated or acquired under this Act and of the proceeds thereof;

(i) compelling the submission of return;

(j) the form of, and the particulars to be contained in, any declaration to be given under this Act, the authority from whom, the conditions subject to which and the fees subject to payment of which any form of declaration prescribed may be obtained, the manner in which the form shall be kept in custody and records relating thereto maintained, the manner in which any such form may be used and any such declaration may be furnished;

(k) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(l) the circumstances in which and the extent to which, fees paid in pursuance of section 49 may be refunded;

(m) the issue of bills or cash memoranda, the class or classes of dealers who should maintain counterfoils for the same and the particulars to be shown in, and the manner of maintenance of, such counterfoils and the time for which they should be preserved;

(n) the maintenance of purchase bills or accounts of purchases and sales by dealers and the time for which they should be preserved;

(o) the issue of delivery notes in respect of goods delivered or transferred to retail dealers in pursuance of sales effected to them, the form and manner of their issue and the time for which they should be preserved; and

(p) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act.

(3) (a) In making a rule under sub-section (1) or sub-section (2) the Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to one thousand rupees, and where the breach is continuing one, with further fine which may extend to one hundred rupees for every day after the first during which the breach continues.

(b) No Court inferior to that of a Judicial Magistrate of the Second-Class shall inquire into or try any offence consisting of a breach of a rule.

(4) (a) All rules made under this Act shall be published in the Official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall be published in the Official Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(5) Any rule made or any notification issued under this Act may be made or issued so as to be retrospective to any date not earlier than the commencement of this Act.

(6) Every rule made or notification issued under this Act shall, as soon as may be after it is made or issued, be laid before the Legislative Assembly, Puducherry, while it is in session for a total period of fourteen days, which may be comprised in one session or in two or more successive sessions, and, if before the expiry of the session in which it is so laid or the successive sessions aforesaid, the Legislative Assembly makes any modification in the rule or notification or decides that any such rule or notification should not be made or issued, that rule or notification shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Power to summon witnesses and production of documents

72. (1) An assessing authority or an appellate or revising authority (including the Appellate Tribunal) or any officer of the Commercial Taxes Department not lower in rank than an Assistant Commercial Tax Officer shall, for the purposes of this Act, have all the powers conferred on a Court under the law relating to civil procedure for the time being in force, for the purpose of –

- (a) summoning and enforcing the attendance of any person and examining him on oath or affirmation; and
- (b) compelling the production of any document.

(2) Any assessing officer or authorised officer may require any bank or clearing and forwarding house or agency, transporting agency, shipping agency or steamer agency or air cargo agency or courier agency to furnish such information, document or statement for the purpose of any proceedings under this Act.

Power to rectify any error apparent on the face of record

73. (1) An assessing authority or revising authority or the Appellate Tribunal may, at any time within three years from the date of any order passed by it, rectify any error apparent on the face of the record:

Provided that no such rectification which has the effect of enhancing an assessment or any penalty shall be made unless such authority has given notice to the dealer and has allowed him a reasonable opportunity of being heard.

(2) Where such rectification has the effect of reducing an assessment or penalty, the assessing authority shall make refund, if any, which may be due to the dealer.

(3) Where any such rectification has the effect of enhancing an assessment or penalty, the assessing authority shall give the dealer a revised notice of assessment or penalty and thereupon the provisions of this Act, and the rules made thereunder shall apply as if such notice had been given in the first instance.

Prohibition of disclosure of particulars produced before commercial taxes authorities

74. (1) All particulars contained in any statement made, return furnished or accounts, registers, records or documents produced under the provisions of this Act or in any evidence given or affidavit or deposition made, in the course of any proceeding under this Act or in any record of any proceedings relating to the recovery of a demand, prepared for the purposes of this Act shall be treated as confidential and shall not be disclosed.

(2) Nothing contained in sub-section (1) shall apply to the disclosure of any such particulars –

(i) for the purpose of prosecution under the Indian Penal Code (Central Act 45 of 1860) or under this Act in respect of any such statement, return, accounts, registers, records, documents, evidence, affidavit or deposition; or

(ii) to any person enforcing the provisions of this Act, where it is necessary to disclose the same to him for purposes of this Act or the Indian Penal Code (Central Act 45 of 1860);

(iii) occasioned by the lawful employment under this Act of any process for the recovery of any demand; or

(iv) to a Civil Court in any suit to which the Government are party and which relates to any matter arising out of any proceeding under this Act; or

(v) occasioned by the lawful exercise by a public servant of his powers under the law relating to stamp duty for the time being in force to impound or otherwise collect the stamp duty on an insufficiently stamped document; or

(vi) to an officer of –

(a) the Government of India; or

(b) the Government of any State in India with which an agreement for disclosure on a reciprocal basis has been entered into by the Government; or

(vii) to an officer subordinate to the Government other than an officer of the Commercial Taxes Department of the Union territory, after obtaining –

- (a) the permission of the Assistant Commissioner, the Deputy Commissioner or the Joint Commissioner of Commercial Taxes as the case may be, where such particulars are to be furnished by an officer subordinate to the Assistant Commissioner of Commercial Taxes; and
- (b) the permission of the Secretary, where such particulars are to be furnished by the Commissioner, the Joint Commissioner, the Deputy Commissioner or by an Assistant Commissioner of Commercial Taxes:

Provided that such particulars shall be furnished under this clause only in exceptional cases and any officer obtaining such particulars shall keep them as confidential, use them as confidential and use them only in the lawful exercise of the powers conferred by or under any enactment.

(3) Nothing contained in this section shall prevent the publication of the final assessment of any party in the prescribed manner.

Power to amend Schedules

75.(1) The Government may, by notification, alter, add to, or cancel any of the Schedules.

(2) Where, a notification has been issued under sub-section (1), there shall, unless the notification is, in the meantime, rescinded, be introduced in the Legislative Assembly of Puducherry, as soon as may be, but in any case during the next session of the Legislative Assembly following the date of the issue of the notification, a Bill on behalf of the Government to give effect to the alteration, addition or cancellation, as the case may be, of the Schedules specified in the notification and the notification shall cease to have effect,---

(a) if a Bill as aforesaid is not introduced in the next session of the Legislative Assembly following the date of issue of the notification, on the date following the date on which such session comes to an end;

(b) if a Bill as aforesaid is so introduced, when such Bill,--

(i) becomes law whether with or without modifications, or

(ii) is rejected by the Legislative Assembly, except as respects things done or omitted to be done before the notification so ceases to have effect:

Provided that if the notification under sub-section (1) is issued when the Legislative Assembly is in session, every endeavour shall be made to introduce such a Bill in the Legislative Assembly during that session:

Provided also that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months except as respect things done or omitted to be done before the notification so ceases to have effect.

(3) All references made in this Act to any of the Schedules shall be construed as relating to the Schedules for the time being amended in exercise of the powers conferred by this section.

Power to remove difficulties

76. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the Legislative Assembly of Puducherry and the provisions of sub-sections (4) and (6) of section 71 shall apply in respect of such order as they apply in respect of a notification issued under this Act.

Clarification and Advance Rulings

77.(1) The Commissioner may, subject to the provisions of this Act, constitute a Union territory level 'Authority for Clarification and Advance Rulings' consisting of, a Chairman in the rank of the +[Deputy Commissioner or Assistant Commissioner] of Commercial Taxes and two other members not below the rank of the Commercial Tax Officer to clarify, in the manner prescribed, any aspect of the implementation of this Act.

(2) No application shall be entertained where the question raised in the application, --

- (i) is already pending before any officer or authority of the Department or Appellate Tribunal or any Court;
- (ii) relates to a transaction or issue which is designed apparently for the avoidance of tax:

Provided that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard and where the application is rejected, reasons for such rejections shall be recorded in the order.

(3) No officer or any other authority of the Department shall proceed to decide any issue in respect of which an application has been made by an applicant under this section and is pending.

(4) The order of the authority shall be binding, --

- (i) on the applicant who had sought clarification;
- (ii) in respect of the goods or transaction in relation to which a clarification was sought; and
- (iii) on all the officers other than the Commissioner,

provided the dealer does not file an appeal before the Appellate Tribunal within sixty days of the ruling in the manner prescribed.

(5) The authority for clarifications shall have power to review, amend or revoke its rulings at any time for good and sufficient cause by giving an opportunity to the affected parties. An order giving effect to such review or amendment or revocation shall not be subject to the period of limitation.

(6) The Commissioner may also refer any matter for opinion of the Authority for clarification without prejudice to his authority.

Ongoing contracts

78. (1) Where a contract or an agreement was concluded between two or more parties before the commencement of this Act and no provision for tax under this Act was made in the contract, the selling dealer shall pay tax due on any sale liable to tax made under such contract after the commencement of this Act.

(2) Where a contract is concluded after the commencement of this Act, and no provision relating to tax was made in the contract, the contract price shall be deemed to include tax due under this Act and the selling dealer shall account for the tax due.

Powers of subordinate officer to be exercised by higher authorities

79. The powers conferred by this Act and the rules made thereunder on any of the officers appointed under section 3 or under any other provision of this Act may also be exercised by any of the officers superior to the officers so empowered, subject to any instructions issued by the Commissioner in this regard.

Refund in certain cases

80.(1) (a) A dealer effecting sales falling under sub-section (1), sub-section (3) or sub-section (5) of section 5 of the Central Sales Tax Act, 1956, (Central Act 74 of 1956) in any tax period shall be eligible for refund of tax, if the input tax credit exceeds the amount of tax payable subject to condition that the exports have been made outside the territory of India. The excess of tax shall be refunded within a period of ninety days on a claim made on a return prescribed to the authority prescribed subject to the provisions of the Act and the rules made thereunder.

(b) In all other cases, the dealer shall make a claim for refund of the excess credit on the return in the form prescribed where such dealer has declared an excess credit for 24 consecutive months or more or in the event of cancellation of registration. The excess of tax shall be refunded within ninety days of the date of receipt of the claim.

(c) The claim for refund under this section shall be made on the return in the form prescribed.

(d) A dealer, who has paid tax in excess of the amount due for a tax period, may claim a credit in the next return.

(2) Where a dealer claiming the refund is required by the authority prescribed to provide accounts or records to substantiate the claim but fails to do so in a manner satisfactory to the authority prescribed within seven days of issue of notice, the time period specified in sub-section (1) for making the refund shall not apply.

(3) Where a claim of a dealer is not accepted either in full or in part, the authority prescribed, shall send a notice in writing, to the dealer.

(4) A dealer aggrieved by the decision under sub-section (3) may file an appeal as prescribed in this Act.

(5) The tax paid under this Act on the purchases made by specialised agencies of the United Nations Organisation and Consulates or Embassies of any country located in the Union territory shall be refunded in such manner as may be prescribed.

(6) Where the authority prescribed is required to refund an amount of tax to a dealer as a result of, --

(a) a decision under section 47 of this Act; or

(b) a decision of the Appellate Tribunal under section 49 of this Act; or

(c) a decision of the High Court under sections 50 and 51 of this Act,

such refund shall be made within a period of ninety days from the date of the receipt of the order.

(7) Where such refund is not made within the stipulated time, the amount of refund shall carry interest at the rate of one per cent per month or part thereof on the amount of the refund for the period of delay.

CHAPTER – X

REPEAL AND SAVING

Repeal and saving

81.(1) The Puducherry General Sales Tax Act, 1967 (Act No. 6 of 1967) is hereby repealed.

(2) Any action or proceedings already initiated under the repealed Act shall continue to be valid till the final disposal.

(3) The provisions of this Act shall not affect any right, title, obligation or liability already acquired, accrued or incurred under the repealed Act, and subject thereto, anything done or any action taken including any appointment, notice, order, in exercise of any power conferred by that Act, shall be valid till specifically rescinded or withdrawn.

(4) Any person liable to pay any tax, fee, penalty, interest or other amount under the repealed Act for any period before the commencement of this Act, shall continue to be liable and such tax, fee, penalty, interest or other amount shall be collected under the provisions of this Act.

(5) All arrears of tax, interest, penalty, fee or other amount due at the commencement of this Act, whether assessed or levied before such commencement or assessed or levied after such commencement, may be recovered as if such tax, penalty, interest, fee or other amount is assessed or levied under the provisions of this Act and all methods of recovery including levy of interest, penalty or prosecution provided under this Act shall apply to such arrears as if such amounts are assessed, levied and demanded in accordance with the provisions of the repealed Act.

(6) Notwithstanding anything contained in sub-sections (1) and (2), -

(a) any application, appeal, revision or other proceedings made or preferred to any officer or authority under the repealed Act and pending at the commencement of this Act shall continue to be heard and disposed by the said officer or authority subject to the same terms and conditions prescribed for this purpose under the repealed Act until such officer is appointed or such authority is constituted under this Act;

(b) any application, appeal, revision or other proceedings arising out of the repealed Act after the commencement of this Act will also continue to be heard and disposed by the officer appointed or authority constituted under the repealed Act subject to the same terms and conditions prescribed for this purpose under the repealed Act until such officer is appointed or such authority is constituted under this Act;

(c) any application, appeal, revision or other proceedings arising under this Act will also be heard and disposed by the officer appointed or authority constituted under the repealed Act subject to the terms and conditions prescribed for this purpose under this Act until such officer is appointed or such authority is constituted under this Act; and

(d) as soon as the officer appointed or the authority constituted under this Act who have jurisdiction to entertain such application, appeal, revision or other proceedings under this Act assumes charge, then all the applications, appeal, revision or other proceedings pending both under the repealed Act and under this Act shall respectively be transferred to them and disposed by them under this Act:

Provided that where such applications, appeal, revision or other proceedings made or preferred to any officer or any authority which have arisen under the repealed Act and transferred under this clause shall continue to be regulated subject to the terms and conditions prescribed for this purpose under the repealed Act until it is finally disposed.

(7) Any order delegating any power under the repealed Act or rules framed thereunder to any person appointed, by any designation, immediately before the commencement of this Act shall continue in force until that order is amended, varied or rescinded.

(8) Any rule, regulations, notifications or orders made or issued under the repealed Act and continuing in force on the day immediately before the commencement of this Act, shall continue to be in force on or after the commencement of this Act in so far as they are not inconsistent with the provisions of this Act.

(9) Notwithstanding anything contained in sub-section (1), the industrial unit existing prior to the commencement of this Act and are exempted from payment of tax due under the repealed Act would continue to be exempt from payment of tax under this Act till the expiry of the period of exemption as prescribed under that Act. Such dealer will not be eligible for the input tax credit until the period of exemption expires. However the input tax credit will be allowed if such dealer opts to pay tax due under this Act. The dealer may exercise this option by submitting in writing before the assessing officer within one month of the commencement of this Act and the option once exercised cannot be revoked.

Repeal of Ordinance 1 of 2007

82. (1) The Puducherry Value Added Tax Ordinance, 2007 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE FIRST SCHEDULE**LIST OF GOODS EXEMPTED**

[See section 20]

Sl.No.	DESCRIPTION OF GOODS
1.	Agricultural implements manually operated or animal driven
2.	Aids and implements used by handicapped persons
3.	All Bangles (except those made of precious metals)
4.	All seeds other than oil seeds
5.	Appalam, vadam, vathal and pappad
6.	Aquatic feed, poultry feed and cattle feed including grass, hay, straw, supplement and husk of pulses, concentrates and additives, wheat bran and deoiled cake
7.	Atta, Maida, Suji, Besan
8.	Betel leaves
9.	Books, periodicals and journals including maps, chart and globe
10.	Bread (Branded or otherwise)
10A	+[Omitted]
11.	Charcoal
12.	<i>Charkha, Ambar Charkha</i> ; handlooms and handloom fabrics and <i>Gandhi Topi</i>
13.	Coarse grains
14.	Coconut fibre
15.	Coconut in shell and separated kernel of coconut other than copra
16.	Condoms and contraceptives
17.	Cotton and silk yarn in hank
18.	Curd, <i>Lussi</i> , butter milk and separated milk
18A	+[Omitted]
19.	Earthen pot
++[20.	Electrical energy sold to the Government of India or consumed by the Government of India or sold for consumption in the construction, maintenance or operation of railway by the Government of India, electrical energy sold or consumed for domestic and agricultural purposes and electrical energy sold to commercial consumers up to 300 units per month].
21.	Firewood except <i>Casurina</i> and <i>Eucalyptus</i> timber
22.	Fishnet, fishnet fabrics, fish seeds, fishing boats, fishing requisites and prawn/shrimp seeds

+ Omitted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

++ Substituted vide Act 7 of 2010 w.e.f 7-11-2009.

23.	Food grains including rice and pulses
24.	Fresh milk and pasteurized milk
25.	Fresh plants, saplings and fresh flowers
26.	Fresh vegetables and fruits
27.	Garlic and ginger
28.	Goods taken under customs bond for re-export after manufacturing or otherwise
+ [28A	<p>Goods which are sold by any dealer, namely:-</p> <ol style="list-style-type: none"> (1) Aluminium utensils (2) Asafoetida (Hing) (3) Bagasse (4) Broomstick (5) Butter without any brand name (6) Camphor (7) Candles (8) Chillies, coriander, turmeric (9) *[Omitted] (10) Energy saving choolas, solar cookers, waste conversion devices for producing energy and wind mill for generation of electricity (11) *[Omitted] (12) Gauze or bandage cloth (13) Goods manufactured by Blacksmiths (14) Gum Benzoin including instant sambrani in all forms, agarbothi, dhoop, dhupakathi, dhuphati (15) *[Omitted] (16) Hand-pumps and its spare parts (17) Hurricane lights, kerosene lamp, Kerosene stoves, lantern, petromax, chimney lamp (18) Jamakalams (19) Kerosene sold through PDS (20) Life saving drugs as notified by the Government (21) *[Omitted] (22) Panchamirtam, namakkati, vibhuthi, sandanam and prasadam. (23) safety matches (24) Saree falls, lace, ribbon (25) Shikaki and shikakai powder (26) Software with complete Tamil or Malayalam or Telugu version (27) Tamarind, tamarind seed and powder (28) UNICEF greeting cards, diaries and calendars (29) Vermicelli (30) Writing instruments, pencils, sharpeners, pens, ballpoint pens, refills, stainless steel nibs, color pencils, blackboards, dusters, geometry boxes and dissection boxes.]
28B	*[Omitted]
29.	Gur and Jaggery
30.	Hand made safety matches

+ Inserted vide Act 1 of 2008 w.e.f 1.7.2007.

* Omitted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

SI.No.	DESCRIPTION OF GOODS
31.	Handicrafts produced and directly sold by self help group
32.	Human blood, blood plasma including blood components
33.	Husk including groundnut husk
34.	Indigenous handmade musical instruments
35.	Items covered by Public Distribution System (except kerosene)
36.	Khadi garments/goods and made-ups as notified by Government
37.	<i>Kumkum, bindi, alta and sindur</i>
38.	Mat
*[39A	Meat, fish, prawn and other aquatic products when not cured or frozen and eggs.
39B	Livestock other than live chicken sold in Mahe Region]
40.	National flag
41.	Non-judicial stamp paper sold by Government Treasuries; postal items like envelope, post card etc., sold by Government; rupee note, when sold to the Reserve Bank of India and cheques, loose or in book form
**[41.A	Notebooks and examination pads].
42.	Organic manure
42A	+++[Omitted].
43.	Plantain leaves
44.	Puffed rice commonly known as 'pori', flattened or beaten rice commonly known as 'aval', parched rice commonly known as 'Khoi', parched paddy or rice coated with sugar or gur commonly known as 'Murki'
45.	Raw wool
45A	+++[Omitted].
46.	Salt (branded or otherwise)
47.	Semen including frozen semen
48.	Silk worm laying, cocoon and raw silk
49.	Slate and slate pencils
+ [50.	Sugar and textile covered under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (Central Act 58 of 1957) and un-manufactured tobacco, bidis and tobacco used in the manufacture of bidis.]
51.	Tapioca
52.	Tender green coconut
53.	+ [Toody and Neera].
54.	Water other than- (i) aerated, mineral, distilled, medicinal, ionic, battery, de-mineralised water, and (ii) Water sold in sealed container
55.	Bio-inputs like Bio-fertilizers, micro-nutrients, plant growth promoters
++ [56.	Liquor including IMFL and imported liquor from foreign countries.]

+ Substituted vide Act 1 of 2008 w.e.f 1.7.2007.

++ Inserted vide Act 1 of 2008 w.e.f 1.7.2007

* Substituted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

** Inserted vide Act 8 of 2010 w.e.f 1.3.2010

+++ Omitted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

THE SECOND SCHEDULE**PART - A****LIST OF GOODS TAXABLE AT THE RATE OF ONE PER CENT
AT EACH POINT OF SALE**

[See section 14 (1)]

Sl.No.	DESCRIPTION OF GOODS
1.	Articles of Gold, silver and precious metals including jewellery made from gold, silver and precious metals.
2.	Gold, silver and other precious metals.
3.	Precious stones.

PART - B**LIST OF GOODS TAXABLE AT THE RATE OF ONE PER CENT
AT THE POINT OF LAST PURCHASE**

[See section 14 (1)]

Sl.No.	DESCRIPTION OF GOODS
1.	Old and beaten gold or silver jewellery.

THE THIRD SCHEDULE**PART - A****LIST OF GOODS *[TAXABLE AT THE RATE OF FIVE PER CENT]
AT EACH POINT OF SALE**

[See section 14 (1)]

Sl. No.	DESCRIPTION OF THE GOODS
1.	Acids
2.	Agricultural implements not operated manually or not driven by animal
3.	All equipments for communications such as, Private Branch Exchange (P.B.X.) and Electronic Private Automatic Branch Exchange (E.P.A.P.B.X) etc.
4.	All intangible goods like copyright, patent, replenishment license, etc.
5.	All kinds of bricks including fly ash bricks, refractory bricks and ashphaltic roofing, earthen tiles
6.	All metal castings
7.	All processed fruit, vegetables etc. including fruit jams, jelly, pickle, fruit squash, paste, fruit drink and fruit juice (whether in sealed containers or otherwise)
8.	All types of yarn other than cotton and silk yarn in hank and sewing thread
9.	All utensils including pressure cookers/pans except utensils made of precious metals
10.	Aluminium conductor steel reinforced (A.C.S.R.)
11.	Aluminium, aluminium alloys, their products (including intrusions) not elsewhere mentioned in this Schedule or in any other schedule
12.	Animal Hair – but to be a part of entry of skin & hide or raw wool
13.	Arecanut powder and betel nut
14.	Articles made of rolled gold and imitation gold including imitation jewellery
15.	Artificial silk yarn, polyester fibre yarn and staple fibre yarn
16.	+ [Deleted]
17.	Bamboo
18.	Basic chromium sulphate, sodium bichromate, bleach liquid
19.	Bearings
20.	Bed sheet, pillow cover and other made-ups

+ Deleted vide Act 1 of 2008 w.e.f 1.7.2007.

* Substituted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

Sl. No.	DESCRIPTION OF THE GOODS
21.	Beedi leaves
22.	Beltings
23.	Bicycles, tri-cycles, cycle rickshaws and parts, tyres and tubes thereof
24.	Rodenticide, insecticide and weedicide
25.	Bio-mass briquettes
26.	Bitumen
27.	Bone meal
28.	Buckets made of iron and steel, aluminium, plastic or other materials (except precious materials)
29.	Bulk drugs
30.	+ [Deleted]
31.	Capital goods
32.	Castor oil
33.	Centrifugal, mono-bloc and submersible pump sets and parts thereof
34.	Chemical fertilizers, pesticides, weedicides, insecticides
35.	Clay including fire clay, fine china clay and ball clay
36.	Coal Tar
37.	Coffee beans and seeds, coffee powder and all forms of coffee, cocoa pod, tea including green tea leaf and chicory
38.	Coir and coir products excluding coir mattresses
39.	Combs
40.	Computer stationery
41.	Cottage cheese
42.	Cotton and cotton waste
43.	Crucibles
44.	Cups and glasses of paper and plastics
45.	Declared goods as specified in section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956)
46.	Drugs and medicines including vaccines, syringes and dressings, medicated ointments produced under drugs licence, light liquid paraffin of IP grade, Medical equipment/devices and implants
47.	Dyes, that is to say; (i) Acid dyes (ii) Ahzanees dyes (iii) Bases (iv) Basic dyes (v) Direct dyes (vi) Naphthols (vii) Nylon dyes (viii) Optical whitening agents (ix) Plastic dyes (x) Reactive dyes (xi) Sulphur dyes (xii) Vat dyes (xiii) All other dyes not specified elsewhere in the schedule

Sl. No.	DESCRIPTION OF THE GOODS
48.	+[Deleted]
*[48A.	Edible oil, vegetable oil, oil cake, deoiled cake.]
49.	Electrodes
50.	Embroidery or zari articles, that is to say, (i) imi, (ii) zari, (iii) kasab, (iv) sama, (v) dabka, (vi) chumki, (vii) gota, (viii) sitara, (ix) naqsi, (x) kora, (xi) glass bead, (xii) badla, (xiii) glzal, (xiv) embroidery machines, (xv) embroidery needles.
51.	Exercise book, graph book and laboratory note book
52.	Feeding bottle, nipples
53.	Ferrous and non-ferrous metals and alloys and their scraps; non-metals such as aluminium, copper, zinc and extrusions of those
54.	Fibres of all types and fibre waste
55.	Coal ash, coal boiler ash, coal cinder ash, coal powder, clinker
56.	Fly ash
57.	Fried and roasted grams
58.	Gypsum of all forms and description
59.	+[Deleted]
59(A)	+[Deleted]
*[59B.	Handicrafts].
60.	+[Deleted]
61.	Herb, bark, dry plant, dry root, commonly known as <i>jari booti</i> and dry flower
62.	+[Deleted]
63.	Honey
64.	Hose pipes and fittings thereof
65.	Hosiery goods
66.	Ice
67.	Industrial cables (high voltage cables, PVC or XLPE insulated wires and cables, jelly filled cables, optical fibre cables)
68.	Industrial inputs and packing materials as mentioned in the Appendix
69.	Insulators
70.	IT products including computers, telephone and parts thereof, teleprinter and wireless equipment and parts thereof and cell phones, DVD and CD
71.	Kattha
72.	+[Deleted]
73.	+[Deleted]

+ Deleted vide Act 1 of 2008 w.e.f 1-7-2007.

* Inserted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

Sl. No.	DESCRIPTION OF THE GOODS
74.	Khandsari
75.	Khoya/khoa
76.	Knitting wool
77.	Lac and shellac
78.	Leaf plates and cups
79.	Lignite
80.	Lime, lime stone, products of lime, dolomite and other white washing materials not elsewhere mentioned in this schedule or in any other schedule
81.	Linear alkyl benzene, L.A.B. Sulphonic Acid, Alfa Olefin Sulphonate
*[81A.	Live chicken sold in Mahe Region]
82.	Maize starch, maize gluten, maize germ and oil
*[82A.	Masala Powder]
83.	Metals, alloys, metal powders including metal pastes of all types and grades and metal scraps other than those falling under declared goods
84.	Mixed PVC stabilizer
85.	Moulded plastic footwear, Hawai chappals and straps thereof
86.	Napa Slabs (Rough flooring stones) and shahabad stones
87.	Newars
88.	Nuts, bolts, screws and fasteners
89.	Oil seeds
90.	Old cars
91.	Ores and minerals
92.	(i) Paraffin wax of all grade standards other than food grade standard including standard wax and match wax; (ii) Slack wax
93.	Paper and newsprint
94.	Paper and paper board
95.	Pens of all kinds including refills
96.	Pipes of all varieties including fittings
97.	Pizza Bread
98.	Plastic granules, plastic powder and master batches
99.	Porridge
100.	Printed material including diary, calendar etc. including works contract which are in the nature of printing works
101.	Printing ink excluding toner and cartridges
102.	Processed meat, poultry and fish
103.	Pulp of bamboo, wood and paper
104.	Rail wagons, engines, coaches and parts thereof
105.	Readymade garments

* Inserted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

Sl. No.	DESCRIPTION OF THE GOODS
106.	Refractory monolithic
107.	Renewable energy devices and spare parts including windmill for water pumping ++[omitted]
108.	Rice bran
109.	River sand and grit
110.	Rubber that is to say – (a) raw rubber, latex, dry ribbed sheet of all RMA Grades, tree lace, earth scrap, ammoniated latex, latex concentrate, centrifugal latex, dry crepe rubber, dry block rubber, crumb rubber, skimmed rubber and all other qualities and grades of latex (b) Reclaimed rubber all grades and qualities (c) Synthetic rubber
111.	+[Deleted]
112.	Sewing machine, its parts and accessories
113.	Ship and other water vessels including Non-mechanised boats used by fisherman for fishing
114.	Silk fabrics (subject to abolition of rental agreement) excluding handloom silks unless covered by AED
115.	Skimmed milk powder and UHT milk
116.	Solvent oils other than organic solvent oil
117.	Spectacles, parts and components thereof, contact lens & lens cleaner
118.	*[Spices of all varieties and forms including cumin seed, aniseed].
119.	Sports goods excluding apparels and footwear
120.	Starch
121.	+[Deleted]
122.	Tools
123.	Toys excluding electronic toys
124.	Tractors, Threshers, harvesters and attachments and parts thereof
125.	Transformer
126.	Transmission wires and towers
127.	Umbrella except garden umbrella
128.	<i>Vanaspati</i> (hydrogenated Vegetable Oil)
129.	+[Deleted]
130.	Waste paper
131.	Wet dates
132.	Wooden crates
133.	Writing Ink
134.	+[Deleted].

+ Deleted vide Act 1 of 2008 w.e.f 1.7.2007.

++ Omitted vide Act 1 of 2008 w.e.f 1.7.2007.

* Substituted vide Act 1 of 2008 w.e.f 1.7.2007.

PART - B**LIST OF GOODS +[TAXABLE AT THE RATE OF FIVE PER CENT]
AT THE POINT OF FIRST PURCHASE**

[See section 14 (1)]

Sl. No.	DESCRIPTION OF GOODS
1.	Cotton
2.	Groundnut not falling under Entry 45 of Part-A of this Schedule

PART - C**LIST OF GOODS +[TAXABLE AT THE RATE OF FIVE PER CENT]
AT THE POINT OF LAST PURCHASE**

[See section 14 (1)]

Sl. No.	DESCRIPTION OF GOODS
1.	Raw hides and skins
2.	Wattle bark, avaram bark, konam bark, wattle extract, Quobracho and chestnut extract

*[PART - D

**LIST OF GOODS +[TAXABLE AT THE RATE OF FIVE PER CENT]
AT THE POINT OF LAST SALE**

Sl. No. (1)	Description of goods (2)
1	Electrical energy, other than those specified against Sl. No. 20 of the First Schedule.].

* Inserted vide Act 7 of 2010 w.e.f 7.11.2009

+ Inserted vide Notification published in GO.Ms. No. 68/F2/2011 dt 31.12.2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01.01.2012

THE FOURTH SCHEDULE**PART - A****LIST OF GOODS *[TAXABLE AT THE RATE OF FOURTEEN
AND HALF PER CENT] AT EACH POINT OF SALE**

[See section 14(1) and section 14(3)]

Sl. No.	DESCRIPTION OF GOODS
1.	Goods not specified elsewhere in any of the Schedules

PART - B**LIST OF GOODS TAXABLE AT THE RATE OF *[FOURTEEN
AND HALF PER CENT] AT THE POINT OF LAST PURCHASE**

[See section 14 (1)]

Sl. No.	DESCRIPTION OF GOODS
1.	Sugarcane

* Substituted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

THE FIFTH SCHEDULE

*[PART - A]

**LIST OF GOODS TAXABLE AT THE RATE OF
TWENTY PER CENT AT THE POINT OF FIRST SALE**

[See Section 14 (1)]

Sl. No.	DESCRIPTION OF GOODS
1.	Molasses
2.	Petrol and diesel
3.	Rectified sprit
+4.	Arrack pattai]

*[PART - B

**LIST OF GOODS TAXABLE AT THE RATE OF
TWENTY PER CENT. AT EACH POINT OF SALE**

[See section 14 (1)]

Sl. No.	description of goods
1.	Cigarettes.]

THE SIXTH SCHEDULE**LIST OF GOODS TAXABLE AT THE RATE OF THIRTY FIVE
PER CENT AT THE POINT OF FIRST SALE**

[See section 14 (1)]

Sl. No.	DESCRIPTION OF GOODS
1.	++[deleted]

+ Inserted vide Act 1 of 2008 w.e.f 01.07.2007.

++ Deleted vide Act 1 of 2008 w.e.f 01.07.2007.

* Inserted vide Act 7 of 2009 w.e.f 25.08.2009

APPENDIX

[See Entry No.68 under Part A of the Third Schedule]

*[(The Industrial Inputs and packing materials to be taxed @ 5%)]

S.No.	As provided under the Central Excise Tariff Act, 1985 (Central Act 5 of 1986)		Description
	Heading No.	Sub-Heading No.	
(1)	(2)	(3)	(4)
1.	15.01	...	Animal (including fish) fats and oils, crude, refined or purified
2.	15.06	...	Glycerol, Crude, Glycerol Waters and Glycerol lyes
3.	15.07	...	Vegetables waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured degrass, residues resulting from the treatment of fatty substances or animal or vegetable waxes
4.	15.08	...	Animal or vegetable fats boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, inedible mixtures or preparations of fats and oils of this chapter
5.	17.02	...	Liquid glucose (nonmedicinal)
6.	...	2204.10	Denatured ethyl alcohol of any strength
7.	26.02	...	Manganese ores and concentrates, including ferruginous manganese ores and concentrate with a manganese content of 20% or more, calculated on the dry weight
8.	26.03	...	Copper ores and concentrates
9.	26.04	...	Nickel ores and concentrates
10.	26.05	...	Cobalt ores and concentrates
11.	26.06	...	Aluminium ores and concentrates

* Substituted vide Notification published in GO.Ms. No. 68/F2/2011 dt. 31-12-2011 of the Finance Department, Puducherry and this shall come into force w.e.f 01-01-2012.

(1)	(2)	(3)	(4)
12.	26.07	...	Lead ores and concentrates
13.	26.08	...	Zinc ores and concentrates
14.	26.09	...	Tin ores and concentrates
15.	26.10	...	Chromium ores and concentrates
16.	26.11	...	Tungsten ores and concentrates
17.	26.12	...	Uranium or Thorium ores and concentrates
18.	26.13	...	Molybdenum ores and concentrates
19.	26.14	...	Titanium ores and concentrates
20.	26.15	...	Niobium, Tantalum, Vanadium or Zirconium ores and concentrates
21.	26.16	...	Precious metal ores and concentrates
22.	26.17	...	Other ores and concentrates
23.	26.18	...	Granulated slag (slag sand) from the manufacture of iron or steel
24.	...	2707.10	--- Benzole
25.	...	2707.20	--- Toluole
26.	...	2707.30	Xylole
27.	...	2707.40	Naphthalene
28.	...	2707.50	Phenols
29.	...	2707.60	Creosote oils
30.	...	2710.90	Normal Paraffin
31.	...	2711.12	Butadine
32.	...	2714.10	Bitumen
33.	28.01	...	Fluorine, Chlorine, Bromine and Iodine
34.	28.02	...	Sulphur sublimed or precipitated colloidal sulphur
35.	28.03	...	Carbon (carbon blacks and other forms of carbon not elsewhere specified or included)
36.	28.04	...	Hydrogen, rare gases and other non-metals
37.	28.05	...	Alkali or alkaline-earth metals, rare earth metals, scandium and yttrium whether or not intermixed or inter alloyed mercury
38.	28.06	...	Hydrogen chloride (hydrochloric acid) chlorosulphuric acid
39.	28.07	...	Sulphuric acid and anhydrides thereof, Olcum

(1)	(2)	(3)	(4)
40.	28.08	...	Nitric acid, sulphonitric acids
41.	28.09	...	Diphosphorus, pentoxide, phosphoric acid and polyphosphoric acids
42.	28.10	...	Oxides or boron; boric acids
43.	28.12	...	Halides and halide oxides of non-metals
44.	28.13	...	Sulphides of non-metals; commercial phosphorus trisulphide
45.	28.14	...	Ammonia, anhydrous or in aqueous solution
46.	28.15	...	Sodium hydroxide (caustic soda), potassium hydroxides (caustic potash); peroxides of sodium or potassium
47.	28.16	...	Hydroxide and peroxide of magnesium; oxides, hydroxides and peroxides of strontium or barium
48.	...	2818.10	Aluminium hydroxides
49.	28.19	...	Chromium oxides and hydroxides
50.	28.20	...	Manganese oxides
51.	...	2821.10	Iron oxides and hydroxides
52.	28.22	...	Cobalt oxides and hydroxides, commercial cobalt oxides
53.	28.23	...	Titanium oxide
54.	28.25	...	Hydrazine and hydroxylamine and their inorganic salts, other inorganic bases, other metal oxides, hydroxides and peroxides
55.	28.26	...	Fluorides, fluorosilicates, fluoro aluminates and other complex fluorine salts
56.	28.27	...	Chlorides, chloride oxides and chloride hydroxides, bromides and bromide oxides; iodides and iodide oxides
57.	28.29	...	Chlorates and Perchlorates; bromates and Perbromates, iodates and periodates
58.	28.30	...	Sulphides, Polysulphides
59.	28.31	...	Dithionites and sulphoxylates
60.	28.32	...	Sulphites, Thiosulphites

(1)	(2)	(3)	(4)
61.	...	2833.10	Copper sulphate
62.	28.34	...	Nitrites, nitrates
63.	28.35	...	Phosphinates (hypophosphites), phosphonates (Phosphites); phosphates and polyphosphates
64.	28.36	...	Carbonates, peroxocarbonates (percarbonates), commercial ammonium carbonates containing ammonium carbonate
65.	28.37	...	Cyanides, cyanide oxides and complex cyanides
66.	28.38	...	Fulminates, cyanates and thiocyanates
67.	28.40	...	Borates, peroxoborates (perborates)
68.	...	2841.10	Sodium dichromate
69.	...	2841.20	Potassium dichromate
70.	28.44	...	Radioactive chemical elements and radio active isotopes (including the fissile chemical elements and isotopes) and their compounds; mixtures and residues containing these products
71.	28.45	...	Isotopes other than those of heading No.28.44 compounds, Inorganic or organic of such isotopes, whether or not chemically defined
72.	28.46	...	Compounds, Inorganic or organic of rare earth metals of yttrium or of scandium or of mixtures of these metals
73.	28.48	...	Phosphides, whether or not chemically defined, excluding ferrophosphorus
74.	...	2849.10	Calcium carbide
75.	...	2901.90	Ethylene, Propylene
76.	29.02	...	Cyclic Hydrocarbons
77.	29.03	...	Halogenated derivatives of Hydrocarbons
78.	29.04	...	Sulphonated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated
79.	...	2905.10	Methanol
80.	...	2905.90	Di-Ethylene Glycol, Mono Ethylene Glycol, Tri-Ethylene Glycol, Ethylene Glycol, Heavy Ethylene Glycol

(1)	(2)	(3)	(4)
81.	29.06	...	Cyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives
82.	29.08	...	Halogenated, sulphonated, nitrated or nitrosated derivatives of phenols or phenol alcohols
83.	29.09	...	Ethers, ether-alcohols peroxides, ether peroxides, ketone peroxides (whether or not chemically defined) and their halogenated, sulphonated, nitrated or nitrosated derivatives
84.	29.10	...	Epoxides, Epoxyalcohols, epoxyphenols and epoxyethers, with a three membered ring and their halogenated, sulphonated, nitrated or nitrosated derivatives
85.	...	2910.00	Ethylene Oxide
86.	29.11	...	Acetals and hemiacetals, whether or not with other oxygen function and their halogenated, sulphonated, nitrated or nitrosated derivatives
87.	29.12	...	Aldehydes, whether or not with other oxygen function; cyclic polymers of aldehydes; paraformaldehyde
88.	29.13	...	Halogenated, sulphonated, nitrated or nitrosated derivatives of products of heading No.29.12
89.	29.15	...	Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids, their halogenated, sulphonated, nitrated or nitrosated derivatives
90.	29.16	...	Unsaturated acyclic monocarboxylic acids, cyclic monocarboxylic acids, their anhydrides, halides, peroxides and peroxyacids, their halogenated, sulphonated, nitrated or nitrosated derivatives
91.	29.17	...	Polycarboxylic acids, their anhydrides, halides, peroxides and peroxyacids, their halogenated, sulphonated, nitrated or nitrosated derivatives

(1)	(2)	(3)	(4)
92.	29.18	...	Carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides and peroxyacids, their halogenated, sulphonated, nitrated or nitrosated derivatives
93.	29.19	...	Phosphoric esters and their salts, including lactophosphates, their halogenated, sulphonated, nitrated or nitrosated derivatives
94.	29.20	...	Esters of other inorganic acids (excluding esters of hydrogen halides) and their salts, their halogenated, sulphonated, nitrated or nitrosated derivatives
95.	29.21	...	Amine-function compounds
96.	29.22	...	Oxygen-function amino-compounds
97.	29.23	...	Quaternary ammonium salts and hydroxides; lecithins and other phosphoinolipids
98.	29.24	...	Carboxamide-function compounds; amide-function compounds of carbonic acid
99.	29.25	...	Carboxamide-function compounds (including saccharin and its salts) and imine-function compounds
100.	29.26	...	Nitrile-function compounds
101.	29.27	...	Diazo, Azo-or-azoxy compounds
102.	29.28	...	Organic derivatives of hydrazine or of hydroxylamine
103.	29.30	...	Organo-sulphur compounds
104.	29.31	...	Ethylene Diamine Tetra Acetic Acid, Nitrillo Triacetic Acid and their derivatives
105.	29.32	...	Heterocyclic compounds with oxygen heteroatom(s) only
106.	29.33	...	Heterocyclic compounds with nitrogen heteroatom(s) only
107.	29.34	...	Nucleic acids and their salts; other heterocyclic compounds
108.	29.35	...	Sulphonamides
109.	29.38	...	Glycosides, natural or reproduced by synthesis and their salts, ethers, esters and other derivatives

(1)	(2)	(3)	(4)
110.	29.39	...	Vegetable alkaloids, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives.
111.	29.42	...	Ethylene Diamine Tetra Acetic Acid, Nitrilo Triacetic Acid and their derivatives.
112.	32.01	...	Tanning extracts of vegetable origin; tannis and their salts, ethers, esters and other derivatives
113.	32.02	...	Synthetic organic tanning substances; inorganic tanning substances; tanning preparations, whether or not containing natural tanning substances, enzymatic preparations for pre-tanning.
114.	32.03	...	Colouring matter of vegetable or animal origin (including dyeing extracts but excluding animal black), whether or not chemically defined; preparations based on colouring matter or vegetable or animal origin as specified in Note 2 to this Chapter.
115.	32.04	...	Synthetic organic colouring matter whether or not chemically defined; preparations based on synthetic organic colouring matter as specified in Note 2 to this Chapter; synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, whether or not chemically defined.
116.	32.05	...	Colour lakes; preparations based on colour lakes, as specified in Note 2 to this Chapter
117.	...	3207.10	Glass frit and other glass in the form of powder, granules, or flakes.
118.	...	3207.90	Others
119.	32.11	...	Prepared driers
120.	...	3215.90	Printing ink whether or not concentrated or solid
121.	35.01	...	Casein, caseinates and other casein derivatives, casein glues

(1)	(2)	(3)	(4)
122.	35.07	...	Enzymes; prepared enzymes not elsewhere specified or included
123.	38.01	...	Artificial graphite; colloidal or semi-colloidal graphite; preparations based on graphite or other carbon in the form of pastes, blocks, pastes or other semi-manufacturers
124.	38.02	...	Activated carbon, activated natural mineral products, animal black, including spent animal black
125.	38.04	...	Residual lyes from the manufacture of wood pulp, whether or not concentrated, desugared or chemically treated, including lignin sulphonates, but excluding tall oil of heading No.38.03
126.	38.06	...	Rosin and resin acids, and derivatives thereof, rosin spirit and rosin oils, run gums
127.	38.07	...	Wood tar, wood tar oils, wood creosol, wood naphtha, vegetable pitch, brewers pitch and similar preparations based on rosin, resin acids or on vegetable pitch
128.	38.09	...	Finishing agents, dye carriers to accelerate the dyeing or fixing of dye-stuffs and other products and preparations (for example, dressings and mordants) of a kind used in textile, paper, leather or like industries, not elsewhere specified or included
129.	38.12	...	Prepared rubber accelerators; compound plasticisers for rubber or plastics, not elsewhere specified or included anti-oxidising preparations and other compound stabilizers for rubber or plastics
130.	38.14	...	Reducers and blanket wash/roller wash used in the printing industry

(1)	(2)	(3)	(4)
131.	38.15	...	Reaction initiators, reaction accelerators and catalytic preparations, not elsewhere specified or included
132.	38.17	...	Mixed alkybenzenes and mixed alkynapthalenes, other than those of heading No.27.07 or 29.02
133.	38.18	...	Chemical elements doped for use in electronics, in the form of discs, wafers or similar forms; chemical compounds doped for use in electronics
134.	38.23	...	Industrial monocarboxylic fatty acids, acid oils from refining, industrial fatty alcohols
135.	...	3824.90	Retarders used in the printing industry
136.	...	3901.10	LLDPE/LDPE
137.	...	3901.20	HDPE
138.	39.02	...	Polymers of propylene or of other olefins, in primary forms
139.	...	3904.10	PVC
140.	39.06	...	Acrylic polymers in primary forms
141.	39.07	...	Polyacitals, other polyethers and epoxide resins, in primary forms, polycarbonates, alkyd resins, polyalyesters and other polyesters, in primary forms
142.	...	3907.60	Polyethylene Terephthalate Chips
143.	39.08	...	Polyamides in primary forms
144.	39.09	...	Amino-resins polyphenylene oxide, phenolic resins and polyurethanes in primary forms
145.	39.10	...	Silicones in primary forms
146.	39.11	...	Petroleum resins, coumarone-indene resins, polyterpenes polysulphides, polysulphones and other products specified in Note 3 to this Chapter, not elsewhere specified or included in primary forms

(1)	(2)	(3)	(4)
147.	39.12	...	Cellulose and its chemical derivatives, and cellulose ethers, not elsewhere specified or included in primary forms
148.	39.13	...	Natural polymers (for example, alginic acid) and modified natural polymers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included, in primary forms.
149.	39.14	...	Ion-exchangers based on polymers of heading Nos. 39.01 to 49.13 in primary forms.
150.	39.19	...	Self adhesive plates, sheets, film foil, tape, strip of plastic whether or not in rolls.
151.	...	3920.32	Flexible plain films
152.	39.23	...	Articles for the packing of goods, of plastics; namely, boxes, cases, crates, containers, carboys, bottles, jerry cans and their stoppers, lids, caps of plastics (but not including insulated ware)
153.	40.01	...	Natural Rubber, balata, gutta percha, Guayule, chicle and similar natural gums, in primary forms or in plates, sheets or strips.
154.	40.02	...	Synthetic rubber and factice derived from oils in primary forms or plates sheets or strip; mixtures of any product of heading No.40.01 with any product of this heading, in primary forms or in plates, sheets or strip.
155.	40.03	...	Reclaimed rubber in primary forms or in plates, sheets or strip.
156.	40.05	...	Compounded rubber unvulcanised in primary forms or in pates, sheets or strip, other than the forms and articles of unvulcanised rubber described in heading No.40.06
157.	47.01	...	Mechanical wood pulp, chemical wood pulp, semi-chemical wood pulp and pulps of other fibrous cellulosic materials

(1)	(2)	(3)	(4)
158.	48.19	...	Cartons (including flattened or folded cartons) boxes (including flattened or folded boxes) cases, bags and other packing containers of paper board whether in assembled or unassembled condition.
159.	48.21	...	Paper printed labels and paperboard printed labels.
160.	48.23	...	Paper, self adhesive tape and printed wrappers used for packing
161.	...	5402.42	Partially Oriented Yarn, polyesters texturised yarn and waste thereof
162.	...	5503.20	Polyester staple fibre and polyster staples fibre fill
163.	...	5503.20	Polyester staple fiber waste
164.	...	6304.10	Sacks and bags of a kind used for the packing of goods of jute or of other textile based fibres of heading No.53.03
165.	70.07	...	Carboys, bottles, jars, phials of glass of a kind used for the packing of goods, stoppers, lids and other closures of glass
166.	83.09	...	Stoppers, caps and lids (including crown corks, screw caps and pouring stoppers) capsules for bottles, threaded bungs, bung covers, seals and other packing accessories of base metal.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO 9 OF 2007

The proposal herein relates to enactment of the Puducherry Value Added Tax Bill 2007 in replacement of the Puducherry Value Added Tax Ordinance, 2007 which was promulgated on 2nd June 2007.

2. The Legislative Assembly was not in session and hence it was necessary to take immediate action in regard to introduction of new levy of tax, namely, Value Added Tax in the Union Territory in replacement of the existing single point tax on the sale or purchase of goods. As such the previous instructions of the President of India was obtained in Order No. U- 11018/3/2007-UTL, dated 31st May 2007 of the Government of India, Ministry of Home Affairs, New Delhi, for promulgation of the Puducherry Value Added Tax Ordinance, 2007 as required in the first proviso to clause (1) of article 239 B of the Constitution. Accordingly, the Puducherry Value Added Tax Ordinance, 2007 (No. 1 of 2007) was promulgated by the Administrator of the Union Territory to provide for the levy and collection of value added tax on the sale or purchase of goods in the Union territory of Puducherry and for matters connected therewith or incidental thereto. The Puducherry Value Added Tax Ordinance, 2007 (No. 1 of 2007) has come into force on the 1st day of July 2007 and thereby the Puducherry General tax Act, 1967 (Act No. 6 of 1967) stands repealed from that day onwards.

3. Thus, with the introduction of valued added tax in the Union Territory through the Puducherry Value Added Tax Ordinance, 2007 (No. 1 of 2007), value added tax has been imposed on the sale or purchase of goods at the following rates, namely:-

(1) The First Schedule consists of exempted goods.

(2) The goods mentioned in the Second Schedule consist of special category goods. The special category goods are divided into Part-A and Part-B. The goods listed under Part – A are taxable at 1 per cent at each point of sale. The goods listed under Part-B are taxable at 1 per cent at the point of last purchase.

(3) The goods enumerated in the Third Schedule are divided into Part – A, Part – B and Part – C. The goods listed in Part – A are to be taxed at 4 per cent at sale point. The goods listed under Part – B and Part – C are taxable at 4 per cent at purchase point.

(4) The goods mentioned in the Fourth Schedule are divided into Part – A and Part – B. The goods listed under Part – A are taxable at 12 ½ per cent at each point of sale and those listed under Part – B at 12 ½ per cent at the point of last purchase.

(5) The goods listed under the Fifth Schedule are taxable at 20 per cent at the point of first sale.

(6) The goods mentioned under the Sixth Schedule are taxable at 35 per cent at the point of first sale.

4. The threshold limit of rupees ten lakhs per annum is provided and the revenue neutral rate is fixed at 12 ½ per cent. Apart from this, payment of tax at 0.25 per cent of compounded rate is also provided for which the dealer is not permitted to collect any amount by way of tax from the consumer. In the close of works contract, the rates of tax specified for goods are applicable on the sale value of goods involved in the execution of works contract. However, it is optional for the dealer executing works contract to pay tax at compounded rate at four per cent on seventy per cent of the value of the consideration involved in the works contract.

5. In view of the above, the provisions of the Puducherry Value Added Tax Ordinance, 2007 (No. 1 of 2007) has been converted in the form of a Bill titled as “ The Puducherry Value Added Tax Bill, 2007” proposing for levy and collection of value added tax on the sale or purchase of goods in the Union Territory at the rates as mentioned above with effect from 1st July 2007 in replacement of the said Ordinance. It is also proposed to include in the Bill the consequential provision relating to repeal of the said Ordinance and saving of orders, notifications and rules issued thereunder. The provisions of the Bill shall be deemed to have come into force with effect from the date of commencement of the said Ordinance, that is from 1st July 2007.

6. According to entry 54 of List – II (State List) of the Seventh Schedule to the constitution read with section 18 (1) of the Government of Union Territories Act, 1963 (Central Act No. 20 of 1963), the union

territory Administration is competent to levy value added taxes on these sale or purchase of goods other than newspapers, subject to the provisions of entry 92 – A of List – 1.

7. The Puducherry Value Added Tax Bill, 2007 has therefore been proposed with effect from 1st July 2007 in replacement of the Puducherry Value Added Tax Ordinance, 2007 (No. 1 of 2007).

8. The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

Clause 3 empowers the Government to appoint various authorities under the Act, which requires the technical and other staff for implementing the provisions of the Act. Clause 6 (2) provides that where a dealer does not get himself registered under the Act shall be deemed to have been registered, which requires large scale inspection and assessment. Clause 8 provides for procedure for registration. Sub-clauses (4) and (6) of clause 13 of the Bill provide that an application for permit shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

Chapter – V provides for payment and recovery of tax. Chapter – VII provides for records and investigation. The operation of the above provision contained in this Bill together with all its other provisions, computerization, etc., will involve recurring and non-recurring expenditure of ₹ 3.50 crores in the first year and for the subsequent year at ₹ 3.85 crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clauses (e), (x),(zj),(zl),(zn) of clause 2, sub-clause (1) of clause 6, sub-clauses (2) and (3) of clause 8, clause 9, clause 10, sub-clause (1) and (3) of clause 12, sub-clause (5) of clause 13, sub-clauses (1) and (2) of clause 17, sub-clause (2) of clause 19, clause 20, sub-clause (1) and of clause 24, clause 26 (b), clause 31, clause 35, sub-clause (1) of clause 40, sub-clause (1), (2) and (4) of clause 45, sub-clauses (1), (2) and (5) of clause 47, sub-clauses (1), (2) (5) and (6) (b) of clause 49, sub-clauses (1), (2) and (7) (b) of clause 50, sub-clauses (2) and (8) (b) of clause 51, clause 53, clause 54, sub-clause (4) of clause 55, clause 56, sub-clause (i) (iii) and (2)(iii) of clause 57, sub-clause(1) of clause 64, clause 70 (c), clause 71, sub-clause(1) and (2) (iii) of clause 75, sub-clause(1) of clause 76, and clause 80 of the Bill empower the Government to frame rules for carrying out the purposes of the Act.

(2) The powers delegated under the above provisions relate to matters of detail or procedure and are thus of a normal character.

ADMINISTRATOR'S RECOMMENDATION UNDER SUB-SECTION (1) OF SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963.

(Copy of letter No. 17-1/CM/PS/PA/2007 from Hon'ble Thiru N. Rangasamy, Chief Minister to the Hon'ble Speaker, Legislative Assembly, Puducherry)

The Lieutenant-Governor, Puducherry having been informed of the subject matter of the proposed Puducherry Value Added Tax Bill, 2007 providing for the new levy of value added tax in the place of the single point tax and in replacement of the Puducherry Value Added Tax Ordinance, 2007 (No. 1 of 2007) recommends under sub-section (1) of section 23 of the Government of Union Territories Act, 1963, the introduction in and consideration by the Legislative Assembly of the said Bill.

STATEMENT OF OBJECTS AND REASONS FOR ACT 1 OF 2008

The Puducherry Value Added Tax Ordinance, 2007 (No. 1 of 2007) was promulgated by the Administrator of the Union territory of Puducherry on the 2nd June 2007 and the said Ordinance has come into force with effect from 1st July 2007. Thus, all the financial measures hitherto in force stand modified and the trade and industry in the Union Territory are forced to meet innumerable difficulties consequent on the implementation of the system of value added tax in the Union Territory. In order to remove the financial constraints faced by the trade and industry in the Union Territory and for achieving smooth transition from the single point of levy to multi point levy with effect from 1st July 2007, the goods viz., tobacco other than its exempted species and arrack pattai have been taxed and some of the goods have been allowed exemptions from levy of value added tax by virtue of the notifications issued under the Ordinance.

The above Ordinance has been replaced by the Puducherry Value Added Tax Act, 2007 (Act No. 9 of 2007). By virtue of section 82 of the Puducherry Value Added Tax, 2007 the abovesaid notifications shall be deemed to have been issued under the Act.

The goods viz., tobacco except its exempted species and arrack pattai which are taxed and the goods for which exemptions allowed under the Ordinance with effect from 1st July 2007 have been proposed to be taxed and exemption allowed in the Bill with effect from the 1st day of July 2007 until the necessity therefor ceases, for the sustained growth of the economy of the Union Territory.

In order to give effect of the alterations made through the said notifications a Bill titled "the Puducherry Value Added Tax (Amendment) Bill, 2008" is proposed to be enacted.

The Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 7 OF 2008

The proposal herein relates to rationalization of threshold limit for registration and levy in line with the neighbouring States especially the State of Tamilnadu. It is proposed to fix the threshold limit for registration and levy at ₹ 5 lakhs for those making inter-State purchases and ₹ 10 lakhs for those making local purchase and for removal of exemption from section 14 (2).

2. Further, streamlining composition scheme of tax in section 19 is proposed with a view to enhance the rate of tax from 0.25% to 0.50 % with restriction to allow the composition scheme only to those dealers effecting second and subsequent sales within the Union Territory.

3. For this purpose, amendments are proposed to sections 4, 12, 14 and 19 and a new section 4A is also proposed and the bill titled the "Puducherry Value Added Tax (Second Amendment) Bill, 2008" is proposed to be enacted.

This Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 6 OF 2009

The Puducherry Value Added Tax Act, 2007 is proposed to be amended for improving the operational efficiency and to meet administrative necessity in the enforcement of VAT law in the Union Territory.

It is proposed to add a new definition clause in section 2 of the said Act for the word "branded" with a view to regulate the rate of tax by differentiating the product as branded or

unbranded. Section 12 is proposed to be amended to provide for cancellation of Registration Certificate in the event of any registered dealer being found to have committed the offence of evasion of tax. Hence section 12 is proposed to be amended suitably alongwith the consequential amendments thereto. The existing provisions of sub-section (3) of section 14 providing for levy of tax on spares and accessories of goods specified in the Schedule need to be revised. Hence section 14 (3) is proposed to be amended along with consequential amendments in section 31 of the Act.

The awarder of works contract has to deduct the tax and remit the same to the Government. This situation casts a heavy burden on small and petty contractors. Hence it is proposed that tax will not be deducted when the contract amount to be paid or likely to be paid to a contractor for execution of works contracts does not or is not likely to exceed rupees one lakh in a year. It is also proposed to shorten the period for furnishing of certificate of payment of tax in the case of works contract from fifteen days to three days. Input tax credit will not be allowed to those dealers opting for compounding tax in the case of works contract.

In order to discourage tax payers from belatedly remitting the tax due to the Government, a penalty provision is also proposed. Where the dealers liable to pay tax for any tax period fail to pay tax, provisions for scrutiny assessment is proposed. It is also proposed that only the sales to Special Economic Zone Unit will be zero-rated. Moreover when the appeal or revision is pending, certain difficulties are encountered while collecting the assessed tax. As such, for facilitation of collection of arrears, the barriers on account of pendency of appeal or revision are proposed to be removed. It is proposed to insert the words "Assistant Commissioner" in section 77 of the Act with a view to meet the administrative exigencies.

For the above purpose, amendments are proposed to section 2, 12, 14, 15, 16, 21, 24, 31, 37 and 77 and a new section namely, section 24A is proposed to be inserted, Accordingly a Bill titled "the Puducherry Value Added Tax (Amendment) Bill, 2009" is proposed to be enacted.

This Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 7 OF 2009

In the Budget Speech for 2009-10, certain fiscal measures were announced by the Hon'ble Chief minister on the Floor of the House.

2. In order to give effect to the above fiscal measures, the sale of diesel to fisherman for fishing activities, the building materials sold by certain Co-operative institutions at Puducherry and Kariakal for the construction of dwelling houses and in respect of the sale of food and drinks by a Co-operative Society have been allowed exemption from levy of tax and the rate of tax on the sale of cigarettes has been increased from 12.5 % to 20% by virtue of notification issued under section 75 of the Puducherry Value Added Tax Act, 2007 (Act No. 9 of 2007).

3. In order to give effect of the amendments made in the First and Fifth Schedules of the said Act through the said notification, a Bill titled "the Puducherry Value Added Tax (Second Amendment) Bill, 2009" is proposed to be enacted.

4. This Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 7 OF 2010

In order to mobilize additional revenue, four per cent. tax on the sale of 'Electrical Energy' at the point of last sale has been proposed and exemptions from levy on the sale of electrical energy for domestic and agricultural purposes and in the case of the commercial consumers for the first 300 units per month and sales of electrical energy falling under Article 287 of the Constitution of India have also been proposed.

2. In exercise of the powers conferred under section 75 of the Puducherry Value Added Tax Act, 2007 (Act No. 9 of 2007), a notification was therefore issued for amending the First and Third Schedules of the said Act with effect from the 7th day of November, 2009 for the purpose of imposing levy of tax on the sales of electrical energy at the above rate and also for the grant of exemptions for sales of electrical energy to the above categories.

3. In order to give effect, to the amendments made to the First and Third Schedules of the said Act through the notification, a Bill titled " The Puducherry Value Added Tax (Amendment) Bill, 2010" is proposed to be enacted.

4. This Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 8 OF 2010

In the Budget Speech for 2009-2010, the Hon'ble Chief Minister has announced tax exemption on the sale of notebook and examination pads.

2. In order to give effect to the above assurance, a notification was issued for amending the First Schedule in exercise of the powers conferred by section 75 of the Puducherry Value Added Tax Act, 2007 (Act No. 9 of 2007).

3. In order to give effect to the amendments made to the First Schedule of the said Act through the aforesaid notification, a Bill titled " The Puducherry Value Added Tax (Second Amendment) Bill, 2010" is proposed to be enacted.

4. The Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 11 OF 2010

After introduction of Value Added Tax, many States have granted exemption/concessions on the sale of goods by Canteen Stores Department to serving Defence Personnel and Ex-servicemen. Hence, exemption from levy on the sale of goods by the Canteen Stores Department in Puducherry has been proposed. For this purpose, the First Schedule of the Puducherry Value Added Tax Act, 2007 has been proposed to be amended.

Accordingly a Bill titled "the Puducherry Value Added Tax (Third Amendment) Bill, 2010" is proposed to be enacted.

The Bill seeks to achieve the above objects.

STATEMENT OF OBJECTS AND REASONS FOR ACT 12 OF 2010

Packaged drinking water manufactured within the Union territory of Puducherry is proposed to be exempted.

2. For this purpose, a Bill titled "The Puducherry Value Added Tax (Fourth Amendment) Bill, 2010" is proposed to be enacted for amending the First Schedule of the Puducherry Value Added Tax Act, 2007.

3. The Bill seeks to achieve the above objects.

THE PUDUCHERRY VALUE ADDED TAX (AMENDMENT) BILL, 2012**STATEMENT OF OBJECTS AND REASONS**

In pursuance of the consensus reached among the States for increasing the lower rate of VAT from 4% to 5% in the meeting of the Empowered Committee of the State Finance Ministers, it becomes necessary to increase the rate of tax in respect of the Third Schedule goods from 4% to 5%. The Central Government has increased the rate of tax chargeable to the declared goods from 4% to 5% through the Finance Act, 2011. The rate of tax prevalent in respect of the Fourth Schedule goods in the neighbouring States at the rate of 14.5% have been taken into account and to augment the Government revenue, the goods falling under the Fourth Schedule have to be charged at higher rate from 12.5% to 14.5%. Further, the exemption allowed in the case of certain Government Organisations and Co-operative Societies have been removed. Certain goods hitherto exempted have been proposed to be taxed. Thus, the rate of tax have been fixed at 5% for edible oil, masala powder, handicrafts, live chicken sold in Mahe region and at 14.5% in the case of footwear.

2. For the above purpose, a notification was issued in exercise of the powers conferred by sub-section (1) of section 75 of the Puducherry value Added Tax Act, 2007 for amending the Schedules. In order to replace the notification, a Bill titled as the "Puducherry Value Added Tax (Amendment) Bill, 2012" has been proposed to be enacted.

3. This Bill seeks to achieve the above objects.

THE PUDUCHERRY MARINE FISHING REGULATION ACT, 2008
(Act No. 6 of 2008)

ARRANGEMENT OF SECTIONS

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THE PUDUCHERRY MARINE FISHING REGULATION ACT, 2008

(Act No. 6 of 2008)

[30-9-2008]

An
Act

to provide for the regulation of sea fishing by fishing vessels in the territorial waters of the Union territory of Puducherry and for matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Fifty-ninth Year of the Republic of India as follows:-

CHAPTER -1

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Marine Fishing Regulation Act, 2008.

(2) It extends to the whole of the Union territory of Puducherry

* (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions

2. In this Act, unless the context otherwise requires;-

(a) "adjudicating officer" means any officer of the Fisheries and Fishermen Welfare Department not below the rank of an Assistant Director of Fisheries authorized by the Government, by notification in the Official Gazette to exercise the powers conferred on, and to discharge the duties imposed upon, such officer by this Act, for such areas as may be specified in the notification;

* This Act came into force w.e.f 23.09.09 vide Notification issued in EG.Pt.II No.31 dt. 23.09.09

- (b) "Appellate Board" means the Appellate Board constituted under section 19;
- (c) "authorized officer" means an officer authorized by the Government under section 3;
- (d) "fish" means any vertebrate and invertebrate animal in the sea, and includes fish, crustacean, shellfish, sea cucumber (beche-de-mer), sea grasses and corals (dead or living), excluding the animals covered under the Wild Life (Protection) Act, 1972 (Central Act 53 of 1972);
- (e) "Fisheries Department" means the Fisheries and Fishermen Welfare Department of the Union territory of Puducherry;
- (f) "fishery officer" means an officer of the rank of Fieldman but not above the rank of Inspector of Fisheries in the Fisheries Department or any other officer of the Union territory of Puducherry or the Central Government, as may be appointed by the Government by notification in the Official Gazette;
- (g) "fishing" means exploitation, catching or collection of vertebrate and invertebrate animals in the sea excluding animals covered under the Wild Life (Protection) Act, 1972 (Central Act 53 of 1972), and includes fish, crustacean, shellfish, sea cucumber (beche-de-mer), sea grasses and corals (dead or living) by applying or operating any fishing gears or culture of fish and its harvest in the territorial waters of the Union territory of Puducherry;
- (h) "fishing gears" in relation to fishing, includes implements, nets, hooks and lines, cages, traps, harpoons but does not include the explosives, poisons and chemicals or any other device of mass destruction;
- (i) "fishing vessels" means a ship or boat, whether or not fitted with mechanised means of propulsion, which is engaged in sea fishing for profit and includes a catamaran, country craft, canoe and dinghy engaged in sea fishing;
- (j) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;
- (k) "mechanised fishing vessel" means a ship or boat fitted with mechanized means of propulsion having an engine not less than fifteen Horse Power but not more than hundred and twenty Horse Power and measuring in length not less than eight metres and not more than fifteen metres, but does not include a deep sea fishing vessel, and a "deep sea fishing vessel" means a ship or boat fitted with mechanical means of propulsion having an engine of not less than one hundred and twenty Horse Power and measuring in length not less than fifteen metres;

(l) "Owner" in relation to any fishing vessel, includes any person, who has power to sell or transfer the fishing vessel or who has the custody thereof or who receives whether on his own behalf, or on behalf of any other person rent for such fishing vessels;

(m) "port" means the space within such limits as may, from time to time, be defined by the Government, by notification in the Official Gazette, for the purposes of this Act;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "registered fishing vessel" means-

- (i) a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972 (Central Act 13 of 1972); or
- (ii) a vessel registered as a fishing vessel under section 9 of this Act;

(p) "specified area" means such area or areas in the sea along the entire coastline of the Union Territory, but not beyond the territorial waters, as may be specified by the Government, by notification in the Official Gazette from time to time;

(q) "Union Territory" means the Union territory of Puducherry and includes the territorial waters along the entire coastline of the Union Territory.

Authorised officer for the purposes of any provision of this Act

3. The Government may, by notification in the Official Gazette, authorize an officer of the Government of Puducherry not below the rank of an Assistant Director of Fisheries, or any officer of the Central Government with the consent of that Government, to exercise the powers conferred on, and discharge the duties imposed upon such officer under this Act, in such area or areas as may be specified in the notification.

CHAPTER – II

REGULATION OF FISHING

Power to regulate, restrict or prohibit certain matters within specified area

4. (1) The Government, may, having regard to the provisions of sub-section (2), by order notified in the Official Gazette, regulate, restrict or prohibit-

(a) the fishing in any specified area by such class or classes of fishing vessels as may be prescribed; or

(b) the number of fishing vessels which may be used for fishing in any specified area; or

(c) the catching in any specified area of such species of fish and for such period as may be specified in the notification; or

(d) the use of such fishing gear in any specified area as may be prescribed; or

(e) fishing in any specified area during such period of day or night as may be prescribed.

(2) In making an order under sub-section (1), the Government shall have due regard to the following matters, namely:-

(a) the need to protect the interest of different sections of persons engaged in fishing, particularly those engaged in fishing by using traditional fishing crafts such as catamaran, country craft, canoe or dinghy;

(b) the need to conserve fish and to regulate fishing on a scientific basis;

(c) the need to maintain law and order in the sea;

(d) the need to lease any specified area of the territorial waters to conserve or culture any species of fish or shellfish;

(e) the need to lease out right to fish in the territorial waters for fish culture and harvest; and

(g) any other matter as may be prescribed.

(3) Notwithstanding anything contained in sub-sections (1) and (2), no owner or master of a mechanized fishing vessel shall use or cause or allow to be used such fishing vessel for fishing operation in the sea within three nautical miles from the coastline in the Union Territory and the owner or master of a mechanised fishing vessel shall use or cause or allow to be used such mechanised fishing vessels only beyond three nautical miles from the coastline in the Union Territory and such operation beyond three nautical miles shall be subject to the following condition, namely:-

(i) the mechanised fishing vessel referred to in this sub-section shall leave the notified place of berth or anchoring only after 5 a.m. and the mechanized fishing vessel shall report back at the notified place of berth concerned not later than 9 p.m. and such mechanized fishing vessel shall remain at the notified place of berth or anchoring till 5 a.m. of the following day.

Explanation.- "Notified place of berth or anchoring" in respect of a mechanized fishing vessel means the place of berth or anchoring which the authorized officer shall specify as a place of berth or anchoring for that mechanized fishing vessel;

- (ii) any other condition which the Government may on the recommendation of the Director of Fisheries, specify.

(4) Notwithstanding anything contained in sub-section (1) and (2), no owner or master of a deep sea fishing vessel shall use or cause or allow to be used such fishing vessel for fishing operation in the sea within three nautical miles from the coastline in the Union Territory and the owner or master of a deep sea fishing vessel shall use or cause or allow to be used such deep sea fishing vessel only beyond three nautical miles from the coastline in the Union Territory and such operation beyond three nautical miles shall be subject to such conditions as the Government may by notification, specify.

Prohibition of use of fishing vessel in contravention of any order made under section 4

5. No owner or master of a fishing vessel shall use, or cause to allow such vessel to be used, for fishing in any manner which contravenes an order made under section 4:

Provided that nothing in such order shall be construed as preventing the passage of any fishing vessel from, or to, the shore, through any area whether specified area or otherwise:

Provided further that the passing of such fishing vessel through any specified area shall not, in any manner, cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any traditional fishing craft such as catamaran, country craft, canoe or dinghy in accordance with the provisions of this Act.

Licensing of fishing vessels

6. (1) The owner of a fishing vessel may make an application to the authorized officer for the grant of a licence for using such fishing vessel for fishing in any specified area.

(2) Every application under sub-section (1) shall be in such form, contain such particulars, and be accompanied by such fees, as may be prescribed.

(3) The authorized officer may, after making such inquiry as he may deem fit and having regard to the matters referred to in sub-section (4), either grant or refuse to grant, to the owner of the fishing vessel a licence for using such fishing vessel for fishing in the specified area or specified areas as may be mentioned in such licence.

(4) In granting or refusing to grant a licence under sub-section (3), the authorised officer shall have regard to the following matters, namely:-

- (a) whether the fishing vessel is registered or not;
- (b) the condition of the fishing vessel including the accessories and fishing gear with which it is fitted;
- (c) whether any order has been made under section 4; and
- (d) any other matter as may be prescribed.

(5) A licence granted under this section shall be in such form and valid for such period and subject to such conditions, including conditions as to payment of such fees and furnishing such security for the due performance of the conditions, as may be prescribed:

Provided that different fees and different amounts by way of security may be prescribed in respect of licences for different classes of fishing vessels.

(6) A licence granted under this section may be renewed by the authorised officer subject to the rules made under sub-section (5).

Prohibition of fishing by using fishing vessels which are not licensed

7. No person shall, after the commencement of this Act, carry on fishing in any specified area using a fishing vessel, which is not licensed under section 6:

Provided that nothing in this section shall apply to a fishing vessel, which was being used for fishing in such area immediately before the commencement of this Act, for such period as may be specified by the Government, by notification in the Official Gazette.

Cancellation, suspension and amendment of licences

8. (1) If the authorised officer is satisfied, either on a reference made to him in this behalf or otherwise, that-

(a) a licence granted under section 6 has been obtained by misrepresentation as to an essential fact; or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or any order or rule made there under, then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the authorised officer may, after giving the holder of the licence a reasonable opportunity of showing cause and being heard, cancel or suspend the licence or forfeit the whole or any part of security, if any, furnished for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the authorised officer may, for reasons to be recorded in writing, also vary or amend a licence granted under section 6.

Registration of fishing vessels, boat building yards, etc

9. (1) All fishing vessels/boats other than a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972 (Central Act 13 of 1972), boat building yards, processing plant, ice factory and other industries related to fisheries shall be registered under this Act. Any new construction of fishing boat shall also be got approved.

(2) Every application for registration or approval under sub-section (1) shall be made by the owner thereof to the authorised officer in such form and in such manner and shall be accompanied by such fees as may be prescribed,-

(a) before the expiry of one month from the date on which he became the owner thereof; or

(b) before the expiry of three months from the date of commencement of this Act, whichever is later:

Provided that the authorised officer may, for reasons to be recorded in writing, extend the time limit for registration by such period not exceeding six months at a time, as he may think fit.

(3) The authorised officer shall assign a registration number to the vessel and issue to the owner of the vessel registered by him a certificate of registration in the prescribed form and shall enter the particulars of the certificate in the register to be kept by him in such form as may be prescribed:

Provided that the authorised officer may, for reasons to be recorded in writing, refuse to register the vessel.

(4) The registration once made shall continue to be in force until it is cancelled by the authorised officer.

(5) Every fishing vessel registered under this section shall carry the registration mark assigned to it by the authorised officer and such mark shall be displayed on the vessel in the prescribed manner.

(6) No fishing vessel, other than a registered fishing vessel, shall be entitled to apply for a licence under section 6.

Information to be given to the authorised officer about movement of fishing vessels

10. Where a registered fishing vessel moves from the area of one port to the area of another port, for fishing in that area, the owner of such fishing vessel shall give information to that effect, in the prescribed manner, to the authorised officer by whom such fishing vessel was registered and also to the port officer having jurisdiction over the area to which such fishing vessel moves.

Returns to be furnished by owners of registered fishing vessels

11. (1) Every owner of a registered fishing vessel shall furnish to the authorised officer at such interval and in such manner such return as may be prescribed.

(2) The authorised officer may enter upon and inspect any registered fishing vessel at any time to verify the correctness of any return furnished by the owner under sub-section (1).

Finality of orders under sections 6, 8 and 9

12. Every decision of the authorised officer under section 6, section 8 or section 9, granting or refusing to grant licence for a fishing vessel or cancelling, suspending, varying or amending such licence, or registering or cancelling or suspending the certificate of the registration of a fishing vessel shall, subject to any right of appeal under section 13, be final.

Appeal against an order made under section 6, section 8 or section 9

13. (1) Any person aggrieved by an order made under section 6 or section 8 or section 9 may, within thirty days from the date on which the order is communicated to him, prefer an appeal before the adjudicating officer in the prescribed manner:

Provided that the adjudicating officer may entertain the appeal after the expiry of the said period of thirty days, but not beyond sixty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the adjudicating officer shall, after giving the parties a reasonable opportunity of being heard, pass such orders thereon as he deems fit as expeditiously as possible, and in any case before the expiry of three months from the date of filing of appeal.

Powers and duties of fishery officers

14. Every fishery officer shall assist the authorised officer in the discharge of his duties and may-

- (a) interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of an offence punishable under this Act;
- (b) enter into any vessel or premises, for inspecting implements or fish therein and check the possession of the fishing licence and registration of the vessel;
- (c) conduct field verification of the fishing implements and crafts available with the parties who have applied for fishing licence; and
- (d) on knowing the desire of any person to commit an offence punishable under this Act, bring the same to the notice of the authorised officer.

Power to enter and search fishing vessels

15. If the authorised officer has, either on receipt of a report of fishery officer or otherwise, reason to believe that any fishing vessel is being or has been used in contravention of any provision of this Act or of any order or rule made thereunder or of any of the conditions of the licence, he may enter and search such vessel and impound the vessel and seize the fish found in it.

Custody of fishing vessels and disposal of seized fish

16. (1) The authorised officer shall keep the fishing vessel impounded under section 15, in such place and in such manner as may be prescribed.

(2) In the absence of suitable facilities for the storage of the fish seized, the authorised officer may, if he is of the opinion that the disposal of such fish is necessary, dispose off such fish and deposit the proceeds thereof in the prescribed manner in the office of the adjudicating officer.

CHAPTER – III

ADJUDICATION

Adjudication

17. (1) Where any authorised officer has reason to believe that any fishing vessel is being, or has been, used in contravention of any of the provisions of this Act, or of any rule or order made thereunder or of any of the conditions of the licence, he shall make a report thereof to the adjudicating officer.

(2) The adjudicating officer shall hold an enquiry into the matter mentioned in the report in the prescribed manner after giving all the parties concerned a reasonable opportunity of being heard.

Penalty

18. (1) The adjudicating officer shall, after the inquiry under sub-section (2) of section 17, decide whether any person has used, or caused or allowed to be used, any fishing vessel in contravention of any of the provisions of this Act or of any rule or order made thereunder or any of the conditions of the licence, and any such person, on being found guilty by the adjudicating officer, shall be liable to such penalty not exceeding,-

(a) in case the vessel involved is fifty feet or above in length,-

- (i) five thousand rupees, if the value of the fish involved is one thousand rupees or less;
- (ii) five times the value of the fish, if the value of the fish involved is more than one thousand rupees; or
- (iii) five thousand rupees, in any other case, being a case not involving fish, as may be adjudged by the adjudicating officer;

(b) in case the vessel involved is below fifty feet in length,-

- (i) one thousand rupees, if the value of the fish involved is not more than one hundred rupees; or
- (ii) five times the value of the fish, if the value of the fish involved is more than one hundred rupees but not more than one thousand rupees; or
- (iii) one thousand rupees, in any other case, being a case not involving fish, as may be adjudged by the adjudicating officer.

(2) In addition to any penalty that may be imposed under sub-section (1), the adjudicating officer may direct that-

(a) the registration certificate of the fishing vessel which has been used, or caused or allowed to be used, in contravention of any provision of this Act or of any order or rule made thereunder or of any condition of the licence shall be-

- (i) cancelled; or
 - (ii) suspended for such period as the adjudicating officer deems fit;
- or

(b) the fishing vessel which has been impounded and the fish which has been seized under section 15 shall be forfeited to the Government:

Provided that no fishing vessel shall be forfeited under clause (b), if the adjudicating officer, after hearing the owner of the vessel or any person claiming any right thereto, is satisfied that the owner or such person had exercised due care and caution for the prevention of the commission of such offence.

Constitution of Appellate Board and appeal to Appellate Board

19. (1) The Government may, by notification in the Official Gazette, constitute an Appellate Board.

(2) The Appellate Board shall consist of three members, one of whom shall be a person who is or has been a District Judge and such person shall be appointed as the Chairperson of the Appellate Board and the other members shall be persons having expertise in Fisheries or law and such other qualifications as may be prescribed.

(3) The fees and allowances payable to the Chairperson and other members of the Appellate Board shall be such as may be prescribed.

(4) Any person aggrieved by an order of the adjudicating officer may, within thirty days, from the date on which the order is communicated, prefer an appeal to the Appellate Board:

Provided that the Appellate Board may entertain any appeal after the expiry of the said period of thirty days, but not after the expiry of sixty days from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(5) No appeal under this section shall be entertained by the Appellate Board unless the appellant has, at the time of filing the appeal, deposited half of the amount of penalty payable under the order appealed against:

Provided that, on an application made by the appellant in this behalf, the Appellate Board may, if it is satisfied that the deposit to be made under this sub-section will cause undue hardship to the appellant, by order in writing, dispense with such deposit either unconditionally or subject to such conditions as it may deem fit to impose.

(6) On receipt of an appeal under sub-section (4), the Appellate Board may, after holding such inquiry as it deems fit, and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against and the decision of the Appellate Board shall be final.

(7) Where the amount deposited by the appellant by way of penalty under sub-section (5) exceeds the amount directed to be paid by the Appellate Board, the excess amount so deposited, or where the Appellate Board sets aside the order imposing penalty, the whole amount so deposited by way of penalty, shall be refunded to the appellant.

Revision by Appellate Board

20. The Appellate Board may call for and examine the records of any order made under section 18 and against an order where no appeal has been preferred under section 19, for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of the procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made without giving a reasonable opportunity of being heard to the parties.

Powers of the adjudicating officer and the Appellate Board

21. (1) The adjudicating officer and the Appellate Board shall for the purpose of any enquiry under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits;
- (e) issuing commissions for the examination of witnesses or documents;
- and
- (f) any other matter as may be prescribed;

(2) The adjudicating officer and the Appellate Board while exercising any power under this Act, shall be deemed to be civil courts for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973(Central Act 2 of 1974).

(3) The Appellate Board shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Board shall regulate its own procedure.

Contravention by companies

22. (1) Where a person committing contravention of any of the provisions of this Act or any rule or order made thereunder or any of the conditions of a licence granted under it is a company, every person who, at the time of contravention was

committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention under this Act, or any rule or order made thereunder or any of the conditions of a licence granted under it has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall be deemed to be guilty of that contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director" in relation to a firm, means a partner in the firm.

CHAPTER – IV

MISCELLANEOUS

Exemptions

23. (1) Nothing contained in this Act shall apply to survey vessels belonging to-
- (a) the Central Government;
 - (b) a State Government;
 - (c) a Union Territory Government;
 - (d) a public undertaking.

Explanation.- For the purposes of this sub-section, "public undertaking" means any company or corporation owned or controlled by the Central Government or by a State Government or by a Union Territory Government.

(2) If the Government is of the opinion that, having regard to the purposes of this Act, it would not be in the public interest to apply all or any of the provisions of this Act to any class or classes of fishing vessels used for fishing in any specified area or specified areas, it may, by notification in the Official Gazette, exempt, subject to such conditions as it may think fit to impose upon such class or classes of fishing vessels used for fishing in such specified area or specified areas, as it may specify in the notification, from the operation of all or any of the provisions of this Act:

Provided that no notification under this sub-section shall remain in force for more than six months at a time.

Protection of action taken in good faith

24.(1) No suit, prosecution or other legal proceeding shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

(2) No suit or other legal proceeding shall lie against the Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder

Power to make rules

25. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;-

(a) to regulate, restrict or prohibit the matters under clauses (a), (d) and (e) of sub-section (1) of section 4 and the matters to be considered by the Government under clause (e) of sub-section (2) thereof;

(b) the form of the application for grant of licence under sub-section (1), the particulars which it shall contain and the fees which shall accompany it under sub-section (2) of section 6;

(c) the matters to be considered by the authorised officer in granting or refusing to grant a licence under clause (d) of sub-section (4) of section 6;

(d) the form of licence, the fees payable, the conditions therein, and the security for the due performance of the conditions of the licence under sub-section (5) of section 6;

(e) the procedure to be followed in varying or modifying a licence under sub-section (2) of section 8;

(f) the form of application for registration of a vessel as a fishing vessel, boat building yard, etc., and approval for any new construction of boat and the fees which shall accompany such application under sub-section (2) of section 9;

(g) the form of certificate of registration of a vessel as a fishing vessel, the form of the register referred to in sub-section (3) of section 9 and the manner in which the registration mark of the fishing vessel shall be displayed under sub-section (5) of that section;

(h) the manner in which the information relating to movement of a fishing vessel from the area of one port to the area of another port shall be given under section 10;

(i) the time and manner in which returns by the owner of a registered fishing vessel shall be furnished under sub-section (1) of section 11;

(j) the manner in which appeal shall be preferred before the adjudicating officer under sub-section (1) of section 13;

(k) the place and the manner in which an impounded fishing vessel shall be kept under sub-section (1) of section 16 and the manner in which the proceeds of the seized fish disposed off shall be deposited with the adjudicating officer under sub-section (2) of that section.

(l) the procedure of the inquiry by the adjudicating officer under sub-section (2) of section 17;

(m) the qualifications of the members of Appellate Board other than the Chairperson under sub-section (2) of section 19;

(n) the fees and allowances payable to the Chairperson and other members of the Appellate Board under sub-section (3) of section 19;

(o) the matters to be prescribed under clause (f) of sub-section (1) of section 21;

(p) the procedure of Appellate Board under sub-section (3) of section 21;

(q) any other matter in respect of which provision is to be made by rules under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties

26. (1) If any difficulty arises in giving effect to the provision of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Puducherry and the provisions of sub-section (3) of section 25 shall apply in respect of such order as they apply in respect of a rule made under this Act.

STATEMENT OF OBJECTS AND REASONS FOR ACT 6 OF 2008

The geographic base of Indian marine fisheries has 8118 km. coastline, 2.02 million sq. km. of Exclusive Economic Zone (EEZ) including 0.5 million sq. km. of continental shelf. Of this, the Union territory of Puducherry has 45 km. of coastline in the regions of Puducherry, Karaikal and Mahe. Marine fisheries within the territorial waters are the subject of maritime States, whereas fisheries beyond this limit within the EEZ fall in the jurisdiction of the Central Government. Among the thirteen States / Union territories, including the two island territories on the east and west coasts, all other States / Union Territories except the Union territory of Puducherry have promulgated Marine Fishing Regulations to regulate the various aspects of Marine fishing like registration of vessels, issuing fishing licences to them and enforcing measures aimed at conservation of the rich marine resources as well as their sustainable exploitation. In the absence of such a regulation in our Union Territory, all these measures could not be properly implemented and hence the need to introduce a legislation for the purpose.

The draft Bill therefore seeks to achieve the above objects.

THE PUDUCHERRY PREVENTION OF ANTI-SOCIAL ACTIVITIES ACT, 2008

(Act No. 10 of 2010)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. Power to make orders detaining certain persons
 4. Execution of detention orders
 5. Power to regulate place and conditions of detention
 6. Grounds of detention severable
 7. Detention orders not to be invalid or inoperative on certain grounds
 8. Powers in relation to absconding persons
 9. Grounds of order of detention to be disclosed to detenu
 10. Constitution of Advisory Boards
 11. Reference to Advisory Board
 12. Procedure of Advisory Board
 13. Action upon report of Advisory Board
 14. Maximum period of detention
 15. Revocation of detention orders
 16. Temporary release of persons detained
 17. Protection of action taken in good faith
 18. Matters within the purview of this Act to be dealt with under this Act only
-

THE PUDUCHERRY PREVENTION OF ANTI-SOCIAL ACTIVITIES ACT, 2008

(Act No. 10 of 2010)

(5-12-2010)

An
Act

to provide for preventive detention of boot-leggers, dangerous persons, forest offenders, gamblers, goondas and property grabbers for prevention of their anti-social and dangerous activities prejudicial to the maintenance of public order.

BE it enacted by the Legislative Assembly of Puducherry in the Sixtieth Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Prevention of Anti-social Activities Act, 2008
- (2) It extends to the whole of the Union territory of Puducherry.
- (3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires,-

(a) "anti- social activities" means the activities of a boot-legger, a dangerous person, a forest offender, a gambler, a goonda or a property grabber which affect adversely or, are likely to affect adversely the maintenance of public order.

Explanation.- For the purpose of this clause public order shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely, *inter alia* if any of the activities of the persons referred to in this clause, directly or indirectly, is causing or calculated to cause any harm, danger or alarm or a feeling of insecurity, among the general public or any section thereof or a grave or widespread danger to life or public health;

(b) "boot-legger" means a person, who distils, manufactures, stores, transports, imports, exports, sells or distributes any liquor or other intoxicant in contravention of any of the provisions of the Puducherry Excise Act, 1970(Act No12 of 1970) and the rules, notifications and orders made thereunder, or in contravention of any other law for the time being in force, or who knowingly expends or applies any money or supplies any animal, vehicles, vessel or other conveyance or any receptacle or any other material whatsoever in furtherance or support of the doing of any of the above-mentioned things by or through any other person, or who abets in any other manner the doing of any such thing;

(c) "dangerous person" means a person, who either by himself or as a member of or leader of a gang, habitually commits or attempts to commit or abets, the commission of offences, punishable under Chapter-XVI or Chapter-XVII or Chapter-XXII of the Indian Penal Code (Central Act 45 of 1860) and includes a person who is hired to commit or abet or attempt to commit any such offences;

(d) "detention order" means an order made under section3;

(e) "detenu" means a person detained under a detention order;

(f) "forest offender" means a person, who commits or attempts to commit or abets the commission of offences, punishable under Chapter-VII of the Indian Forest Act, 1927 (Central Act 16 of 1927) or under Chapter-VI of the Wild Life (Protection) Act,1972 (Central Act 53 of 1972);

(g) "gambler" means one who indulges in gambling or unauthorized practice of gambling such as illegal lotteries or speculations or the ones who connive in gambling by providing facilities/premises for such gambling;

(h) "goonda" means one who by force, either alone or a part of a gang extorts money or attempts to or connives in extortion of money, without any cause including the ones who collect goonda tax and will include persons indulging in eve-teasing;

(i) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;

(j) "property grabber" means a person, who illegally takes possession of any immovable property (whether belonging to Government, local authority or any other person) or enters into, or creates illegal tenancies or lease or agreements or any other agreement in respect of such property; or who constructs unauthorized structures on such property for sale or hire, or gives such property to any person on rental or lease or license basis for construction or use and occupation of unauthorized structures or who knowingly gives financial aid to any person for taking illegal possession of such property, or for construction of unauthorized structures, or who collects or attempts to collect from any occupier of such property, rent, compensation or other charges by criminal intimidation or who evicts or attempts to evict any such occupier by force without resorting to the lawful procedure; or who abets in any manner the doing of any of the above-mentioned things;

(k) "unauthorized structure" means any structure constructed without express permission in writing of the officer or authority having jurisdiction in such area required under the Puducherry Town and Country Planning Act, 1969 (Act No 13 of 1970), the Puducherry Municipalities Act, 1973 (Act No.9 of 1973) and the Puducherry Village and Commune Panchayats Act, 1973 (Act No.10 of 1973) or except in accordance with any other law for the time being in force in such area.

Power to make orders detaining certain persons.

3. (1) The Government may, if satisfied with respect to any person that with a view to preventing him from engaging in or making preparations for engaging in any anti-social activity, it is necessary so to do, make an order directing that such person be detained.

(2) If having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate, the Government is satisfied that it is necessary so to do, it may, by an order in writing, direct that the District Magistrate (hereinafter referred to as the authorized officer in this Act) may also, if satisfied as provided in sub-section (1) exercise the powers conferred by the said sub-section.

(3) When any order is made under this section by an authorized officer, he shall forthwith report the fact to the Government, together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the Government.

(4) When any order is made by the Government under sub-section (1) or by the authorized officer under sub-section (2) the Government shall within seven days, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the Government, have a bearing on the necessity for the order:

Provided that the Central Government may, after due consideration of the order made either under sub-section (1) or sub-section (2) and for reasons to be recorded in writing, modify or revoke any order made by the Government or the authorized officer, as the case may be and the said order shall thereafter have effect only in such modified form or be of no effect:

Provided further that any such modification or revocation shall be without prejudice to the validity of anything previously done in pursuance of such order.

Execution of detention orders

4. A detention order may be executed at any place in the Union territory of Puducherry in the manner provided for the execution of warrant of arrest under the Code of Criminal Procedure, 1973. (Central Act 2 of 1974)

Power to regulate place and conditions of detention

5. Every person in respect of whom a detention order has been made shall be liable-

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, within the Union territory of Puducherry by order of the Government.

Grounds of detention severable

6. Where a person has been detained in pursuance of an order of detention under section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each ground and accordingly-

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are-

- (i) vague,
- (ii) non-existent,
- (iii) not relevant,
- (iv) not connected or not proximately connected with such person, or
- (v) invalid for any other reason whatsoever, and it is not, therefore, possible to hold that the Government or the officer making such order would have been satisfied as provided in section 3 with reference to the remaining ground or grounds and made the order of detention;

(b) the Government or the officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.

Detention orders not to be invalid or inoperative on certain grounds

7. No detention order shall be invalid or inoperative merely by reason-

(a) that the person to be detained thereunder, though within the Union territory of Puducherry, is outside the territorial jurisdiction of the authorized officer making the order, or

(b) that the place of detention of such person though within the Union territory of Puducherry, is outside the said limits.

Powers in relation to absconding persons

8.(1) If the Government or any authorized officer has reason to believe that a person in respect of whom a detention order has been made has absconded, or is concealing himself so that the order cannot be executed, then the provisions of section 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply in respect of such person and his property subject to the modifications mentioned in this sub-section and irrespective of the place where such person ordinarily resides, the detention order made against him shall be deemed to be a warrant issued by a competent court. Where the detention order is made by the Government, an officer, not below the rank of a District Magistrate authorized by the Government in this behalf, or where the detention order is made by an authorized officer, the authorized officer, as the case may be, shall, irrespective of his ordinary jurisdiction, be deemed to be empowered to exercise all powers of the competent court under sections 82, 83, 84 and 85 of the said Code for issuing a proclamation for such person and for attachment and sale of his property situated in any part of the Union territory of Puducherry and for taking any other action under the said sections. An appeal from any order made by any such officer rejecting an application for restoration of attached property shall lie to the Court of Sessions having jurisdiction in the place where the said person ordinarily resides, as provided in section 86 of the said Code.

(2) (a) Notwithstanding anything contained in sub-section (1) if the Government or an authorized officer has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the Government or the officer, as the case may be, may, by order notified in the official gazette, direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(b) Where such person fails to comply with such order, then unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reasons which rendered compliance therewith impossible and of his whereabouts, or proves that it was not possible for him to so inform the officer mentioned in the order, he shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine or with both.

(c) Notwithstanding anything contained in the said Code, every offence under clause (b) shall be cognisable.

Grounds of order of detention to be disclosed to detenu

9. (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than seven days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

Constitution of Advisory Boards

10. (1) The Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of a Chairman who is or has been a Judge of a High Court and two other members who are or have been District Judges qualified under the Constitution to be appointed as Judges of a High Court.

Reference to Advisory Board

11. In every case where a detention order has been made under this Act, the Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 10, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and where the order has been made by an authorised officer, also the report made by such officer under sub-section (3) of section 3.

Procedure of Advisory Board

12. (1) The Advisory Board shall, after considering the materials placed before it and after calling for such further information as it may deem necessary from the Government or from any person called for the purpose through the Government or from the detenu and if, in any particular case, the Advisory Board considers it essential so to do or if the detenu desires to be heard, after hearing the detenu in person, submit its report to the Government, within seven weeks from the date of detention of the detenu.

(2) The Report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the detenu.

(3) When there is a difference of opinion among the members forming the Advisory Board, the majority of such members shall be deemed to be the opinion of the Board.

(4) The proceedings of the Advisory Board and its report excepting that part of the report in which the opinion of the Advisory Board is specified shall be confidential.

(5) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board.

Action upon report of Advisory Board

13. (1) In any case where the advisory Board has reported that there is in its opinion, sufficient cause for the detention of the detenu, the Government may confirm the detention order and continue the detention of the detenu for a period, not exceeding the maximum period prescribed by section 14 as it thinks fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the Government shall revoke the detention order and cause the detenu to be released forthwith.

Maximum period of detention

14. The Maximum period for which any person may be detained in pursuance of any detention order made under this Act which has been confirmed under section 13, shall be one year from the date of detention.

Revocation of detention orders

15. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897 (Central Act 10 of 1897), a detention order may, at any time for reasons to be recorded in writing, be revoked or modified by the Government, notwithstanding that the order has been made by an authorized officer.

(2) The expiry or revocation of a detention order (hereinafter in this sub-section referred to as the earlier detention order) shall not bar the making of another detention order (hereinafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person:

(3) Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall in no case extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order.

Temporary release of persons detained

16. (1) The Government may, at any time, for reasons to be recorded in writing, direct that any person detained in pursuance of a detention order may be released for any specified period, either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any detenu under sub-section (1), the Government may require him to enter into a bond with or without sureties, for the due observance of the conditions specified in the direction.

(3) Any detenu released under sub-section (1), shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any detenu fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any detenu released under sub-section (1) fails to fulfill any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

Protection of action taken in good faith

17. No suit, prosecution, or other legal proceeding shall lie against the Government or any officer or persons, for anything in good faith done or intended to be done in pursuance of this Act.

Matters within the purview of this Act to be dealt with under this Act only

18. On and after the commencement of this Act, no order of detention under the National Security Act, 1980 (Central Act 65 of 1980) shall be made by the Government or any officer subordinate to it, in respect of any boot-legger, dangerous person, forest offender, gambler, goonda or property grabber in the Union territory of Puducherry on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order, in so far as an order under this Act, could be made for detention of such person.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO. 10 OF 2010

The Preventive detention laws enforced in the Union territory at present are the National Security Act, 1980, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 and the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980. These enactments are not sufficient and effective to control anti-social activities of boot-leggers, persons who habitually commit or abet the commission of offences affecting human body and against property and of criminal intimidation, etc., forest offenders, gamblers, goondas, and property grabbers. It is, therefore, proposed to bring about a local legislation to provide for preventive detention of persons indulging in the above kinds of anti-social activities and for the purpose, the term "anti-social activities" is defined to encompass the above activities.

The Bill seeks to achieve the above objects.

PART - II

**THE UNION TERRITORIES RELIEF OF AGRICULTURAL
INDEBTEDNESS REGULATION, 1976.**

[No. 1 or 1976]

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
2. Definitions
3. Stay of suits, etc.,
4. Extension of period of limitation
5. Remission of interest

—

**THE UNION TERRITORIES RELIEF OF AGRICULTURAL
INDEBTEDNESS REGULATION, 1976.**

[No. 1 or 1976]

[Promulgated by the President in the Twenty-sixth year of the Republic of India]

*A Regulation to provide relief from indebtedness to agricultural
labourers, marginal farmers, rural artisans and small
farmers in certain Union territories*

In exercise of the powers conferred by Article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:-

1. **Short title, extent and commencement.**- (1) This Regulation may be called the Union Territories Relief of Agricultural Indebtedness Regulation, 1976.

(2) It extends to the Union territories" of the Andaman and Nicobar Islands, Dadra and Nagar Haveli, Lakshadweep and Puducherry.

(3) It shall come into force at once.

2. **Definitions.**- In this Regulation, unless the context otherwise requires,-

(a) "Administrator" means the administrator of a Union territory appointed by the President under Article 239 of the Constitution;

(b) "agricultural labourer" means a person who is engaged in the operation of-

- (i) farming, including cultivation and tillage of soil; or
- (ii) dairy farming; or
- (iii) production, cultivation, growing and harvesting of any horticultural commodity ; or
- (iv) raising of live-stock, bees or poultry; or
- (v) any practice performed on a farm as incidental to, or in conjunction with, farm operations, (including any forestry or timbering operations) and preparation for market, or delivery to storage or to market, or to carriage for transportation, of farm products,

in the capacity of a labourer on hire or exchange and who is paid in cash or in kind or partly in cash and partly in kind for such engagement;

1. Promulgated by the President on January 3, 1976, published in Gazette of India, Extra., Part 11, Section 1, dated 3rd January, 1976, pp. 1-4.

(c) "bank" means a banking company as defined in clause (c) of Section 5 of the Banking Regulation Act, 1949 (10 of 1949), and includes the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), the Agricultural Refinance Corporation established under the Agricultural Refinance Corporation Act, 1963 (10 of 1963), any banking institution notified by the Central Government under Section 51 of the Banking Regulation Act, 1949, and any other banking or financial institution which the Administrator may, by notification in the *Official Gazette*, declare to be a bank for the purposes of this Regulation;

(d) "civil court" includes-

- (i) any court exercising jurisdiction under the Provincial Insolvency Act, 1920 (5 of 1920) ; and
- (ii) any court exercising powers under the Provincial Small Cause Courts Act, 1887 (9 of 1887);

(e) "co-operative society" means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in a Union territory;

(f) "debt" includes all liabilities owing to a creditor in cash or in kind, secured or unsecured, payable under a decree or order of a civil court or otherwise and subsisting at the commencement of this Regulation whether due or not due but does not include-

- (i) a debt to the Central Government or any State Government, or the administration or Government of any Union territory of any local authority, or co-operative society or bank;
- (ii) a debt to any Government company within the meaning of Section 617 of the Companies Act, 1956 (1 of 1956);
- (iii) a debt to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (3 of 1956) or to any other corporation established by or under any law for the time being in force;
- (iv) any rent due in respect of any property let out to a debtor;
- (v) any liability arising out of breach of trust or any tortious liability;
- (vi) any liability in respect of wages or remuneration due as salary or otherwise for services rendered
- (vii) any liability in respect of maintenance whether under a decree of a civil court or otherwise
- (viii) any debt which represents the price of any goods or property purchased by a debtor;
- (ix) any advance of money given to a debtor by a person as the price of goods or property to be sold later on by the debtor;
- (x) any sum recoverable as arrears of land revenue;

(g) "debtor" means an agricultural labourer, a marginal farmer, a rural artisan or a small farmer;

(h) "marginal farmer" means a person who owns agricultural land measuring not more than one hectare and who cultivates personally such land, and includes a person who cultivates such land measuring not more than one hectare as a tenant or share cropper;

Provided that in its application to persons belonging to any Scheduled, Tribe, this clause shall be subject to the modification that for the words 'one hectare', in both the places where they occur, the words 'two hectares' shall be *substituted*;

(i) "rural artisan" means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agricultural or purposes ancillary thereto and includes a person who normally earns his livelihood by practicing a craft either by his own labour of all or any of the members of his family in a rural area;

(j) "small farmer" means a person who owns agricultural land measuring more than one hectare but less than two hectares, or who cultivates such land measuring more than one hectare but less than two hectares as a tenant or share cropper:

Provided that in its application to person belonging to any Scheduled, Tribe, this clause shall be subject to the modification that for the words 'one hectare' and 'two hectares', in both the places where they occur, the words 'two hectares' and four hectares shall respectively be *substituted*;

(k) "suit" includes appeal.

3. Stay of suits, etc.- (1) Notwithstanding any thing contained in any other law for the time being in force or in any contract, custom or usage to the contrary,-

- (i) no civil court shall entertain any suit, application or other proceeding against a debtor in respect of any debt incurred by him;
- (ii) any suit, application or other proceeding in relation to the recovery of a debt from a debtor pending immediately before the commencement of this Regulation before a civil court shall be stayed; and
- (iii) no decree of a civil court in relation to the recovery of a debt from a debtor which was passed before the commencement of this Regulation shall be executed,

for a period of one year from such commencement.

(2) The Administrator may, by notification in the Official Gazette, extend the period referred to in sub-section (1) by a further period or periods:

*[Provided that such further period or the aggregate of such further periods shall not exceed three year].

4. **Extension of period of limitation.**- Notwithstanding anything contained in any other law for the time being in force, in computing the period of limitation for any suit, proceeding or application, or for the execution of a decree, the period during which any person was debarred, from instituting such a suit or proceeding or making such application or executing such decree, under this Regulation shall be excluded.

5. **Remission of interest.**- A debtor shall not be liable to pay interest on any debt during the period for which no suit or proceeding could be instituted or application made for the recovery of the debt or for the execution of a decree in relation thereto or for which a suit, or an application or other proceeding for the recovery of the debt was stayed under this Regulation.

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**THE PUDUCHERRY IRRIGATION (LEVY OF BETTERMENT
CONTRIBUTION) REGULATION, 1976¹**

[No. 4 of 1976]

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement.
2. Definitions.
3. New ayacut Zones.
4. Blocks under ayacut Zone.
5. Levy of betterment contribution on the lands in the new ayacut.
6. Levy of betterment contribution on lands in the improved old ayacut.
7. Exclusion of certain lands from ayacut in certain cases.
8. Authorised officer to levy contribution.
9. Appeal.
10. Contribution how paid.
11. When contribution becomes payable.
12. Relinquishment or exchange of land in lieu of payment of contribution.
13. Rebate in certain cases.
14. Payment of contribution by person having interest in land.
15. Right of reimbursement in respect of contribution.
16. Apportionment of contribution.
17. Contribution recoverable as arrears of land revenue.
18. Exemption.
19. Delegation of powers.
20. Regulation deemed not to affect recovery in certain cases.
21. Power to make rules.
22. Saving.

In exercise of the powers conferred by the second proviso to clause (1) of Article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:

THE PUDUCHERRY IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION) REGULATION, 1976¹

[No. 4 of 1976]

24-01-1976

[Promulgated by the President in the Twenty-sixth Year of the Republic of India]

A Regulation to provide for the levy of betterment contribution on certain lands in the Union territory of Puducherry

1. **Short title, extent and commencement.**- (1) This Regulation may be called the Puducherry Irrigation (Levy of Betterment Contribution) Regulation, 1976.

(2) It extends to the whole of the Union territory of Puducherry.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. **Definitions.**- In this Regulation, unless the context otherwise requires,-

(1) "contribution" means the betterment contribution referred to in Section 5 or Section 6;

(2) "drainage work" includes-

(a) channels, whether natural or artificial, for the discharge of waste or surplus water and all works connected with, or auxiliary to, such channels;

(b) escape channels from an irrigation work;

(c) dams, weirs, embankments, sluices and groynes;

(d) all works for the protection of lands from floods or from erosion, which are owned or controlled by the Government, or which are maintained by it, otherwise than by an assignment of land or land revenue made, confirmed, or recognised by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person,

but does not include any works for the removal of sewage;

(3) "execution", in relation to a notified work, means the construction, expansion, or alteration of the notified work;

(4) "fasli year" means the year commencing on the 1st day of July of a year and ending with the 30th day of June of the next year;

(5) "Government" means the Administrator of the Union territory of Puducherry appointed by the President under Article 239 of the Constitution;

1. Promulgated by the President on January 24, 1976, published in *Gazette of India*, Extra., Part II, Section 1, dated 24th January, 1976, pp. 17-25.

(6) "improved old ayacut", in relation to a notified work, means all lands which are significantly benefited by the execution of the notified work but does not include the ayacut of any existing irrigation or drainage work which has been merely repaired or restored to its original state after decay or injury;

Explanation I.- For the purposes of this clause, lands shall be deemed to be significantly benefited by the execution of a notified work if such lands-

- (a) having been under single-crop irrigation or double-crop irrigation from a Government source of irrigation before the execution of the notified work, continue to be under such irrigation and are provided with a more adequate supply or better assured supply of water for irrigation as a result of the execution of the notified work, or
- (b) having been liable to non-beneficial submersion or stagnation of water before the execution of the notified work, have been substantially relieved of such submersion or stagnation as a result of the execution of the notified work:

Provided that no land shall be deemed to be significantly benefited if the more adequate supply or better assured supply of water for irrigation referred to in clause (a) of this Explanation or the substantial relief of submersion or stagnation referred to in clause (b) of this Explanation is as a result of mere repairs or restoration of the existing irrigation work or drainage work to its original state after decay or injury;

Explanation II.- For the purposes of Explanation I, the question whether any land-

- (a) is provided with a more adequate supply or better assured supply of water for irrigation shall be decided with regard to -
 - (i) the raising of the irrigation source concerned to a higher settlement classification;
 - (ii) supply of larger volume of water or supply of water for a longer duration; and
 - (iii) such other like matters as may be prescribed;
- (b) has been substantially relieved of the non-beneficial submersion or stagnation of water shall be decided with regard to-
 - (i) the improvement of the land on account of the protection from submersion or stagnation or on account of the reduction in the period of submersion or stagnation; and
 - (ii) such other like matters as may be prescribed.

Explanation III.—A land shall be deemed to be significantly benefited notwithstanding that the benefit is not enjoyed, provided that such non-enjoyment is due solely to action or inaction on the part of the person or persons interested in such land

(7) "irrigation work" includes-

- (a) all canals, channels, tanks, wells, reservoirs, ponds, spring ponds and madugues used for the supply or storage of water, and all works, embankments and structures (other than escape channels) connected therewith or auxiliary thereto, which are owned or controlled by the Government, or which are maintained by it, otherwise than by an assignment of land or land revenue made, confirmed or recognised by the Government, or which, having been constructed by the Government or being maintained by an assignment of land or land revenue as aforesaid, have not been made over to any person;
- (b) all such lakes and other natural collections of water or parts thereof, as are situated on lands which are the property of Government;
- (c) all rivers and natural streams or parts thereof;

(8) "land-holder", in relation to any land, means the person who is in enjoyment of the said land and who has been benefited by any irrigation work;

(9) "new ayacut", in relation to any notified work, means all lands which are benefited by the execution of the notified work;

Explanation I.- For the purposes of this clause, lands shall be deemed to be benefited by the execution of a notified work, if such lands-

- (a) having been left waste or under unirrigated cultivation before the execution of the notified work, have been brought under irrigation subsequently with water supplied from a Government source of irrigation as a result of the execution of the notified work, or
- (b) having been under single-crop irrigation before the execution of the notified work, have been brought under double-crop irrigation subsequently with water supplied from a Government source of irrigation as a result of the execution of the notified work;

Explanation II.- A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided that such non-enjoyment is due solely to action or inaction on the part of the person or persons interested in such land;

(10) "notification" means a notification published in the *Official Gazette*;

(11) "notified work" means any irrigation work or drainage work, executed on or after the 1st November, 1954 and notified by the Collector in the *Official Gazette*;

(12) "prescribed" means prescribed by rules made under this Regulation.

3. **New ayacut Zones.**- (1) Any new ayacut in every notified work may be classified into one or more of the following zones, namely-

- (i) wet zone;
- (ii) intermediary zone; or
- (iii) irrigated dry zone.

(2) A wet zone shall comprise all the lands for which the water supplied as a result of the execution of a notified work will be ordinarily sufficient for one wet crop in a fasli year.

(3) An intermediary zone shall comprise all the lands for which the water supplied as a result of the execution of a notified work will be occasionally sufficient for one wet crop and will be ordinarily sufficient for one irrigated dry crop in a fashi year.

(4) An irrigated dry zone shall comprise all the lands for which the water supplied as a result of the execution of a notified work will be ordinarily sufficient for one irrigated dry crop in a fasli year but not sufficient for one wet crop in any fasli year.

4. **Blocks under ayacut Zone.**- (1) Every wet zone, every intermediary zone or every irrigated dry zone may consist of Block A, Block B, Block C, as classified below, namely:

- (a) Block A shall consist of contiguous wet lands of Class 1, Class 2, Class 3, or Class 4;
- (b) Block B shall consist of contiguous wet lands of Class 5;
- (c) Block C shall consist of contiguous wet lands of Class 6.

(2) Dry lands shall be classified according to the corresponding class rates.

Explanation.- In this section, Classes 1, 2, 3, 4, 5 and 6 shall refer to the respective classes under which the lands have been registered in the revenue records.

5. **Levy of betterment contribution on the lands in the new ayacut.**- There shall be levied a betterment contribution on every hectare of land in any new ayacut in accordance with the rates specified in the Schedule:

Provided that no betterment contribution shall be levied on any land in any new ayacut under a notified work, the cost of which does not exceed seventy-five thousand rupees.

6. **Levy of betterment contribution on lands in the improved old ayacut.**- (1) There shall be levied a betterment contribution on every hectare of land in any improved old ayacut in accordance with the provisions of this section:

Provided that no betterment contribution shall be levied on any land in any improved old ayacut under a notified work, the cost of which does not exceed seventy-five thousand rupees.

(2) The net expenditure on the notified work shall be ascertained by deducting from the gross expenditure on such work twenty times the annual increase in revenue, if any, from all the lands comprised in the improved old ayacut and in the new ayacut and the net expenditure as so ascertained shall be apportioned in the prescribed manner on all lands comprised in the improved old ayacut.

Explanation.- The expression "annual increase in revenue" means the increase in assessment and the increase in water-cess ascertained in the prescribed manner where such increase is as a result of the execution of the notified work.

(3) The betterment contribution shall, subject to a maximum of one hundred and twenty-five rupees per hectare, be one-third of the net expenditure per hectare of land apportioned under sub-section (2).

7. Exclusion of certain lands from ayacut in certain cases.- (1) Any officer of the Revenue Department not below the rank of a Revenue Officer specially authorised by the Government in this behalf (hereinafter referred to as the authorised officer) may, from time to time, postpone the inclusion of any land in the ayacut of a notified work for such period as he may, by order in writing, specify on the ground that such land requires expensive lowering of the level or on such other ground as may be prescribed.

Explanation.- For the purposes of this sub-section, "expensive lowering of the level" means any reclamation involving expenditure exceeding two hundred and fifty rupees per hectare.

(2) Where the period specified in any order under sub-section (1) expires, the land referred to in that sub-section shall be deemed to be included in the ayacut aforesaid and the Government shall be entitled to levy contribution under this Regulation on such land with effect from the fasli year in which such land shall be deemed to be included in the ayacut under this sub-section.

(3) Where any land included in the ayacut of a notified work is not fit for the irrigation on the date of such inclusion for such reasons as may be prescribed and is subsequently brought under irrigation, the Government shall be entitled to levy contribution under this Regulation on such land with effect from the fasli year in which the land is so brought under irrigation.

8. Authorised officer to levy contribution.- Every authorised officer shall, after following such procedure as may be prescribed, by order, levy the contribution under this Regulation in respect of any land situated within his jurisdiction:

Provided that where the ayacut of a notified work lies within the jurisdiction of more than one authorised officer, the Government may, by general or special order, specify the officer who should levy the contribution in respect of lands in such ayacut.

9. Appeal.- (1) Any person aggrieved by an order of the authorised officer with respect to the levy of contribution under this Regulation may prefer an appeal to the prescribed authority in such form, in such manner and within such time, as may be prescribed and such authority may make each order in the case as it may think fit:

Provided that before making any order under this section the prescribed authority shall give a reasonable opportunity to the affected person for making a representation in the matter.

(2) Any order made by the authorised officer with respect to the levy of contribution under this Regulation shall, subject to the right of appeal provided in sub-section (1), be final, shall be binding on all persons having interest in the land and shall not be liable to be questioned in a court of law.

10. Contribution how paid.- (1) The contribution payable by a land-holder shall be paid by him in annual instalments.

(2) The annual instalments per hectare shall be twelve rupees and fifty paise or one-twentieth of the total amount of the contribution payable by him, whichever is higher:

Provided that a land-holder shall be entitled to pay within a period of two years from the date on which he becomes liable to pay the contribution the entire amount of contribution with a rebate at such rate as may be prescribed.

(3) Arrears of instalments of the contribution shall bear interest at the rate of six per cent per annum and such interest shall be recoverable as arrears of land revenue.

11. When contribution becomes payable.- (1) The contribution shall become payable under this Regulation on a written notice of demand therefor issued by the authorised officer being served on the land-holder:

Provided that no such notice shall be served until the expiry of two years after the date of completion of the execution of the notified work:

Provided further that where, before the commencement of this Regulation, two years or more have elapsed from the date of completion of the execution of the notified work, such notice may be served at any time after such commencement.

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than the land-holder, who has an interest in the land or on a successor-in-interest of the land-holder or in respect of any instalment of the contribution.

(3) (a) For the purpose of this section, the execution of a notified work shall be deemed to be completed on the date of cessation of all work connected with its execution or on the date when the notified work is ready to be put in actual operation whichever is later.

(b) The date referred to in clause (a) shall be notified by such authority or officer and in such manner, as may be prescribed.

12. Relinquishment or exchange of land in lieu of payment of contribution.- Notwithstanding anything contained in Section 10, the Government may allow the owner of the land on which the contribution may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the Government on such condition as may be prescribed:

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

13. Rebate in certain cases.- If the Government accepts any money from any person for the execution of any notified work and such person becomes liable to pay contribution in respect of any land benefited by such execution, the sum accepted from him shall be credited towards the contribution payable by him.

14. Payment of contribution by person having interest in land.- Any person having interest in a land may, notwithstanding that he is not the land-holder of such land, pay the contribution payable by the land-holder in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the land-holder becomes liable to pay the contribution, be entitled to a rebate at such rate as may be prescribed.

15. Right of reimbursement in respect of contribution.- Where the land-holder liable to pay contribution under this Regulation is not the owner of the land or is a co-owner of the land, nothing in this Regulation shall be deemed to affect his right to reimbursement from the owner or to recover proportionate part from the co-owner, as the case may be.

16. Apportionment of contribution- Where a land-holder whose case is not covered by Section 15 and who has paid an instalment of contribution under this Regulation is not the occupier of the land, he shall, in the absence of a contract to the contrary, be entitled to recover the amount of such instalment from the person who is in actual occupation of the land during the year in which the said instalment is payable:

Provided that where such person is a tenant, the land-holder shall be entitled to recover from the tenant the instalment of contribution referred to in this section only if the tenant is liable under any law or custom of the locality to deliver to the land-holder a share of the produce and such share has not been altered subsequent to the completion of the work by agreement between the parties, and the amount that can be recovered from such a tenant shall bear to the total amount of the instalment the same proportion as the tenant's share of the produce bears to the total produce of the land:

Provided further that, where the land-holder has paid the entire contribution with a rebate under the proviso to sub-section (2) of Section 10, a twentieth part of the sum actually paid shall be deemed to be the instalment of the contribution payable during every year during which an instalment of the contribution would have been payable, had the entire contribution not been so paid.

17. **Contribution recoverable as arrears of land revenue.**- (1) The contribution payable under this Regulation in respect of any land shall be deemed to be public revenue due upon the said land; and the land and its products and the buildings (owned and occupied by the land-holder) standing upon the land shall be regarded as the security of the contribution.

(2) When the whole or portion of an instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment or its unpaid portion shall be deemed to be an arrear of land revenue and the provisions of the law, for the time being in force, relating to recovery of land revenue shall apply to the recovery of the said arrear as they apply to recovery of the land revenue due on the land.

18. **Exemption.**- If, in the opinion of the Government, the enforcement of all, or any of the provisions of this Regulation will cause hardship to any person or class of persons, the Government may, by notification, setting out the ground therefor, exempt either permanently or for a specified period, such person or class of persons from all or any of the provisions of this Regulation, subject to such conditions, if any, as the Government may deem fit to impose.

19. **Delegation of power.**- The Government may, by notification, direct that any power exercisable by it under this Regulation (except the power to grant exemption under Section 18 and the power to make rules under Section 21) shall, subject to such conditions, if any, as may be specified in the direction, be exercisable also by the Collector or such other authority, as may be specified in the direction.

20. **Regulation deemed not to affect recovery in certain cases.**- Subject to the provisions of Section 13, nothing contained in this Regulation shall be deemed to limit or otherwise affect the power of the Government to recover any money which any land-holder of any land included in the ayacut of any notified work may have agreed before the date of the commencement of this Regulation, or may agree after that date, to pay to the Government as a condition precedent to the execution of any such work.

21. **Power to make rules.**- (1) The Government may, by notification, make rules to carry out the purposes of this Regulation and in particular-

- (a) for the matters to be prescribed under Explanatory II to clause (6) of Section 2;
- (b) for the manner of classification of dry lands under sub-section (2) of Section 4;
- (c) for the manner of apportioning the net expenditure, and of ascertaining the increase in assessment and the increase in water-cess, under sub-section (2) of Section 6;
- (d) for the procedure to be followed by the authorised officer before the levy of contribution under this Regulation;

- (e) for the appointment of the prescribed authority under sub-section (1) of Section 9, the form and manner in which, and the time within which, appeals may be preferred and the fees payable in respect thereof and the procedure which may be followed by such prescribed authority;
- (f) for all matters expressly required or allowed by this Regulation to be prescribed.

(2) Every rule made under this Regulation shall, as soon as possible after it is made, be laid before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session, in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. **Saving.**- Nothing contained in this Regulation shall apply to the levy, determination, payment or recovery of contribution from the land-holders of lands which are benefited, or are capable of being benefited, by the construction, expansion or alteration of any irrigation or drainage work if provision in that behalf is contained in any other law relating thereto and for the time being in force.

THE SCHEDULE
(See Section 5)
Schedule of rates per hectare

New ayacut		
Wet Zone	Intermediary Zone	Irrigated dry Zone
(1)	(2)	(3)
₹ P.	₹ P.	₹ P.
Block A 500.00	425.00	350.00
Block B 450.00	375.00	300.00
Block C 400.00	325.00	260.00

Provided that land-holders of lands which were un-irrigated immediately before the execution of the notified work and which are newly assured with the supply of water for two wet crops as a result of the execution of the said notified work shall pay betterment contribution at the rate of one hundred and twenty-five rupees per hectare in addition to the rates specified in this Schedule.

THE PUDUCHERRY IRRIGATION CESS REGULATION, 1976¹

[No. 5 of 1976]

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
2. Definitions
3. Levy and rate of irrigation cess
4. Land deriving benefit from percolation liable to irrigation cess
5. Penalty for irregular irrigation, remission of penalty and revision
6. Liability when water runs to waste
7. Liability to pay cess, penalty, etc.
8. Recovery of amount, etc.
9. Power to make rules

THE FIRST SCHEDULE

THE SECOND SCHEDULE

THE PUDUCHERRY IRRIGATION CESS REGULATION, 1976¹

[No. 5 of 1976]

[Promulgated by the President in the Twenty-seventh Year of the Republic of India]

A Regulation to levy a cess for the use of water supplied for irrigation purposes in certain cases in the Union territory of Puducherry

In exercise of the powers conferred by the second proviso to clause (1) of Article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:

1. **Short title, extent and commencement.**- (1) This Regulation may be called the Puducherry Irrigation Cess Regulation, 1976.

(2) It extends to the whole of the Union territory of Puducherry.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**- In this Regulation, unless the context otherwise requires,-

(a) "canal" includes-

- (i) channel, pipe and reservoir constructed, maintained or controlled by Government for the supply or storage of water;
- (ii) any work, embankment, structure, and supply and escape- channel connected with any canal or with such channel, pipe or reservoir, and any road constructed for the purpose of facilitating the construction or maintenance of any canal or such channel, pipe or reservoir;
- (iii) any part of a river, stream, lake, natural collection of water or natural drainage-channel;

1. Promulgated by the President on February 13, 1976, published in Gazette of India, Extra., Part II, Section 1, dated 13th February, 1976, pp. 221-230.

(b) "Collector" means the chief officer in charge of the revenue administration of the Union territory of Puducherry and includes, in relation to any function to be performed by the Collector under this Regulation, such other officer as the Government may, by notification in the *Official Gazette*, appoint for the purpose;

(c) "fasli" means the year commencing on the 1st day of July of a year and ending with the 30th day of June of the next year;

(d) "Government" means the administrator of the Union territory of Puducherry appointed by the President under Article 239 of the Constitution;

(e) "lands under irrigable command of a canal" means such lands as are irrigated or capable of being irrigated from the canal, being under its command and includes such lands as shall be deemed to be irrigated within the meaning of Section 4;

(f) "prescribed" means prescribed by rules made under this Regulation;

(g) "project areas" means areas under Cauveri Mettur Project and the Veedur Project and includes such other areas as the Government may, by notification in the *Official Gazette*, specify, from time to time, as project areas for the purposes of this Regulation.

3. Levy and rate of irrigation cess.- (1) There shall be levied before the end of every fasli succeeding that in which the irrigation takes place a cess called the irrigation cess in respect of every land under irrigable command of a canal:

Provided that no irrigation cess shall be leviable in respect of water supplied or used for the irrigation of any land which is classified and assessed as wet, unless such land is irrigated whether voluntarily or involuntarily and whether wholly or in part,-

- (i) from any source other than a source assigned by the Revenue Department or adjudged by a competent civil court as the source of irrigation of such land; or
- (ii) from any source assigned by the Revenue Department or adjudged by a competent civil court as the source of irrigation of such land otherwise than in accordance with any notification or order of the Government or of any authority subordinate thereto, regulating or specifying the time, method and conditions of supply of water for the irrigation of such land from such source and the number of crops which may be irrigated on such land with such supply, free of separate charge.

(2) Subject to the provisions of the First Schedule, the Government may, by notification in the *Official Gazette*, from time to time, specify the rates of irrigation cess, to be levied under sub-section (1) not exceeding the rates specified in that Schedule.

(3) Nothing in this section shall apply to any land referred to in Section 4.

4. Land deriving benefit from percolation liable to irrigation cess.- If it shall appear to the Collector that any cultivated land-

(a) receives by percolation or leakage from a canal an advantage equivalent to that which would be given by a direct supply of canal water for irrigation; or

(b) derives by a surface-flow, or by means of a well sunk within forty- five metres of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal, he may levy on such land the irrigation cess at the rate specified under Section 3.

Explanation.- For the purposes of this Regulation, any land deriving benefit under clause (a) or clause (b) shall be deemed to be land irrigated from a canal.

Penalty for irregular irrigation, remission of penalty and revision.

5. (1) In addition to the irrigation cess, there shall be levied in respect of any land under irregular irrigation a penalty at such rates and in accordance with such conditions as are specified in the Second Schedule.

Explanation: Irrigation is said to be "irregular" when water from a Government source or work is taken or used in the following cases, namely:-

- (i) when the water is taken or used for any land registered as wet in the revenue records otherwise than in accordance with the conditions on which it is so registered; or
- (ii) when the water is taken or used for any other land otherwise than under and in accordance with the terms of a general or special permit in force issued by any authority competent to issue such permit; or
- (iii) when the water is taken or used for any land in a manner involving any authorised interference with an irrigation or drainage work such as cross-bunding a channel, making a cut or hole in the bund, opening or breaking a sluice, changing a pipe, or altering the position of a pipe; or
- (iv) when the water is taken or used for any land contrary to the orders of any authority competent to give such orders; or
- (v) when the water is taken or used for any land in breach of any rule directing from what source or on what conditions water may be taken or used for such land.

(2) The Collector may, for reasons to be recorded in writing and subject to such rules as may be made in this behalf, remit the whole or any part of the penalty leviable under sub-section (1).

(3) The Government may call for and examine any record relating to such remission for the purpose of satisfying itself of the regularity or propriety of such remission and may modify or reverse the decision of the Collector.

6. Liability when water runs to waste.- When water taken from a source or work under the control of the Government be suffered to run to waste by any act or negligence of a person or a group of persons, such person or group of persons shall be liable to pay a penalty not exceeding the irrigation cess that could be levied under the First Schedule.

7. Liability to pay cess, penalty, etc.- The irrigation cess under Section 3 or under Section 4 or the penalty under Section 5 or any arrears thereof shall be payable by such persons as are liable to pay the land revenue under any law for the time being in force.

8. Recovery of amount, etc.- Any amount payable under Section 7 or the penalty payable under Section 6 shall be recoverable as an arrear of land revenue.

9. Power to make rules.- (1) The Government may make rules for carrying out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the procedure to be followed in the levy of irrigation cess and penalty;
- and
- (b) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Regulation shall, as soon as may be after it is made, be laid before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

[See Section 3 (2) and 6]

PART I
WET LANDS*(Lands registered in the revenue records as single crop wet lands under the same source of irrigation under which they are registered)*

A.- Crops which ordinarily remain on the ground for more than six months.

Sl. No.	Crops	Maximum rate of irrigation cess
(1)	(2)	(3)
1.	Crops grown and harvested in the same fasli	Half the wet assessment on the land.
2.	Crops grown in one fasli and harvested in the next fasli-	
	(i) if no other irrigated crop is raised in either fasli,	No cess in either fasli.
	(ii) if one other irrigated crop is raised either before or after such crop.	{ No cess in the first fasli. One-half of the wet assessment on the land in the second fasli.
	(iii) if two other irrigated crops are raised, one before and one after such crop,	{ No cess in the first fasli. Full wet assessment on the land in the second fasli.
3.	Crops existing on lands for two years or more	Half the wet assessment on the land in each fasli.

B.- Where two crops are raised.

Sl. No.	Crops		Maximum rate of irrigation cess	
	First Crop (1)	Second Crop (2)	First Crop (3)	Second Crop (4)
1. Wet	Wet		No cess	Half the wet assessment on the land.
2. Wet	Dry systematically irrigated		Do.	
3. Wet	Dry occasionally irrigated		Do.	The rate leviable for a similar crop raised on dry lands, subject to the maximum of half the wet assessment on the land.
4. Dry systematically irrigated.	Wet		No. cess	
5. Dry systematically irrigated.	Dry occasionally irrigated		Do.	
6. Dry occasionally Irrigated.	Wet		Do.	
7. Dry occasionally Irrigated.	Dry systematically irrigated.		Do.	
8. Dry occasionally Irrigated.	Dry occasionally irrigated		Do.	

C.- Where more than two crops are raised.

Crop (1)	Maximum rate of irrigation cess (2)
Third Crop	The difference between half the wet assessment on the land and the rate leviable under B. above or the second crop.

PART II
LANDS OTHER THAN WET LANDS

A.- Crops which ordinarily remain on the ground for more than six months.

Maximum rate of irrigation cess per hectare	
Lands under project areas	Lands under other areas
₹. P.	₹. P.
112.50	75.00

B.- Crops other than those covered by A. above:
(i) where two crops are raised:

Sl. No.	Crop		Maximum rate of irrigation cess per hectare for each crop			
	First Crop	Second Crop	Lands under project areas		Lands under Other areas	
			First Crop	Second Crop	First Crop	Second Crop
(1)	(2)	(3)	(4)	(5)	(6)	(7)
			₹. P.	₹. P.	₹. P.	₹. P.
1.	Wet	Wet	75.00	37.50	50.00	25.00
2.	Wet	Dry	75.00	28.14	50.00	18.75
3.	Wet	systematically irrigated	75.00	18.75	50.00	12.50
4.	Dry	Dry occasionally irrigated	56.25	46.89	37.50	31.25
5.	systematically irrigated	Wet	56.25	37.50	37.50	25.00
6.	Dry	Dry systematically irrigated	56.25	28.14	37.50	18.75
7.	systematically irrigated	Dry occasionally irrigated	56.25	28.14	37.50	18.75
8.	Dry occasionally irrigated	Wet	37.50	56.25	23.00	37.50
9.	Dry occasionally irrigated	Dry systematically irrigated	37.50	46.89	25.00	31.25
9.	Dry occasionally irrigated	Dry occasionally irrigated	37.50	37.50	25.00	25.00

(ii) where third crop is raised:

Sl. No.	Crop	Maximum rate of irrigation cess per hectare for the third crop	
		Lands under project area	Lands under other areas
(1)	(2)	(3)	(4)
		₹ P.	₹ P.
1.	Wet	37.50	25.00
2.	Dry, whether systematically or occasionally irrigated	18.75	12.50

Explanations: (1) The expression "systematically irrigated" refers to the irrigation of dry crops like ragi, cholam, cumbu, groundnut and chillies;
 (2) The expression "occasionally irrigated" refers to the irrigation of dry crops like rainfed cumbu and gingelly;
 (3) The expression "wet assessment" refers to the land assessment in respect of land registered as wet lands in the revenue records under the settlement in force from time to time.

CONDITIONS

1. (i) Coconut and other tope plantations on single crop wet land shall be treated as crops remaining on ground for more than six months if water is taken for a number of months in a fasli sufficient for raising two rice crops, that is for more than six months.

(ii) Such trees, if more than three years' old, shall not be treated as irrigated crops, unless they are irrigated otherwise than by percolation.

(iii) Where isolated trees are grown on bunds of fields or elsewhere, every tree shall be deemed to occupy 3 ares, and the irrigation cess levied accordingly.

2. Irregular irrigation of wet lands shall be treated as dry lands for the purpose of levy of irrigation cess and the cess shall be levied accordingly.

3. The charge per hectare for crops irrigated by means of mechanical contrivances shall be three-fourths of the rates levied for irrigation by direct flow, provided that the land has not also been irrigated by direct flow from a Government source. This shall apply also to irrigation by means of water carried in pots, provided that backyard cultivation so carried on shall be altogether exempt from charge.

4. Where portions of a field are irrigated, the charge shall be calculated on the actual extent irrigated.

5. Where two or more crops of different kinds liable to different rates of irrigation cess are cultivated, the levy shall be regulated according to the area under each crop.

6. Any variety of paddy which is harvested only once shall be treated as a single crop for the purpose of levy of irrigation cess irrespective of the period for which water is required for it.

7. In the case of ottadam cultivation on single crop wet lands, no irrigation cess shall be levied although the whole crop requires water for more than six months. If the lands are dry, the ottadam or samba crops standing on the ground after the harvest of the first crop shall not be treated as a second crop for the levy of irrigation cess.

8. Casuarina, bamboo and other timber and fuel plantations shall be treated as dry crops and one-third of irrigation cess for the first wet crop shall be levied for their irrigation on single crop wet lands. If the lands are dry, the irrigation cess shall be levied as for single crop or crops remaining on ground for more than six months, according to the number of months during which the water is actually taken.

EXEMPTIONS

1. No irrigation cess shall be leviable when crops classed as dry are irrigated by percolation, unless owing to drought or other special circumstances it is manifest that without such irrigation the land must have remained waste or the crop must have perished. In case of doubt whether the crop could have been successfully raised without such irrigation, no levy shall be made.

2. No irrigation cess shall be leviable on dry lands when used as seedbeds, but this exemption shall not apply when the water is irregularly taken.

THE SECOND SCHEDULE

(See Section 5)

RATE OF PENALTY

No. of occasions of irregular irrigation (1)	Rate of penalty	
	Wet (2)	Lands other than wet lands (3)
On the first occasion	Nil	Not exceeding the amount of irrigation cess under Part II of the First Schedule.
On the second occasion	Not exceeding three times the irrigation cess under Part II of the First Schedule.	Not exceeding four times the irrigation cess under Part II of the First Schedule.
On the third occasion	Not exceeding eight times the irrigation cess under Part II of the First Schedule.	Not exceeding nine times the irrigation cess under Part II of the First Schedule.
On the fourth or any subsequent occasion	Not exceeding eighteen times the irrigation cess under Part II of the First Schedule.	Not exceeding nineteen times the irrigation cess under Part II of the First Schedule.

CONDITIONS

1. Where a crop is irrigated with the water taken in the manner referred to in Section 5, the irrigation of such crop shall not be deemed to constitute more than one occasion.

2. The penalty leviable on the second or any subsequent occasion as indicated above shall be levied only when the land for which water is irregularly taken or used is the same survey field or registered sub-division on both or all the occasions, as the case may be.

THE YANAM LAND REFORMS (CEILING ON AGRICULTURAL HOLDINGS) REGULATION, 1977.

[No. 1 of 1977]

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement.
2. Definitions.
3. Ceiling area.
4. Standard holding for different classes of lands and computation
5. Constitution of a Tribunal.
6. Special provision in respect of certain transfers, etc already made.
7. Declaration of holding.
8. Determination of ceiling.
9. Surrender of land in certain cases.
10. Vesting of land surrendered.
11. Reversion and vesting of land surrendered.
12. Disposal of land vested in Government.
13. Amount payable for lands vested in the Government.
14. Claims for the amount payable.
15. Prohibition of alienation of holding.
16. Declaration of future acquisition.
17. Declaration to be furnished before registering officer.
18. Constitution of Appellate Tribunal.
19. Appeal.
20. Revision.
21. Power of authorities under this Regulation.
22. Exemptions.
23. Penalty.
24. Protection of action taken under this Regulation.
25. Bar of jurisdiction.
26. Power to make rules.
27. Regulation to override other laws.
28. Power to remove difficulties.

SCHEDULE

THE YANAM LAND REFORMS (CEILING ON AGRICULTURAL HOLDINGS) REGULATION, 1977.

[No. 1 of 1977]

Promulgated by the President in the Twenty-seventh Year of the Republic of India.

A Regulation to provide for the fixation of ceiling on agricultural holdings in the region known as Yanam in the Union territory of Puducherry and taking over of surplus lands and to provide for matters connected therewith.

In exercise of the powers conferred by the second proviso to clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:-

Short title, extent and commencement.

1. (1) This Regulation may be called the Yanam Land Reforms (Ceiling on Agricultural Holdings) Regulation, 1977.

(2) It extends to the whole of the Yanam region in the Union territory of Puducherry.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Regulation unless the context otherwise requires,-

(a) "agricultural year" means the year commencing on the 1st day of April in any year and ending with the 31st day of March of the year next succeeding

Provided that the Collector may, with respect to any crop area or category of land, by notification, specify the year between such other dates as he may deem fit, as an agricultural year;

(b) "Appellate Tribunal" means the Appellate Tribunal constituted under section 18 and where no such Appellate Tribunal is in existence, the Collector;

(c) "bank" means a banking company as defined in section 5 of the Banking Regulation Act, 1949 (10 of 1949). and includes the State Bank of India, constituted under the State Bank of India Act, 1955 (23 of 1955) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), and a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), and such other financial institution owned, controlled or managed by a State Government or the Central Government as may be notified in this behalf by the Government;

(d) "ceiling area" means the extent of land specified in section 3 to be the ceiling area;

(e) "Collector" means the chief officer in charge of the revenue administration of the Union territory of Puducherry;

(f) "Deputy Collector (Revenue)" means the Deputy Collector (Revenue), Yanam;

(g) "double crop wet land" means any wet land on which two crops per fasli year have, or a dufassal crop has, been raised with the use of water from a Government source of irrigation in any four fasli years within a continuous period of six fasli years immediately before the specified date;

(h) "dry land" means land registered as *Terres a Pasturage* in the revenue accounts of the Government other than lanka or padugai land or land used as coconut or grape garden immediately before the specified date

(i) "family unit" means-

(i) in the case of an individual who has a spouse or spouses, such individual, the spouse or spouses and their minor sons and unmarried minor daughters, if any;

(ii) in the case of an individual who has no spouse living, such individual and his or her minor sons and unmarried minor daughters, if any;

(iii) in the case of an individual who is a divorced husband and who has not remarried, such individual and his minor sons and unmarried minor daughters, if any, whether in his custody or not; and

(iv) where an individual and his or her spouse are both (dead, their minor sons and unmarried minor daughters, if any.

Explanation.- Where a minor son is married, his wife and their offspring, if any, shall also be deemed to be members of the family unit of which the minor son is a member;

(j) "fasli year" means the year commencing on the 1st day of July in any year and ending with the 30th day of June of the year next succeeding;

(k) "Government" means the Administrator of the Union territory of Puducherry appointed under article 239 of the Constitution;

(l) "Government source of irrigation" means a source of irrigation registered in the land revenue accounts of the Government as such, including a well constructed or maintained by the Government or any local authority;

(m) "holding" means the entire land held by a person,-

(i) as an owner;

(ii) as a limited owner;

(iii) as an usufructuary mortgagee;

(iv) as a tenant;

(v) who is in possession by virtue of a mortgage by conditional sale or through part performance of a contract for the sale of land or otherwise;

or partly in one of the said capacities and partly in any other of the said capacity or capacities ; and the expression "to hold land" shall be construed accordingly.

Explanation- Where the same land is held by one person in one capacity and by another person in any other capacity such land shall be included in the holding of both such persons;

(n) "land" means land which is used or is capable of being used for purposes of agriculture or for purposes ancillary thereto, including horticulture, forest land, pasture land, waste land and tope ; and includes land deemed to be agricultural land under this Regulation;

(o) "law" includes any enactment, Ordinance, regulation, order, bye law, rule, scheme, notification or other instrument having the force of law;

(p) "notification" means a notification published in the Official Gazette, and the expression "notify" shall be construed accordingly;

(q) "notified date" means the date notified under sub-section (3) of section 1;

(r) "owner" includes a person by whom or in whose favour a trust is created and a person entitled to a vested remainder but does not include a limited owner;

(s) "person" includes an individual, a family unit, a trustee, a company, a firm, a society or an association of individuals, whether incorporated or not;

(t) "prescribed" means prescribed by rules made by the Government under this Regulation;

(u) "specified date" means,-

(i) in the case of a declaration required to be filed under section 7, the notified date ; and

(ii) in the case of a declaration required to be filed under section 16, the date of acquisition usufructuary mortgage, lease, marriage, adoption or alteration in the classification of the land referred to therein, as the case may be;

(v) "standard holding" means the extent of land specified in section 4 to be the standard holding;

(w) "tenant" means any person who has paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under an agreement, express or implied, and includes his heirs and legal representatives ; -

(x) "Tribunal" means a Tribunal constituted under section 5;

(y) "wet land" means any land on which paddy or dufassal crops have been raised with the use of water from a Government source of irrigation in any four fasli years within a continuous period of six fasli years immediately before the specified date and includes any land irrigated by a tube well constructed by the Government or any person.

Ceiling area.

3. (1) The ceiling area in the case of a family unit consisting of not more than five members shall be an extent of land equal to one standard holding.

(2) The ceiling area in the case of a family unit consisting of more than five members shall be an extent of land equal to one standard holding *plus* an additional

extent of one-fifth of one standard holding for every such member in excess of five, so however, that the ceiling area shall not exceed two standard holdings.

(3) The ceiling area in the case of every individual who is not a member of a family unit, and in the case of any other person shall be an extent of land equal to one standard holding.

Explanation.- In the case of a family unit, the ceiling area shall be applied to the aggregate of the lands held by all the members of the family unit.

Standard holding for different classes of lands and computation

4. (1) For the purposes of this Regulation, the extent of land which shall constitute a standard holding for the class of lands specified in column (1) of the Table below shall be that specified against it in column (2) thereof;

TABLE

Class of land (1)		Extent of standard holding (2)
WET LAND		
1 st class } 2 nd class } 3 rd class }	(Land assessed to land revenue at the Rate exceeding ₹ 10 per hectare)	7.20 hectares.
	(Land assessed to land revenue at the rate exceeding ₹ 7 but not exceeding ₹ 10 per hectare)	8.40 hectares.
4 th class	(Land assessed to land revenue at the rate exceeding ₹ 4 but not exceeding ₹ 7 per hectare)	9.60 hectares.
5 th class	(Land assessed to land revenue at the rate not exceeding ₹ 4 per hectare)	10.08 hectares.
DRY LAND		
1 st class } 2 nd class }	(Land assessed to land revenue at the rate not exceeding ₹ 3 per hectare)	21.00 hectares.

Explanation.- For the purpose of this section, "class" means the class of the land as determined by the Deliberation dated the December, 1925 and enforced by the Arrete, dated 16th April 1926.

(2) In computing the holding of a person or family unit, consisting of lands of different classes, the relative proportion of the extent of land of each such class to the extent of a standard holding of the appropriate class shall be taken into account in the manner prescribed and the aggregate of all such proportions shall be deemed to be the holding of the person or the family unit, in relation to the ceiling area.

(3) In computing the holding of an individual who is not a member of a family unit, but is a member of a joint family, the share of such an individual in the lands held by the joint family shall be taken into account and aggregated with the lands, if any, held by him separately and for this purpose, such share shall be deemed to be the extent of land which would be allotted to such individual had there been partition of the lands held by the joint family.

(4) In computing the holding of the member of a family unit who is also a member of a joint family, the share of such member in the lands held by the joint family shall be taken into account and aggregated with the lands, if any, held by him separately and for this purpose, such share shall be deemed to be the extent of land which would be allotted to such member had there been a partition of the lands held by the joint family.

(5) Where an individual or a member of the family unit is a member of a co-operative society, or firm, the share of such individual or member of a family unit in the land held by such co-operative society or firm shall also be included in the holding of the individual or member of the family unit, as the case may be, and for this purpose the share of the land so held shall be deemed to be the extent of the land which would have been allotted to him on a winding up of the co-operative society or dissolution of the firm.

(6) Lands owned or held under a private trust shall.-

(a) in a case where the trust is revocable by the author of the trust, be deemed to be held by such author or his successor-in-interest; and

(b) in other cases, be deemed to be held by the beneficiaries of the trust in proportion to their respective interests in such trust, or the income derived therefrom.

Explanation- Where a trust is partly private and partly public, this sub-section shall apply to lands covered by that part of the assets of the trust which is relatable to the private trust.

Constitution of a Tribunal.

5. (1) The Government may, by notification, constitute a Tribunal for the purposes of this Regulation.

(2) The Tribunal constituted under sub-section (1) shall consist of one person who holds or has held the post of a Deputy Collector or that of a District Munsif or is qualified to hold the post of a District Munsif or holds or has held a civil post under the Government, not below the rank of a Deputy Collector.

***Special provision in respect of certain transfers, etc.
already made.***

6. (1) Where on or after the 24th January, 1971 but before the notified date, any person has transferred whether by way of sale (other than a *bona fide* sale under a registered deed for valuable consideration), gift, usufructuary mortgage, exchange, settlement, surrender or in any other manner whatsoever, any land held by him or created a trust of any land held by him, then, the burden of proving that such transfer or creation of trust has not been effected in anticipation of, and with a view to avoiding or defeating the objects of, this Regulation shall be on such person, and where he has not so proved, such transfer or creation of trust, shall be disregarded for the purpose of the computation of the ceiling area of such person.

(2) Where at any time within a period of five years before the notified date, any person has converted any agricultural land held by him into a non-agricultural land, then, the land so converted shall be deemed to be agricultural land on the notified date for the purpose of this Regulation.

(3) Where on or after the 24th January, 1971, but before the notified date.-

(a) any declaration of dissolution of marriage has been made by a Court on an application made on or after the 24th January, 1971 ; or

(b) any other dissolution of marriage in accordance with any law or custom has taken place,

then, the land held by each spouse immediately before the date of such dissolution shall, for the purposes of this Regulation, be deemed to be land held on the notified date by the family unit of which they were members immediately before such dissolution.

(4) Where on or after the 24th January, 1971, but before the notified date, any person has been given in adoption, then, the land held by such person immediately before the date of such adoption shall, for the purposes of this Regulation, be deemed to be held on the notified date by the family unit of which he was a member immediately before such adoption.

(5) In every case referred to in sub-section (3) or sub-section (4), the computation of the ceiling area shall first be made in respect of the family unit referred to in the said sub-section, and after the surrender of the land held in excess of the ceiling area by such family unit, the remaining land held by such divorced spouse or adopted person, as the case may be, shall be included in the holding of such divorced spouse or adopted person, whether as an individual or as a member of a family unit of which such spouse or person has become a member.

(6) If any question arises,-

(a) whether any transfer or creation of a trust effected on or after the 24th January, 1971 had been effected in anticipation of, and with a view to avoiding or defeating the objects of, this Regulation ; or

(b) whether any conversion of agricultural land into non-agricultural land had taken place within a period of five years before the notified date ; or

(c) whether any dissolution of a marriage had taken place on or after the 24th January, 1971 but before the notified date either on an application made, on or after the 24th January, 1971, or in accordance with any law or custom; or

(d) whether any person had been given in adoption on or after the 24th January, 1974, but before the notified date;

such question shall be determined by the Tribunal, after giving an opportunity of being heard to the affected parties, and its decision thereon shall, subject to an appeal and a revision under this Regulation, be final.

(7) If the Tribunal decides that any transfer or creation of trust had been effected in anticipation of, and with a view to avoiding or defeating the objects of this Regulation and if as a result of such transfer or creation of trust, the holding of the person or the family unit, that remains on the notified date, does not exceed the extent of land that he or the family unit is liable to surrender, then, the Tribunal shall treat the entire holding thus left over as the extent of land to be surrendered under the provisions of this Regulation by the person or the family unit, as the case may be.

Declaration of holding.

7. (1) Every person whose holding on the notified date together with any land transferred by him on or after the 24th January 1971, whether by way of sale (other than a *bona fide* sale under a registered deed for valuable consideration gift, usufructuary mortgage, exchange, settlement, surrender or in any other manner whatsoever and any land in respect of which a trust has been created by him on or after the 24th January, 1971 exceeds the specified limit, shall, within thirty days from the notified date or within such extended period as the Government may notify in this behalf, furnish a declaration in respect of his holding together with such land, to the Tribunal containing such particulars and in such form as may be prescribed.

Explanation I.- Where the land is held or is deemed to be held by a minor or lunatic or an idiot or other person subject to like disability, not being a member of the family unit, the declaration shall be furnished by the guardians manager or other person in charge of the property of such person, and where the land is held or is deemed to be held by a company firm, association ,or other corporate body, the declaration shall be furnished by any person competent to act for such company, firm association or corporate body in this behalf.

Explanation II.- Where the land is held or is deemed to be held by a family unit, the declaration shall be furnished by a person in management of the property of such family unit and the declaration so furnished shall be binding on all the members of the family unit:

Provided that the Tribunal shall, in the event of a dispute as to the declaration furnished by the person in management, give to the other members of the family unit an opportunity of making their representations or of adducing evidence, if any, in respect of such declaration and shall consider such representations and evidence before determining the ceiling area under this Regulation.

Explanation III.- In this sub-section, "Specified limit" means,-

- (a) in the case of wet land—7.20 hectares (18 acres);
- (b) in the case of dry land—18.00 hectares (45 acres);

and for the, purpose of computing the specified limit in a case where the holding of any person includes both wet land and dry land, one hectare of wet land shall be deemed to be equal to two and one-half hectares of dry land.

(2) Without prejudice to the provisions of sub-section (1), the Tribunal shall have power to issue notice requiring any person holding land or residing within its jurisdiction who, it has reason to believe, holds or is deemed to hold land in excess of the ceiling area to furnish a declaration of his holding, or that of his family unit, under sub-section (1), within such period as may be specified in the notice not being less than fifteen days from the date of its communication, and such person shall furnish the declaration accordingly.

(3) If any person who is liable to furnish a declaration under sub-section (1) or sub-section (2) fails to furnish the declaration within the specified time, the Tribunal may obtain the necessary information in such manner as may be prescribed.

Determination of ceiling.

8. The Tribunal shall, on receipt of the declaration furnished or information obtained under section 7, publish the same, and make an inquiry, in such manner as may be prescribed and pass orders determining whether the person holds or is deemed to hold on the notified date an extent of land in excess of the ceiling area and if so, the extent of land so held in excess as on that date.

Explanation.- Save as otherwise provided in this Regulation, in the case of a family unit, the number of members of the family unit shall be reckoned with reference to the notified date.

Surrender of land in certain cases.

9. (1) If the extent of the holding of a person is in excess of the ceiling area, the person shall be liable to surrender the land held in excess.

(2) The Tribunal shall serve on every person, who is liable to surrender the land held in excess of the ceiling area under sub-section (1), a notice specifying therein the extent of land which such person has to surrender and requiring him to file a statement within such period not being less than fifteen days, as it may fix, indicating therein, full particulars of the lands which such person proposes to surrender.

(3) If the person on whom a notice is served under sub-section (2), files the statement referred to in that sub-section within the period fixed therefor, and the Tribunal is satisfied, after making such inquiry as it deems fit, that the proposed surrender of the land is in accordance with the provisions of this Regulation, it shall pass an order approving the surrender and the said land shall thereupon be deemed to have been surrendered by such person.

(4) If the person on whom a notice is served under subsection (2) does not file the statement referred to in that sub-section within the period fixed therefor or files such statement within the period fixed but does not specify therein the entire extent of land which such person has to surrender, the Tribunal may, after giving an opportunity to the person concerned of being heard, itself select, in the former case, the entire extent, and in the latter case, the balance of the extent which such person has to surrender, and pass an order to that effect, and thereupon the said land or balance of land, as the case may be, shall be deemed to have been surrendered by such person.

(5) (a) Notwithstanding anything in this section, it shall be open to the Tribunal to refuse to accept the surrender of any land-

(i) which has been converted into non-agricultural land and, has been rendered incapable of being used for purposes of agriculture;

(ii) the surrender of which is not acceptable on account of a dispute as to the title to the land or an encumbrance on the land or on account of the land being in the possession of any person mentioned in sub-clause (ii) or sub-clause (v) of clause (m) of section 2 or on account of the land proposed to be surrendered becoming inaccessible by reason of its severance from the remaining part of the holding;

and the Tribunal shall, in every such case, serve a notice on the person concerned requiring him to surrender any other land in lieu thereof ; and thereupon the provisions of sub-sections (3) and (4) shall, mutatis mutandis, apply to such surrender:

Provided that where the land proposed to be surrendered under this section is burdened with a mortgage, the Tribunal may, on an application made by the mortgagor with the consent of the mortgagee, by order, transfer such mortgage from the land so proposed to be surrendered to the residuary holding of the mortgagor or to any part thereof.

(b) Where the land so surrendered under clause (a) is also not acceptable to the Tribunal, the Tribunal shall, after giving an opportunity to the person concerned of being heard, select any other land in lieu thereof, and thereupon, the said land shall be deemed to have been surrendered by such person.

(6) Before passing an order under sub-section (3) or sub-section (4) or sub-section (5), the Tribunal shall publish the particulars of the land proposed to be surrendered or selected, in such manner as may be prescribed and consider the objections, if any, received in pursuance of such publication.

Explanation I.- In the case of a surrender of land or a family unit,-

(a) where the extent to be surrendered by each member is agreed upon by or on behalf of all the members of the family unit, the extent surrendered by each such member shall be in accordance with such agreement, so however, that the extent surrendered by any female member of the family unit shall not exceed the extent which she would be liable to surrender in proportion to the total land held by her to the lands held by all the members of the family unit;

(b) where there is no such agreement, the extent surrendered shall be in proportion to the lands held by each member of the family unit;

(c) where any land is held in the name of any female member of the family unit, it shall be presumed, unless the contrary is proved, that such female member is the owner of such land.

Explanation II.- Where any person surrenders any land being the whole or part of his share of the land held by a co-operative society or firm, the share of such person in such co-operative society, or firm, as the case may be, shall, to the extent required for such surrender, be deemed to have been correspondingly reduced.

Explanation III.- Where any person required to surrender any land under this Regulation is a member of a co-operative society or firm, he may be required to surrender the land, if any, held by him separately and may then be required to surrender from his share of the land held by the co-operative society, or firm only to make up the deficiency.

Explanation IV.- Where it is proposed to accept the surrender by any person of his share of the lands held by a joint family, co-operative society or firm of which he is a member, the lands so surrendered shall be selected in accordance with any agreement that may be arrived at between such person and the other members of such joint family, co-operative society or firm, and where there is no such agreement, the share of such person in the lands so held shall, as far as practicable, be determined *pro rata* with reference to each class of land held by such joint, family, co-operative society or firm.

Vesting of land surrendered.

10. Where any land surrendered or is deemed to have been surrendered under this Regulation by an owner, the Tribunal may, subject to such rules as may be prescribed, by order take possession or authorise any officer to take possession of such land which shall thereupon vest in the Government free from all encumbrances from the date of such order:

Provided that any claim or liability enforceable against that land immediately before the date of vesting in the Government may be enforced only-

- (i) against the amount payable under this Regulation in respect of such land ; and
- (ii) against any other property of the owner;

to the same extent to which such claim or liability was enforceable against that land or other property, as the case may be, immediately before the date of vesting.

Explanation.- Nothing in this section shall affect the provisions of any law, custom, usage or agreement relating to right of easement available for any land vesting in the Government under this section over any other land.

Reversion and vesting of land surrendered.

11. (1) Where any land is surrendered or is deemed to have been surrendered under this Regulation by any usufructuary mortgagee or tenant, the possession of such land shall, subject to such rules as may be prescribed, revert to the owner.

(2) The owner to whom the possession of the land reverts under sub-section (1) from an usufructuary mortgagee shall be liable to pay the mortgage money due to the usufructuary mortgagee in respect of that land with interest at the rate of six per cent per annum from the date of such reversion, and the said land shall continue to be the security for such payment.

(3) The owner to whom the possession of the land reverts under sub-section (1) from a tenant shall be entitled to receive from the tenant rent due for the period ending with the last crop harvested by such tenant.

(4) Where any land is surrendered or is deemed to have been surrendered under this Regulation by any limited owner or by any person in possession by virtue of a mortgage by conditional sale or through a part performance of contract for sale or otherwise, the possession of such land shall, subject to such rules as may be prescribed, revert to the owner.

(5) The owner to whom the possession of the land reverts under sub-section (4) shall be liable to discharge the claim enforceable against the land by the limited owner or person in possession; and the land surrendered shall, if held as a security, continue to be the security.

(6) Notwithstanding anything contained in this section, where any land surrendered by an usufructuary mortgagee or a tenant or a limited owner or a person in possession referred to in sub-section (4), is also a land surrendered by the owner, the provisions of section 10 shall apply.

Disposal of land vested in Government.

12. (1) The lands vested in the Government under this Regulation shall be allotted for use as house-sites for agricultural labourers, village artisans or other poor persons owning no houses or house-sites, or transferred to the weaker sections of the people dependent on agriculture for purpose of agriculture or for purposes ancillary thereto, in such manner as may be prescribed:

Provided that, as far as may be practicable, not less than one-half of the total extent of land so allotted or transferred shall be allotted or transferred to the members of the Scheduled Castes and such of the categories of the weaker sections as may be prescribed by the Government.

(2) Every person, to whom the land has been allotted for use as house-site or transferred for the purpose of agriculture or for purposes ancillary thereto, shall pay to the Government the value of the land within a period of fifteen years from the date of allotment or transfer or within a shorter period at his option, and in such instalments as may be prescribed, and on payment of the entire amount such person shall be granted a patta in respect of that land:

Provided that such price shall, in no case, be less than the amount paid by the Government for the vesting of such land under this Regulation.

Explanation.- Where any land transferred under sub-section (1) contains any fruit-bearing trees or permanent structures, the transferee shall also be liable to pay the value of such trees or structures calculated in such manner as may be prescribed.

(3) Where any person fails to pay the sum referred to in sub-section (2) or any installment thereof, the Deputy Collector (Revenue) may, subject to such rules as may be prescribed, resume the land after giving an opportunity to the person concerned of making a representation in this behalf and the amount already paid by such person to the Government shall be liable to be forfeited to the Government.

(4) Any transfer of the land under this section shall be subject to-

(i) the condition that the land shall not be alienated by the transferee by way of sale, gift, mortgage, lease or in any manner whatsoever otherwise than by way of mortgage in favour of the Government, a bank or a co-operative society, including a land mortgage bank ; and

(ii) such other conditions as may be prescribed.

(5) Any alienation effected or other act done, in respect of any land in violation of the conditions specified in sub-section (4) shall be null and void; and the Deputy Collector (Revenue) shall resume the land after giving an opportunity to the persons affected of making a representation in this behalf.

(6) Notwithstanding anything in this section, the Government may-

(i) lease out any land vesting in them under this Regulation for such purposes and on such terms and conditions as may be specified by them; or

(ii) reserve such land for any common use or benefit of the community.

Amount payable for lands vested in the Government.

13. The amount payable for any land vested in the Government under this Regulation shall be a sum calculated at the rates specified in the Schedule and it shall be paid in such manner as may be prescribed.

Claims for the amount payable.

14. (1) The Tribunal shall, after giving the persons known or believed to be interested in the land vested in the Government an opportunity of being heard, determine the amount payable under section 13 and publish a notification containing particulars of the land so vested and the amount payable therefor.

(2) Any person having an interest in the said land may file a claim for the amount due to him from out of the amount payable, within thirty days from the date of publication of the notification and the Tribunal shall, after making an inquiry into the validity of the claim, determine the persons who, in its opinion, are entitled to payment from out of the said amount and the amount to which each of them is entitled and subject to such rules as may be prescribed, make payments in accordance with such determination.

Prohibition of alienation of holding.

15. (1) No person whose holding, and no member of a family unit, the holding of all the members of which in the aggregate, is in excess of the ceiling area as on the 24th January, 1971 or at any time thereafter, shall, on or after the notified date, alienate his holding or any part thereof by way of sale, lease, gift, exchange, settlement, surrender, usufructuary mortgage or otherwise, or effect a partition thereof, or create a trust or convert an agricultural land into non-agricultural land, until he or the family unit, as the case may be, has furnished a declaration under section 7 and the extent of land, if any, to be surrendered in respect of his holding or that of his family unit has been determined by the Tribunal and an order has been passed by the Tribunal under this Regulation taking possession of the land in excess of the ceiling area and a notification is published under section 14 ; and any alienation made or partition effected or trust created in contravention of this section shall be null and void and any conversion so made shall be disregarded.

(2) For the purposes of determining whether any transaction of the nature referred to in sub-section (1) took place on or after the notified date, the date on which the document relating to such transaction was registered shall, notwithstanding anything in section 47 of the Registration Act, 1908 (16 of 1908), be deemed to be the date on which the transaction took place, whether such document was registered within or outside the Union territory of Puducherry.

(3) The provisions of sub-section (1) shall apply to any transaction of the nature referred to therein in execution of a decree or order of a civil court or of any award or order of any other authority.

Declaration of future acquisition.

16. Where on or after the notified date there takes place-

(a) any acquisition in any manner whatsoever, usufructuary mortgage, or lease of any land; or

(b) any marriage or adoption; or

(c) any alteration in the classification of the land;

and after such acquisition, usufructuary mortgage, lease, marriage, adoption or alteration, the total extent of land held by any person or by all the members of any family unit in the aggregate exceeds the ceiling area such person or family unit shall, within a period of sixty days from the date of such acquisition, usufructuary mortgage, lease, marriage, adoption or alteration, furnish a declaration of the holding of such person or family unit to the Tribunal ; and all the relevant provisions of this Regulation shall apply as if it was a declaration furnished under section 7.

Explanation I.- For the purpose of this section, the number of members of a family unit shall be reckoned with reference to the date of such acquisition, usufructuary mortgage, lease, marriage, adoption or alteration, as the case may be.

Explanation II.- For the purpose of the application of the provisions of sections 8 and 15, the expression "notified date" shall be construed as the date of acquisition, usufructuary mortgage, lease, marriage, adoption or alteration, as the case may be.

Explanation III.- For the removal of doubts, it is hereby clarified that no declaration under this section need be furnished where the total extent of land held by all the members of a family unit in the aggregate exceeds the ceiling area solely on account of any reduction in the number of members of the family unit.

Explanation IV.- Where a land surrendered by a family unit under this Regulation is land held by a joint family, it shall be open to the members of the family unit and other members of the joint family to partition the land remaining with such joint family after such surrender and if such family unit comes to hold land in excess of the ceiling area solely on account of such partition, such family unit shall not be required to furnish a fresh declaration under this section and the relevant provisions of this Regulation applicable to a family unit holding land in excess of the ceiling area shall not apply to such family unit.

Declaration to be furnished before registering officer.

17. (1) Notwithstanding anything in the Registration Act, 1908 (16 of 1908), every person presenting before a registering officer appointed under the said Act, for registration on or after the notified date, any document relating to alienation of any land or creation of a trust in respect of any land shall at the time of such presentation, furnish a declaration in duplicate by the transferor making the alienation, or, creating the trust, to the effect that the holding of the transferor does not exceed the ceiling area, and in a case where such transferor is a member of a family unit, that the holdings of all the members of such family unit in the aggregate do not exceed the ceiling area.

(2) The declaration mentioned in sub-section (1) shall be in such form and contain such particulars as may be prescribed.

(3) On or after the notified date, no registering officer shall accept for registration any document relating to the alienation, or the creation of any trust, of any land, if the document is not accompanied by the declaration mentioned in sub-section (1).

(4) The registering officer shall, as soon as may be after the date of registration of the document, forward one copy of the declaration referred to in this section to the Deputy Collector (Revenue) and on receipt of such copy the Deputy Collector (Revenue) may obtain such information as may be necessary for verifying as to the correctness of the statements contained in the declaration.

(5) Every village Karnam and every officer of the Revenue Registration or Survey and Settlement Department of the Government, shall report to the Deputy Collector (Revenue) any information which they may receive of transactions in respect of any land made in contravention of any of the provisions of this Regulation and on receipt of such information the Deputy Collector (Revenue) may verify the correctness of the same.

(6) Where it appears to the Deputy Collector (Revenue) as a result of verification under sub-section (4) or sub-section (5) or in any other manner that a transaction has taken place in contravention of the provisions of this Regulation he shall, after giving an opportunity of making representation to the parties likely to be affected and holding such inquiry as he may consider necessary, by order, determine whether or not the transaction is in contravention of the provisions of this Regulation; and where any transaction is so determined to be in contravention of the said provisions, it shall be null and void.

Constitution of Appellate Tribunal.

18. (1) The Government may, by notification, constitute an Appellate Tribunal for the purpose of hearing appeals under this Regulation.

(2) The Appellate Tribunal shall consist of not more than three members of whom one shall be a person who holds or has held or is qualified to hold the post of a District Judge and such person shall be the Chairman of the Tribunal.

(3) The Appellate Tribunal shall meet at such times and places as it thinks fit and shall regulate its own procedure.

Appeal.

19. (1) An appeal shall lie against an order passed by the Tribunal or the Deputy Collector (Revenue) to the Appellate Tribunal within thirty days from the date of communication of the order, and the Appellate Tribunal shall pass such orders on the appeal as it deems fit and such order shall, subject to any revision under section 20, be final:

Provided that the Appellate Tribunal may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where the Government are aggrieved by an order passed by the Tribunal or Deputy Collector (Revenue), they may file an appeal to the Appellate Tribunal against that order.

Revision.

20. An application for revision from any party aggrieved, including the Government, shall lie to the High Court, within the prescribed period, from any order passed on appeal by the Appellate Tribunal on any of the following grounds, namely :-

- (a) that it exercised a jurisdiction not vested in it by law, or
- (b) that it failed to exercise a jurisdiction so vested, or
- (c) that it acted in the exercise of its jurisdiction illegally or with material irregularity.

Power of authorities under this Regulation.

21. (1) The Appellate Tribunal, the Tribunal, the Deputy Collector (Revenue) and any officer authorised by the Tribunal or Deputy Collector (Revenue) to exercise any powers under this Regulation shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), for summoning and enforcing the attendance of any person and examining him on oath and for requiring production of any document.

(2) The Appellate Tribunal, the Tribunal, the Deputy Collector (Revenue) or any officer authorised by the Tribunal or Deputy Collector (Revenue) in this behalf may, at any time, enter upon any land but not a dwelling house, with such officers or other persons as it or he considers necessary and make a survey and take measurements thereof or do any other act which it or he considers to be necessary for carrying out any of the provisions of this Regulation.

(3) The Tribunal or any officer authorised by it to take possession of any land vesting in the Government under this regulation may, while taking such possession remove any obstruction that may be caused or offered thereto and may for that purpose use such force as may be necessary.

Exemptions.

22, Nothing in this Regulation shall apply to the following lands, namely:-

- (a) lands held by the Central Government or any State Government or any local authority;
- (b) lands held by religious, charitable or educational institutions (including wakfs) of a public nature existing on the date of commencement of this Regulation;
- (c) lands held by an undertaking owned, controlled or managed by-
 - (i) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(ii) a corporation established by or under a Central, Provincial or State Act, which is controlled or managed by a State Government or the Central Government;

(d) lands held by-

(i) such co-operative farming societies of weaker sections of the people as may be approved by the Government in this behalf, which approval the Government may, for good and sufficient reason, withdraw at any time;

(ii) other co-operative societies including land mortgage banks;

(e) lands held by a bank;

(f) lands in any area notified by the Government in this behalf as required for acquisition in connection with any major irrigation, power, industrial or other project under construction as on the date of the commencement of this Regulation;

Provided that where any of the lands specified in clause (a), (b), (c), (d) or (e) are held by any person other than the authority, institution, body corporate or society specified in such clause, whether as a tenant or usufructuary mortgagee or otherwise, the provisions of this Regulation shall apply to such person in respect of such land:

Provided further that the exemptions under sub-clause (ii) of clause (d) and clause (e) shall be available only in respect of the lands acquired by such co-operative societies or banks in pursuance of the recovery of their dues:

Provided also that the exemption under sub-clause (i) of clause (c) shall be available only in respect of such part of the land as may be relatable to the share held by a State or the Central Government in such Government company, and for this purpose. the share of the land so relatable shall be deemed to be the extent of the land which would have been allotted to the said Government on a winding up of the company.

Penalty.

23. (1) If any person, who is liable to furnish a declaration under this Regulation wilfully and without reasonable cause or excuse, fails to furnish the declaration within the period prescribed or specified therefor by or under this Regulation or furnishes any declaration which he knows or has reason to believe to be false, incorrect or incomplete, he shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

(2) If any person wilfully and without reasonable cause or excuse contravenes any other provisions of this Regulation or of any rules made or orders issued thereunder, he shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

(3) If any village Karnam, or any officer of the Revenue, Registration or Survey and Settlement Department of the Government wilfully, and without reasonable cause or excuse fails to report to the Deputy Collector (Revenue) any information which he may receive of any transaction in respect of any land made in contravention of any of the provisions of this regulation, he shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

(4) No court shall take cognizance of an offence punishable under this Regulation except with the previous sanction of the Collector, which sanction shall be accorded subject to such rules as may be prescribed.

Protection of action taken under this Regulation.

24. (1) No suit, prosecution or other legal proceedings shall lie against any person, officer or authority for anything which is in good faith done or intended to be done in pursuance of this Regulation or any rules made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered, by virtue of any provision of this Regulation, or for anything which is in good faith done or intended to be done in pursuance of this Regulation or any rules made thereunder.

Bar of jurisdiction.

25. Save as otherwise provided in this Regulation, no order passed or proceeding taken by an officer or authority under this Regulation shall be called in question in any court, in any suit or application and no injunction shall be granted by any court in respect of any action taken or to be taken by such officer or authority in pursuance of any power conferred by or under this Regulation.

Power to make rules.

26. (1) The Government may, by notification, make rules to carry out all or any of the purposes of this Regulation.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for -

- (a) the form in which a declaration under sub-section (1) of section 7 may be furnished and the particulars which such declaration shall contain;
- (b) the manner in which information regarding lands in excess of the specified limit may be obtained under sub-section (3) of section 7;
- (c) the manner in which an inquiry may be made under section 8;
- (d) the circumstances under which lands surrendered or deemed to have been surrendered by usufructuary mortgagee or tenant shall revert to the owner under sub-section (1) of section 11;
- (e) the manner of allotment under sub-section (1) of section 12 of lands vested in the Government;
- (f) the instalments in which the value of the land may be paid to the Government under sub-section (2) of section 12;
- (g) the circumstances under which lands may be resumed under sub-section (3) of section 12;
- (h) the value of the court fee stamps to be affixed on an appeal under section 19;
- (i) any other matter which has to be or may be prescribed.

(3) Every rule made under this Regulation shall, as soon as may be after it is made, be laid before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session, in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Regulation to override other laws.

27. The provisions of this Regulation shall have effect notwithstanding anything inconsistent, therewith in any other law for the time being in force or any custom, usage or agreement or decree or order of a court, tribunal or authority.

Power to remove difficulties.

28. If any difficulty arises in giving effect to the provisions of this Regulation, the Government may, by general or special order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Regulation, as appear to them to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the notified date.

THE SCHEDULE

(See section 13)

1. The amount payable to any person under section 13 in respect of any land vested in the Government under this Regulation shall be determined in the manner hereinafter specified.

2. A sum equivalent to the net annual income from the land shall be determined in the first instance.

3. The net annual income from the land shall be the amount of fair rent less the land revenue.

Explanation.- In this Regulation "land revenue" means the land revenue payable as per the Deliberation dated 5th December, 1925 enforced by the Arrete, dated 16th April, 1926 and includes 50 per cent surcharge thereon and centimes additionals, and charge for water, if any

Provided that in the case of any land in respect of which land revenue is payable, the land revenue in respect of such land shall be the same as the land revenue payable for similar land in the vicinity.

4. The fair rent shall be the aggregate of-

(a) (i) in the case of wet land, 40 per cent of the average gross produce or its value in money;

(ii) in the case of wet land, the irrigation of which supplemented by lifting water, 35 per cent of the average gross produce or its value in money;

(iii) in the case of land on which crops, which do give any yield within a period of one year from the time of cultivation, are cultivated, 40 per cent of the average gross produce or its value in money ;

(iv) in the case of any other class of land, 33-1/3 per cent of the average gross produce or its value in money;

Provided that in the case of lands referred to in items (ii) and (iv) for the cultivation of which water is lifted by pump-set installed at the cost of the land-owner, the fair rent shall be increased to 40 per cent.

Explanation I.- In this paragraph, "average gross produce", -

(i) in respect of a land cultivated with any crop which does not give any yield within a period of one year from the time of cultivation, means the gross produce for one year if the land were cultivated with paddy;

(ii) in respect of a land cultivated with any other crop, means the produce which would be obtained for one year from a land of the same class as the land in question similarly situated and possessing similar advantages if the rainfall and the seasons were normal.

Explanation II.- In the case of land on which different crops are cultivated at different times on different portions of the land, the fair rent shall be calculated with reference to-

- (a) the actual crops ordinarily cultivated according to the ordinary rotation of crops in the area in which such land is situated ; and
- (b) the value of one-fifth of straw or stalk of all the crops cultivated on the land in an agricultural year.

5. In the case of land cultivated by the owner, the fair rent shall be the fair rent as calculated in the manner specified in paragraph 4 in respect of a land of the same class as the land in question, similarly situated and possessing similar advantages.

6. The amount payable for the land vested in the Government under this Regulation, which in no case shall exceed five thousand rupees per standard hectare, shall be determined in accordance with the following scale, namely:-

- (i) for the first sum of ₹ 5,000 or any portion thereof of the net annual income from the land ten times such sum or portion;
- (ii) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, nine times such sum or portion;
- (iii) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, eight times such sum or portion ;
- (iv) for the next sum of ₹ 5,000 or an portion thereof of the net annual income from the land, seven times such sum or portion;
- (v) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, six times such sum or portion ;
- (vi) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, five times such sum or portion;
- (vii) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, four times such sum or portion;
- (viii) for the next sum of ₹ 5,000 or any portion thereof of the net annual income from the land, three times such sum or portion;
- (ix) for the balance of the net annual income from the land, two times such balance.

Explanation.- In this paragraph "standard hectare" means,-

(a) in the case of wet land—

- (i) 1.20 hectares of wet land assessed to land revenue at a rate exceeding ₹ 10 per hectare;
- (ii) 1.40 hectares of wet land assessed to land revenue at a rate exceeding ₹ 7 but not exceeding ₹ 10 per hectare;
- (iii) 1.60 hectares of wet land assessed to land revenue at a rate exceeding ₹ 4 but not exceeding ₹ 7 per hectare
- (iv) 1.80 hectares of wet land assessed to land revenue at a rate not exceeding ₹ 4 per hectare;

(b) in the case of dry land, 3.60 hectares of dry land assessed to land revenue at a rate not exceeding ₹ 3 per hectare.

7. (a) The amount payable for any building, machinery, plant, apparatus, wells, filter points or power lines vested under this Regulation shall be the written down value determined in accordance with the provisions of the Income tax Act, 1961 (43 of 1961), of such building, machinery, plant, apparatus, wells, filter points or power lines, on the date of the order made under section 10.

(b) The amount payable for any tree shall be the value of such tree on the date of the order made under section 10.

8. The amount payable shall be the aggregate of the amount as calculated under paragraphs 6 and 7 in respect of the land concerned.

PART - III

**EXTENSION OF THE TAMIL NADU DEBT RELIEF ACT, 1976 TO THE
UNION TERRITORY OF PUDUCHERRY.**

ARRENGEMENT OF SECTION

SECTION

1. Short title, extent and commencement
 2. Declaration
 3. Definitions.
 4. Relief from indebtedness
 5. Creditors to file statement, etc
 6. Debtors to apply in certain cases
 7. Finality of orders passed under this Act
 8. Appeal
 9. Legal practitioner not to appear
 10. Penalty
 11. Offences by companies
 12. Burden of proof
 13. Certain debts and liabilities not to be affected
 14. Power to make rules
 15. Effects of other laws
-

**EXTENSION OF THE TAMIL NADU DEBT RELIEF ACT, 1976 TO THE
UNION TERRITORY OF PUDUCHERRY.**

GOVERNMENT OF PUDUCHERRY
Revenue Department.

No. 22056/76-C.

Puducherry, the 21st December, 1976.

NOTIFICATION

The notification No. U-11015/10/76-UTL (135), dated 3-12-76 of the Ministry of Home Affairs, Government of India extending the Tamil Nadu Debt Relief Act, 1976 to the Union Territory of Puducherry published in the *Gazette of India*, Part II, section 3 (i) dated 3-12-1976 is republished for the general information of the public.

(By Order)

(M. JANAKIRAMAN)
DEPUTY SECRETARY TO GOVERNMENT

GOVERNMENT OF INDIA
(Bharat Sarkar)

Ministry of Home Affairs.
(Grih Mantralaya)

New Delhi, the 3rd December 1976.

NOTIFICATION

G. S. R.- In exercise of the powers conferred by section 8 of the Puducherry (Administration) Act, 1962 (49 of 1962), the Central Government hereby extends to the Union territory of Puducherry, the TamilNadu Debt Relief Act, 1976 (President's Act 31 of 1976), as in force in the State of TamilNadu at the date of this notification, subject to the following modifications, namely :-

MODIFICATIONS

1. Throughout the Act, unless otherwise directed, for the words "State Government" and "*Tamil Nadu Government Gazette*", wherever they occur, the words "Administrator" and "*Puducherry Gazette*" shall respectively be substituted.

2. In section 1, in sub-section (2), for the words "State of Tamil Nadu", the words "Union territory of Puducherry" shall be substituted.

3. In section 3,-

(i) clause (a) shall be re-lettered as clause (aa) and, before the clause as so re-lettered, the following clause shall be inserted, namely:-

(a) "Administrator" means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution;";

(ii) in clause (e), the words "State Government" shall stand unmodified;

(iii) in clause (k), in the *Explanation* for the words "City of Madras or the City of Madurai or the area comprised in a municipal town or a township constituted under any law for the time being in force", the words and figures "area comprised in a municipality or township declared under the Puducherry Municipalities Act, 1973 (Puducherry Act 9 of 1973), shall be substituted;

(iv) in clause (1),-

(a) for the words "partly in another,- ", the words "partly in another, not more than one unit of land" shall be substituted;

(b) sub-clauses (i) and (ii) and *Explanation* I shall be omitted.

4. In section 4, for the words, figures and brackets "Tamil Nadu Agriculturists Relief Act, 1938, the Tamil Nadu Pawnbrokers Act, 1943, the Tamil Nadu Money-lenders Act, 1957, the Tamil Nadu Debt Relief Act, 1972, the Tamil Nadu Indebted Agriculturists (Temporary Relief) Act, 1976, the Tamil Nadu Indebted Persons (Temporary Relief) Act, 1976", the words and figures "Madras Pawnbrokers Act, 1943 (Madras Act 23 of 1943), as extended to the Union territory of Puducherry by the Puducherry Pawnbrokers Act, 1966 (Puducherry Act 11 of 1966), the Puducherry Money-lenders' Act, 1970 (Puducherry Act 26 of 1970), the Union Territories Relief of Agricultural Indebtedness Regulation, 1976(1 of 1976)" shall be substituted.

5. In section 5, in sub-section (8), for the words and figures "Tamil Nadu Pawnbrokers Act, 1943 (Madras Act 23 of 1943), the words and figures "Madras Pawnbrokers Act, 1943, as extended to the Union territory of Puducherry by the Puducherry Pawnbrokers Act, 1966 (Puducherry Act 11 of 1996)" shall be substituted.

6. in section 13,-

(i) in sub-clause (i) of clause (f), and in sub-clause (iii) of clause (g), the words "State Government" shall stand unmodified;

(ii) in sub-clause (v) of clause (g), for the words and figures "Tamil Nadu Co-operative Societies Act, 1961", the words and figures "Puducherry Co-operative Societies Act 1972 (Puducherry Act 7 of 1973)." shall be substituted.

7. In section 14, in sub-section (3) for the words "both Houses of the Legislature and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree", the words "the Legislative Assembly of Puducherry and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any rule or directs" shall be substituted.

ANNEXURE

THE TAMIL NADU DEBT RELIEF ACT, 1976 (PRESIDENT'S ACT 31 OF 1976)
AS EXTENDED TO THE UNION TERRITORY OF PUDUCHERRY.

Enacted by the President in the Twenty-seventh Year of the Republic of India.

An Act to provide relief from indebtedness to landless agricultural labourers, rural artisans and small farmers in the State of Tamil Nadu.

In exercise of the powers conferred by section 3 of the Tamil Nadu State Legislature (Delegation of Powers) Act, 1976 (41 of 1976), the President is pleased to enact as follows:-

1. *Short title, extent and commencement.*- (1) This Act may be called the Tamil Nadu Debt Relief Act, 1976.

(2) it extends to the whole of the Union territory of Puducherry.

(3) It shall come into force at once.

2. *Declaration.*- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in article 46 of the Constitution.

3. *Definitions.* – In this Act, unless the context otherwise requires,-

(a) 'Administrator' means the Administrator of the Union territory of Puducherry appointed by the President under article 239 of the Constitution,

(aa) 'agriculture' includes,-

(i) horticulture;

(ii) the raising of crops (including plantation crops), grass or garden produce;

(iii) dairy farming;

(iv) poultry farming;

(v) breeding of livestock;

(vi) grazing;

but does not include the cutting of wood only;

(b) 'agricultural land' means land used for purposes of agriculture;

(c) 'annual household income' means the aggregate of the annual income from all sources of all the members of a family;

(d) 'creditor' means a person from or in respect of whom the debtor has borrowed or incurred a debt and includes the heirs of such person;

(e) 'debt' means any liability in cash or in kind, whether secured or unsecured and whether decreed or not, but does not include arrears of taxes due to the Central Government or a State Government or a local authority;

(f) 'debtor' means -'

- (i) a landless agricultural labourer ; or
- (ii) a rural artisan ; or
- (iii) a small farmer.

who has borrowed or incurred any debt before the commencement of this Act;

(g) 'family', in relation to a person, means the individual, the wife or husband, as the case may be, of such individual and their unmarried minor children.

Explanation.- For the purpose of this clause "minor" means a person who has not completed his or her age eighteen years;

(h) 'interest' means any amount or other thing paid or payable in excess of the principal sum borrowed or pecuniary obligation incurred, or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatsoever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any,

(i) 'landless agricultural labourer' means a person who does not hold, whether as owner, tenant or mortgagee with possession, or partly in one capacity and partly in another, any agricultural land and whose principal means of livelihood is manual labour on agricultural land and whose annual household income does not exceed two thousand and four hundred rupees;

(j) 'person' means an individual or a family;

(k) 'rural artisan' means a person who does not hold, whether as owner, tenant or mortgagee with possession, or partly in one capacity and partly in another, any agricultural land and whose annual household income does not exceed two thousand and four hundred rupees and—

(i) whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto, or

(ii) who normally earns his livelihood by practicing any craft either by his own labour or by the labour of the members of his family in any rural area.

Explanation.- For the purpose of sub-clause (ii) of this clause, "rural area" means any area not being the area comprised in a municipality or township declared under the Puducherry Municipalities Act, 1973 (Puducherry Act 9 of 1972);

(l) 'small farmer' means a person whose principal means of livelihood is income derived from agricultural land and who holds, whether as owner, tenant, or mortgagee with possession, or partly in one capacity and partly in another not more than one unit of land.

Explanation II.- Where any person holds as aforesaid more than one category of land referred to in clause (o), then, for the purpose of calculating the extent of land held by him, two hectares of unirrigated land shall be deemed to be equal to-

- (i) half hectare of land having facilities for growing one irrigated crop;
- (ii) half hectare of land used for growing any plantation crop or grapes or coconut or arecanut or mulberry;
- (iii) quarter hectare of land having perennial irrigation facilities, or having facilities for growing more than one irrigated crop in a year.

Explanation III.- In this clause and in clause (o), -

- (a) "irrigated" means irrigated from any source, whether Government or Private;
- (b) "plantation crop" means cardamom, cinchona, coffee, rubber or tea;
- (m) 'Tahsildar' includes a Deputy Tahsildar in independent charge of a taluk or sub-taluk and any other officer of the Revenue Department not below the rank of a Deputy Tahsildar empowered by the Administrator to exercise the powers and perform the functions of a Tahsildar under this Act;

(n) 'transferee of the creditor' means any person [including an institution referred to in clause (g) of section 13] to whom-

(i) the creditor has pledged the movable property pledged to him by the debtor and includes any subsequent transferee to whom such transferee has pledged such movable property and also includes any person in possession of the property pledged ; or

(ii) the creditor has transferred or otherwise assigned his interest in the property mortgaged by the debtor and includes any subsequent transferee to whom such transferee has transferred or otherwise assigned his interest in the property mortgaged and also includes any person in possession of the property mortgaged;

(o) 'unit of land' means-

- (i) two hectares of unirrigated land; or
- (ii) half hectare of land having facilities for growing one irrigated crop ; or
- (iii) half hectare of land used for growing any plantation crop or grapes or coconut or arecanut or mulberry; or
- (iv) quarter hectare of land having perennial irrigation facilities, or having facilities for growing more than one irrigated crop in a year.

4. *Relief from indebtedness.*- Notwithstanding anything contained in the Madras Pawnbrokers Act, 1943 (Madras Act 23 of 1943), as extended to the Union territory of Puducherry by the Puducherry Pawnbrokers Act, 1966 (Puducherry Act 11 of 1966), the Puducherry Money Lenders' Act 1970 (Puducherry Act 26 of 1970), the Union territories Relief of Agricultural Indebtedness Regulation, 1976 (1 of 1976), or in any other law for the time being in force or in any contract or instrument having force by virtue of any such law and save as otherwise expressly provided in this Act, with effect on and from the commencement of this Act.-

(a) every debt advanced or incurred before the commencement of this Act (including interest, if any), and payable by the debtor to the creditor shall be deemed to be wholly discharged;

(b) no Civil Court shall entertain any suit or other proceeding against the debtor for the recovery of any amount of such debt (including interest, if any) :

Provided that where any suit or other proceeding is instituted jointly against the debtor and any other person, nothing in this section shall apply to the maintainability of such suit or proceeding in so far as it relates to such other person;

(c) all suits and other proceedings (including appeals, revisions, attachments or execution proceedings) pending at the commencement of this Act against any debtor for the recovery of any such debt (including interest, if any), shall abate:

Provided that nothing in this clause shall apply to the sale, in respect of any such debt, of-

- (i) any movable property held and concluded before the commencement of this Act;
- (ii) any immovable property confirmed before such commencement;

(d) every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt (including interest, if any), shall be released;

(e) every movable property pledged by a debtor shall stand released in favour of such debtor and the creditor shall be bound to return the same to the debtor forthwith ;

(f) every mortgage executed by the debtor in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor.

Explanation.- Nothing in this section shall be construed as entitling any debtor for refund of any part of any debt repaid or interest paid already by him or recovered from him before the commencement of this Act.

5. *Creditors to file statement, etc.*—(1) Every creditor referred to in clause (e) of section 4 shall, within such period as may be prescribed, furnish to the Tahsildar having jurisdiction over the area where such creditor has his ordinary place of business, a statement in such form as may be prescribed containing the names of all the persons who have pledged movable property with him, the nature and description of such property, the amount advanced and due as on the commencement of this Act, the rate of interest and such other particulars as may be prescribed.

(2) A debtor referred to in clause (e) of section 4 may also make an application to the Tahsildar having jurisdiction over the area where his creditor has his ordinary place of business for an order for the return of the movable property pledged by the debtor.

(3) On receipt of a statement under sub-section (1) or an application under sub-section (2), and after such inquiry conducted in the manner prescribed, the Tahsildar shall, by order, determine -

(i) 'where a statement has been furnished by the debtor under sub-section (1), which of the persons who have pledged movable property with him are entitled to relief under section 4 ; and

(ii) where an application has been made by the under debtor sub-section (2), whether the debtor is entitled to relief under section 4,

and direct the creditor to produce on or before the date specified in the order the movable property pledged by such persons or debtor.

(4) Where the movable property pledged by the debtor is in the possession of any transferee of the creditor, the creditor shall redeem the said property from such transferee and produce it on or before the date specified in the order referred to in sub-section (3).

(5) If the creditors fails to produce the movable property as directed in the order under sub-section (3).-

(a) the Tahsildar may enter any premises of the creditor or of the transferee of the creditor [other than an institution referred to in clause (g) of section 13] and search and seize the said property; and

(b) where the movable property is in the possession of any of the institutions referred to in clause (g) of section 13, the Tahsildar shall,-

(i) by an order, direct the said institution to deposit. on or before the date specified in the order, the movable property with the Tahsildar together with a statement specifying the amount due to the said institution in respect of the said property and simultaneously issue a certificate to the said institution to the effect that the amount due to the said institution in respect of the said property shall be recovered from the creditor as if it were an arrear of land revenue and paid to the said institution; and

(ii) on the said institution depositing the said property with the Tahsildar, acknowledge in writing the receipt of the movable property and proceed to recover from the creditor such amount as is due to the said institution in respect of the said property as if it were an arrear of land revenue, and on such recovery pay the same to the said institution.

(6) After such production or recovery or deposit of the movable property pledged, the Tahsildar shall deliver the said property to the debtor.

(7) Pending determination of the question under sub-section (3), no creditor or the transferee of the creditor shall sell or pledge or otherwise dispose of any movable property pledged by the debtor.

(8) Notwithstanding anything contained in sub-section (5) or in the Madras Pawnbrokers Act, 1943 (Madras Act 23 of 1943), as extended to the Union territory of Puducherry by the Puducherry Pawnbrokers Act, 1966 (Puducherry Act 11 of 1966), the Tahsildar-

(a) may enter any premises of the creditor of the transferee of the creditor [other than an institution referred to in clause (g) of section 13] and search and seize the movable properties pledged by debtors and arrange for their safe custody;

(b) shall proceed to determine which of the movable properties so seized are to be released to the debtors and pass orders accordingly.

(9) The provisions of sections 100 and 165 of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to searches and seizures under sub-sections (5) and (8).

6. *Debtors to apply in certain cases.*- (1) A debtor referred to in clause (f) of section 4 may make an application to the Tahsildar having jurisdiction over the area within which such debtor ordinarily resides, for an order releasing the mortgaged property and for the grant of a certificate of redemption.

(2) (a) On receipt of such application and after such enquiry conducted in the manner prescribed, the Tahsildar shall pass an order releasing the mortgaged property and grant a certificate of redemption in the prescribed form which shall be admissible as evidence of such redemption in any proceeding before any court or other authority;

(b) the Tahsildar shall also direct the creditor or the transferee of the creditor-

(i) to deliver Possession of the mortgaged property to the debtor on or before the date specified in the order, if the debtor is not already in possession of the mortgaged property; and

(ii) to produce on or before the date specified in the order, the mortgage deed or other document and the Tahsildar shall make an endorsement of redemption on the mortgage deed or other document.

(3) Pending orders under sub-section (2), no creditor or the transferee of the creditor shall transfer or otherwise assign his interest in, or exercise his right of foreclosure in respect of the property mortgaged by the debtor.

(4) Where the mortgaged property has been transferred or any right therein has been assigned to any of the institutions referred to in clause (g) of section 13 by the creditor, the Tahsildar shall recover from the creditor such amount as is due to such institution in respect of the said mortgaged property, as if it were an arrear of land revenue, and shall pay the same to the said institution.

7. *Finality of orders passed under this Act.*- Every order of the Tahsildar under section 5 or section 6 shall, subject to appeal under section 8, be final and shall not be called in question in any court

8. *Appeal.*- (1) Any person aggrieved by an order made by the Tahsildar under this Act may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Administrator in this behalf.

(2) In deciding the appeal, the authority specified under sub-section (1) shall follow such procedure as may be prescribed and the decision of such authority on such appeal shall be final and shall not be called in question in any court.

9. *Legal practitioner not to appear.*- No party to any proceeding under this Act shall be entitled to be represented by a legal practitioner.

Explanation.- In this section, "legal practitioner" shall have the meaning assigned to it in section 2 of the Advocates Act, 1961 (2 of 1961).

10. *Penalty.*- (1) Any person failing to furnish the statement under section 5 or to comply with the order made or direction given under section 5 or section 6 or otherwise contravening the provisions of either of the said sections shall be liable to imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.

(2) Every offence punishable under sub-section (1) shall be cognisable.

(3) Every offence punishable under sub-section (1) shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (2 of 1974), shall, as far as may be, apply to such trial.

11. *Offences by companies.*- (1) Where an offence under this Act has been committed by a company every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals ; and

(b) "director", in relation to a firm, means a partner in the firm.

12. *Burden of proof.*- In any suit or proceeding, the burden of proving that the debtor is not entitled to the protection of this Act, shall, notwithstanding anything contained in any law for the time being in force, lie on the creditor.

13. *Certain debts and liabilities not to be affected.*- Nothing in this Act shall apply to the following categories of debts and liabilities of landless agricultural labourers, rural artisans and small farmers, namely:-

- (a) any rent due in respect of any property including agricultural land let out to a debtor;
- (b) any amount recoverable as arrears of land revenue;
- (c) any liability arising out of breach of trust or any tortious liability;
- (d) any liability in respect of wages or remuneration due as salary or otherwise for services rendered;
- (e) any liability in respect of maintenance whether under a decree of a court or otherwise;
- (f) a debt due to-
 - (i) the Central Government or any State Government;
 - (ii) any local authority;
- (g) save as otherwise provided in this Act, any liability in respect of any sum due to-
 - (i) (A) any banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies;
 - (B) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);
 - (C) any subsidiary bank as defined in clause (K) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
 - (D) any corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (5 of 1970);
 - (E) the Agricultural Refinance and Development Corporation, established under the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963);
 - (F) any other financial institution notified in this behalf by the Administrator in the Puducherry Gazette;
 - (ii) any Government company within the meaning of the Companies Act, 1956 (1 of 1956)
 - (iii) any corporation owned or controlled by the Central Government or any State Government;
 - (iv) the Life Insurance Corporation of India;

(v) any Co-operative Society including a land development bank, registered or deemed to be registered under the Puducherry Co-operative Societies Act, 1972 (Puducherry Act 7 of 1973) ; and

(h) any debt which represents the price of property whether movable or immovable purchased by a debtor or any amount due under a hire purchase agreement.

14. *Power to make rules.*- (1) The Administrator may make rules to carry out the purpose of this Act.

(2) All rules made under this Act shall be published in the Puducherry Gazette, and unless they are expressed to come into force on a particular day shall come into force on the date on which they are so published.

(3) Every rule made under this Act shall, as soon as possible, after it is made, be placed on the Table of the Legislative Assembly of Puducherry and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or directs that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

15. *Effects of other laws.* – Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.
