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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL**LAW DEPARTMENT**

Legislative

NOTIFICATION

No. 1044-L.—22nd July, 2005.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 29 of 2005

**THE WEST BENGAL LAND REFORMS (AMENDMENT)
BILL, 2005.**

**A
BILL**

to amend the West Bengal Land Reforms Act, 1955.

WHEREAS it is expedient to amend the West Bengal Land Reforms Act, 1955, for the purposes and in the manner hereinafter appearing;

West Ben. Act
X of 1956.

It is hereby enacted in the Fifty-sixth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Land Reforms (Amendment) Act, 2005.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*The West Bengal Land Reforms (Amendment)
Bill, 2005.*

(Clauses 2-6.)

Amendment of
section 1 of West
Ben. Act X of
1956

2. In section 1 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the principal Act), in the proviso to sub-section (2), for the words, letter and figures "the area described in Schedule I to the Calcutta Municipal Act, 1951," the words, letter and figures "the area described in Schedule I of the Kolkata Municipal Corporation Act, 1980," shall be deemed to have been substituted with effect from the 4th day of January, 1984.

West Ben. Act
XXXIII of 1951.
West Ben. Act
LIX of 1980.

Amendment of
section 3A

3. For sub-section (4) of section 3A of the principal Act, the following sub-section shall be deemed to have been substituted with effect from the 1st day of March, 2003:—

"(4) The provisions of this section shall not apply to any land to which the provisions of the West Bengal *Thika* Tenancy (Acquisition and Regulation) Act, 2001, apply."

West Ben. Act
XXXII of 2001.

Amendment of
section 4

4. In sub-section (1) of section 4 of the principal Act, the following *Explanation* shall be inserted:—

"*Explanation.*—For the removal of doubts, it is hereby declared that any person or institution who holds any plot of land—

- (a) under any permit, lease or licence granted under the provisions of this section; or
- (b) as a *thika* tenant defined in clause (14) of section 2 of the West Bengal *Thika* Tenancy (Acquisition and Regulation) Act, 2001; or
- (c) under *sairati* interests or by retaining such plot of land under clause (g) of sub-section (1), read with sub-section (3), of section 6 of the West Bengal Estates Acquisition Act, 1953,

West Ben. Act
I of 1954.

shall not be a *raiyyat* for the purpose of this sub-section."

Amendment of
section 4B

5. Second proviso to section 4B of the principal Act shall be omitted.

Amendment of
section 4C

6. In section 4C of the principal Act,—

(1) to sub-section (2), the following proviso shall be added:—

"Provided that where the application as stated in sub-section (1) relates to permission for change, conversion or alteration of any plot of land having water body of any description or size, the Collector shall not make any order, unless he has made a prior consultation in writing with such appropriate Department of the State Government as may be prescribed and such order of the Collector may, depending on the circumstances of case, include an order for creation of compensatory water body of equal or larger size of such water body which is required to be changed, converted or altered.";

(2) after sub-section (4), the following sub-section shall be inserted:—

"(4A) Notwithstanding anything to the contrary contained in any other law for the time being in force, where the approval of the appropriate Department of the State Government or the local authority in respect of any scheme or project, or the permission of the appropriate Department of the State Government or the local authority in respect of construction of buildings or any other permission to conduct any business or carrying on any activity—

- (a) involves change of area of any plot of land or character of such plot of land or conversion of the same as mentioned in sub-section (1); or

*The West Bengal Land Reforms (Amendment)
Bill, 2005.*

(Clauses 7-9.)

- (b) amounts to using of any plot of land having any water body of any description or size in a manner that degrades or destroys, directly or indirectly, such water body,

no such approval or permission of the appropriate Department of the State Government or the local authority shall be made unless the order of the Collector directing change, conversion or alteration of such plot of land or plot of land having any water body of any description or size, as the case may be, under sub-section (2), is obtained.”;

- (3) for sub-section (5), the following sub-section shall be substituted:—

“(5) (a) Without prejudice to the foregoing provisions of this section, where any plot of land has been changed or converted or altered in violation of this section, if the collector, on his own motion or on receiving information, is of the opinion that it is necessary so to do in public interest, he may make an order directing a *raiyat* or a lessee for restoration of the original character of the concerned land within a specified time.

(b) On receipt of the order, the *raiyat* or the lessee shall restore the original character of the plot of land at his own cost within such time, as may be ordered by the Collector.

(c) If the *raiyat* or lessee fails to comply with the order, the Collector may take action for restoring the original character of such plot of land and realise the cost for restoration from the *raiyat* or the lessee.

(d) If the *raiyat* or lessee fails to pay the cost of restoration, the Collector may realise the cost as a public demand in accordance with the provisions of the Bengal Public Demands Recovery Act, 1913.”.

Ben. Act III of
1913.

Amendment of
section 4D

7. In section 4D of the principal Act, second proviso to sub-section (1) shall be omitted.

Amendment of
section 14I

8. In section 14L of the principal Act, for the words, figures, letter and brackets “sub-section (3) of section 14Q”, the words, figures, letter and brackets “sub-section (3) or sub-section (4) of section 14Q” shall be substituted.

Amendment of
section 14Q

9. In section 14Q of the principal Act, after sub-section (3), the following sub-section shall be inserted:—

“(4) If the State Government, after having regard to all the circumstances of the case and on the basis of the project report filed by any person, is satisfied that such person requires land for the purpose of establishing engineering colleges, medical colleges, universities or deemed universities, or development of waste land or tourism, or plantation of medicinal or other commercial crops, it may, by order, allow such person to acquire and hold land in excess of ceiling area applicable to him under section 14M, subject to such terms and conditions as may be prescribed:

Provided that the State Government may, at any time on its own motion or on an application, revise an order under this sub-section and may resume the whole or any part of the land in excess of the ceiling area and take possession of such resumed land after giving the concerned person an opportunity of being heard.

Explanation I.—For the purpose of this sub-section, “person” includes an individual, a firm, a company, or an association or body of individuals, whether incorporated or not.

Explanation II.—For the purpose of this sub-section, “project report” means a project report relating to establishment of engineering colleges, medical colleges, universities or deemed universities, or development of waste land or tourism, or plantation of medicinal or other commercial crops, which have been examined, vetted and approved by the appropriate Department of the State Government.”.

*The West Bengal Land Reforms (Amendment)
Bill, 2005.*

(Clauses 10, 11.)

Amendment of
section 14Z.

10. In section 14Z of the principal Act,—

- (1) in sub-section (1), after the words, figures and brackets “all lands of all classes and descriptions defined in clause (7) of section 2”, the words, figures, letter and brackets “except the land comprised in mills, factories, or workshops, possession of which has been allowed to be retained by an intermediary or a lessee under clause (g) of sub-section (1), read with sub-section (3), of section 6 of the West Bengal Estates Acquisition Act, 1953” shall be inserted;

(2) to sub-section (1), the following provisos shall be added:—

“Provided that an intermediary, other than a lessee holding land directly under the State Government under a lease, who has been allowed to retain land under sub-section (3) of section 6 of the West Bengal Estates Acquisition Act, 1953, may be permitted, by written order of the State Government, to transfer by way of open auction at the price not less than the reserve price to be determined by the Collector, so much of such land as in the opinion of the State Government is required for the purpose of revival of the mills, factories or workshops including the payment of the outstanding liabilities of the employees of such mills, factories or workshops, in such manner as may be prescribed and the price realised from such auction shall be utilised under the supervision and control of such authority, and in such manner, as may be prescribed:

Provided further that the portion of land permitted to be transferred by the State Government under the first proviso shall be deemed to have been retained by the intermediary under the provisions of clause (g) of sub-section (1) of section 6 of the West Bengal Estates Acquisition Act, 1953 and the provisions of sub-section (3) of section 6 of that Act shall stand amended to that extent for that particular case and the transferee shall be deemed to be a *raiyyat* in respect of such portion of land.”

Substitution of
section 23

11. For section 23 of the principal Act, the following section shall be substituted:—

23. Notwithstanding anything to the contrary contained in any judgement, decree or order of any court or tribunal or in any law for the time being in force, a *raiyyat* shall pay as revenue, determined at the rate as stated in column (3) of the Table below in respect of the category of plot of land as mentioned in column (2) of the said Table, with effect from such date, as the State Government may, by notification in the *Official Gazette*, specify:—

Table

Sl. No.	Category of plot of land	Rate of revenue
(1)	(2)	(3)

1. Where any plot of land is situated in the areas not falling within the local limits of any Municipal Corporation or Municipality, other than the areas of the Kolkata Metropolitan Development Authority—

- (a) in case such plot of land is used for the purpose of agriculture; Rs. 20.00 per acre.

West Ben. Act
1 of 1954.

*The West Bengal Land Reforms (Amendment)
Bill, 2005.*

(Clause 11.)

- | | |
|---|-----------------------|
| (b) in case such plot of land is used for the purpose of activities allied to agriculture. | Rs. 30.00 per acre. |
| <i>Explanation.</i> —The expression “activities allied to agriculture” shall mean fisheries, poultries, piggeries, gotteries, floriculture, horticulture, sericulture, dairies, livestock breeding and include other land based bio-mass production activities; | |
| (c) in case such plot of land is comprised in tea garden and land used for cultivation of tea; | Rs. 30.00 per acre. |
| (d) in case such plot of land is used as homesteads and non-agricultural purposes other than commercial and industrial activities as mentioned in clause (l) and clause (n); | Rs. 40.00 per acre. |
| (e) in case such plot of land is held by any Government undertaking; | Rs. 50.00 per acre. |
| (f) in case such plot of land is used by a company or a body corporate, other than Government Company as defined in section 617 of the Companies Act, 1956 for the purpose of activities allied to agriculture as defined in <i>Explanation</i> to clause (b); | Rs. 150.00 per acre. |
| (g) in case such plot of land is used for brackish water fisheries by individual fish farmers or by any co-operative society; | Rs. 200.00 per acre. |
| (h) in case such plot of land is used for brackish water fisheries by a company or any body corporate other than a Government Company as defined in section 617 of the Companies Act, 1956; | Rs. 400.00 per acre. |
| (i) in case such plot of land is used for any commercial and industrial activities as mentioned in clause (n) without having any <i>pucca</i> structure; | Rs. 500.00 per acre. |
| (j) in case such plot of land is used under multi-storied building by any co-operative society; | Rs. 600.00 per acre. |
| (k) in case such plot of land is used for housing complex developed by any private company or any public company, other than a Government Company as defined in section 617 of the Companies Act, 1956; | Rs. 800.00 per acre. |
| (l) in case such plot of land is used for any commercial and industrial activities, not specified in clause (n), in any <i>pucca</i> structure; | Rs. 1000.00 per acre. |
| (m) in case such plot of land is used for agro-processing, food-processing, agro-industries, agricultural commodities storage warehouses and godowns, food parks in <i>pucca</i> structure; | Rs. 1200.00 per acre. |
| (n) in case such plot of land is used for commercial and industrial activities. | Rs. 1500.00 per acre. |

1 of 1956.

*The West Bengal Land Reforms (Amendment)
Bill, 2005.*

(Clause 11.)

(1)	(2)	(3)
	<p><i>Explanation.</i>—The expression “commercial and industrial activities” shall mean cold storages, rice mills, general trading warehouses, godowns, automobiles garages, repairing shops, business establishments in market place or supermarket, multiplexes, cinema, theatre or video halls, and hotels, restaurants, and hospitals, pathological laboratories, nursing homes, and include other offices and establishments of any company or body corporate other than a Government company as defined in section 617 of the Companies Act, 1956;</p>	
2.	<p>(o) in case such plot of land is comprised in and used for mills, factories or workshops other than those commercial and industrial activities specified in clause (l) and clause (n).</p> <p>Where any plot of land is situated in the areas falling within the local limits of any Municipal Corporation or Municipality, other than the areas of the Kolkata Metropolitan Development Authority—</p>	<p>Rs. 2000.00 per acre.</p>
	<p>(a) in case such plot of land is used for the purpose of agriculture and activities allied to agriculture;</p>	<p>Rs. 20.00 per acre.</p>
	<p>(b) in case such plot of land is used for homesteads and is situated within the local limits of—</p>	
	(i) any Municipal Corporation,	Rs. 35 per decimal.
	(ii) any Municipality of Category A,	Rs. 25 per decimal.
	(iii) any Municipality of Category B,	Rs. 20 per decimal.
	(iv) any Municipality of Category C,	Rs. 15 per decimal.
	(v) any Municipality of Category D,	Rs. 10 per decimal.
	(vi) any Municipality of Category E;	Rs. 5 per decimal.
	<p>(c) in case such plot of land is comprised in and used for mills, factories, workshops or any other commercial and industrial activities and such plot of land is situated within the local limits of—</p>	
	(i) any Municipal Corporation,	Rs. 175 per decimal.
	(ii) any Municipality of Category A,	Rs. 150 per decimal.
	(iii) any Municipality of Category B,	Rs. 100 per decimal.

1 of 1956.

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Bill, 2005.*

(Clause 11.)

(1)	(2)	(3)
	(iv) any Municipality of Category C,	Rs. 75 per decimal.
	(v) any Municipality of Category D,	Rs. 50 per decimal.
	(vi) any Municipality of Category E.	Rs. 25 per decimal.
	<p><i>Explanation.</i>—The expression “commercial and industrial activities” shall mean cold storages, warehouses, godowns, automobiles garages, repairing shops, business establishments in marketplace or supermarket, multi-plexes, cinema theatre or video halls, hotels, restaurants and hospitals, pathological laboratories and nursing homes, and include other offices or establishments of any company and body corporate other than a Government company as defined in section 617 of the Companies Act, 1956;</p>	
(d)	in case such plot of land is used for non-agricultural purposes other than commercial and industrial activities mentioned in clause (c);	Rs. 50.00 per acre.

1 of 1956.

Explanation 1.—For the purpose of determination of revenue in respect of any plot of land, municipalities are classified into the following categories on the basis of population as ascertained at the last preceding census of which the relevant figures have been published:—

Category A—municipal areas having population more than 2,15,000;

Category B—municipal areas having population above 1,70,000 but not exceeding 2,15,000;

Category C—municipal areas having population above 85,000 but not exceeding 1,70,000;

Category D—municipal areas having population above 35,000 but not exceeding 85,000;

Category E—municipal areas having population not exceeding 35,000;

Provided that Darjeeling Municipality is classified as Category A municipality irrespective of the population.

Explanation 2.—For the purpose of determination of revenue in respect of any plot of land comprised in and used for mills, factories, workshops or other commercial and industrial activities, revenue for the portion of the plot of land which is not directly used for shops, offices, storages and godowns, parking spaces in *pucca* structures of such mills, factories, workshops shall be assessed at the rate specified in clause (d) of serial No. 2.

*The West Bengal Land Reforms (Amendment)
Bill, 2005.*

(Clauses 12-15.)

Insertion of new
section after
section 23.

12. After section 23 of the principal Act, the following section shall be inserted:—

“Exemption. 23A. Notwithstanding anything contained elsewhere in this Act, the following lands shall be exempted from the payment of revenue under this Act—

- (a) land owned by the Central Government, the State Government and the local bodies;
- (b) land used as public roads, burial grounds, places of worship, burning *ghat* or for such other public purposes as may be prescribed; and
- (c) land held by the Government sponsored educational institution.”.

Amendment of
section 24

13. In clause (a) of sub-section (1) of section 24 of the principal Act, in the second proviso,—

- (1) paragraph (b) shall be omitted;
- (2) paragraph (c) shall be omitted;
- (3) paragraph (d) shall be omitted.

Amendment of
section 52

14. In sub-section (2) of section 52 of the principal Act, for the words “subject to the control of the State Government.”, the words “subject to the control of the State Government, particularly determination of terms and conditions of lease as may be specified in the lease deed and fixation of annual rent with or without premium.”, shall be substituted.

Amendment of
section 52B

15. Section 52B of the principal Act shall be renumbered as sub-section (1) of that section, and—

(1) in sub-section (1) so renumbered, for the words and figures “by an order of the prescribed authority in accordance with the provisions of section 49”, the words “by an order of the Revenue Officer, who shall use such force as may be required for the purpose of such eviction” shall be substituted;

(2) after sub-section (1), the following sub-section shall be inserted:—

“(2) The Revenue Officer may send a written requisition to the officer-in-charge of the local police station or to any police officer superior in rank to such officer-in-charge and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for the purpose of enforcing delivery of possession of the land after evicting the person in actual occupation of such land.”;

*The West Bengal Land Reforms (Amendment)
Bill, 2005.*

STATEMENT OF OBJECTS AND REASONS.

It is considered necessary and expedient to make, among others, the following changes in the West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956) (hereinafter referred to as the said Act), in order to ensure effective implementation of the provisions of the said Act by—

- (i) amending section 1 to bring the entire area described in Schedule I to the Kolkata Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980), within the purview of the said Act;
- (ii) amending section 3A so that the same shall not apply to any land to which the provisions of the West Bengal *Thika* Tenancy (Acquisition and Regulation) Act, 2001 (West Ben. Act XXXII of 2001), apply;
- (iii) amending section 4 so that any person or institution who holds any plot of land under permit, lease or licence, or as a *thika* tenant, or under *sairati* interests, or retaining such plot of land under clause (g) of sub-section (1), read with sub-section (3), of section 6 of the West Bengal Estates Acquisition Act, 1953 (West Ben. Act I of 1954), shall not be considered as *raiyat* for the purpose of sub-section (1) of section 4;
- (iv) amending section 4B so as to make the provisions of the Act more appropriate in its application;
- (v) amending section 4C so that—
 - (a) the Collector shall not make any order for permission to change, convert or alter any plot of land having waterbody, unless he has made a prior consultation with the concerned Department of the State Government as may be prescribed and such order of the Collector may include an order for creation of compensatory waterbody,
 - (b) without obtaining the order of the Collector directing change, conversion or alteration of any plot of land, no approval or permission of any appropriate Department of the State Government or the local authority in respect of any scheme or project or for construction of building or conducting any business or carrying on any activity on such plot of land or plot of land having any waterbody shall be made,
 - (c) the Collector shall make an order directing a *raiyat* or a lessee for restoration of the original character of any plot of land which has been changed or converted or altered in violation of this section at the cost of the defaulting *raiyat* or lessee;
- (vi) amending section 4D so as to make the provisions of the Act more appropriate in its application;
- (vii) amending section 14Q so that the State Government may, by order, allow a person to acquire and hold land in excess of the ceiling area applicable to him under section 14M, for the purpose of establishing engineering colleges, medical colleges, universities or deemed universities, or development of waste land or tourism, or plantation of medicinal or other commercial crops, and such order may also be revised by the State Government at any point of time so as to resume the whole or any part of the land in excess of the ceiling area after giving the concerned person an opportunity of being heard;

*The West Bengal Land Reforms (Amendment)
Bill, 2005.*

- (viii) amending section 14Z so as to clarify that the provisions of Chapter IIB shall apply to all lands except the land comprised in mills, factories, or workshops, possession of which has been allowed to be retained by an intermediary or a lessee under clause (g) of sub-section (1), read with sub-section (3), of section 6 of the West Bengal Estates Acquisition Act, 1953 (West Ben. Act I of 1954), as well as to make provision so that the intermediary may be permitted by the State Government to transfer by way of open auction at the price not less than the reserve price to be determined by the Collector so much of land as in the opinion of the State Government is required for the purpose of revival of the mills, factories or workshops and the price so realised shall be utilised under the supervision and control of a prescribed authority;
- (ix) substituting section 23 for rationalising the structure of the revenue in respect of the plot of land of a *raiya* used for different purposes;
- (x) inserting a new section 23A to make provision for exemption from payment of revenue in respect of certain lands;
- (xi) amending section 24 so as to extend scope of exemption from payment of revenue to certain *raiya*s;
- (xii) amending section 52 in order to specify in clear terms the control of the State Government regarding management of its land under sub-section (2);
- (xiii) amending section 52B in order to empower the Revenue Officer to take police help, if necessary, for the purpose of enforcing delivery of possession of the land under the management of the State Government after evicting the person in actual occupation of such land.

2. The Bill has been framed with the above objects in view.

KOLKATA,
The 18th July, 2005.

ABDUR REZZAK MOLLA,
Member-in-charge.

FINANCIAL MEMORANDUM.

There is no financial implication involved in the proposed Bill.

KOLKATA,
The 18th July, 2005.

ABDUR REZZAK MOLLA,
Member-in-charge.

By order of the Governor,
MD. HESAMUDDIN,
*Secy.-in-charge to the Govt. of West Bengal,
Law Department.*