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SCHEDULE II

SCALE

The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960

[Act No. 20 of 1960]

[1st October, 1960]

An Act to provide for the imposition of ceiling on agricultural holdings, acquisition and disposal of surplus land and matter ancillary thereto.

Be it enacted by the Madhya Pradesh Legislature in the Eleventh Year of the Republic of India as follows:

Section 1 - Short title, extent and commencement

(1) This Act may be called the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960.

(2) It extends to the whole of Madhya Pradesh.

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

Section 2 - Definitions

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

(a) "agricultural labour" means a person who does not hold any land and whose principal means of livelihood is manual labour on land;

(b) "appointed day" means the date of commencement of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1972;

[(bb) "assured irrigation" means irrigation from any source of irrigation belonging to the State Government on the appointed day;

(bbb) "assured private irrigation" means irrigation on or before the 15th August, 1972—

(i) from tube wells;

(ii) by lift irrigation from a perennial source of water operated by diesel or electrical energy.

Explanation -- For the purpose of item (ii) of this clause, "perennial source of water" means a source of water from which water flows throughout the year but does not include a well;]

- [(c) "better farming society" means a co-operative society registered or deemed to be registered as a better farming society under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961);]
- (d) "ceiling area" means the maximum area of land which a holder is entitled to hold under section 7;
- (e) "competent authority" means --
- [(i) in respect of a holder whose entire land is situate within a Sub-Division, the Sub-Divisional Officer and/or such other Revenue Officer, not below the rank of a Deputy Collector as may be appointed by the State Government;
 - (ii) in respect of a holder whose entire land is situate in more than one Sub-Division of the same district, the Collector or the Additional Collector and where there is no Additional Collector for the district such Deputy Collector, as may be empowered by the State Government to exercise the powers of Collector under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) for the purpose; and]
 - (iii) in respect of a holder whose land is situate in more than one district such authority as may be appointed by the State Government;
- [(ee) "Co-operative society" means a society registered or deemed to be registered under the Madhya Pradesh Cooperative Societies Act, 1960 (No. 17 of 1961);]
- [(f) "dry land" means any land which neither receives water through assured irrigation nor assured private irrigation;]
- (g) "exempted land" means land exempted from the provisions of this Act under section 3;
- [(gg) "family" means husband, wife and their minor children, if any;]
- [(h) "holder" means a tenure holder or an occupancy tenant or a Government lessee of land within the State and the expression "to hold land" or "holding land" shall be construed accordingly;
- (i) "holding" means all land held by a holder in any one or all of the capacities specified in clause (h) within the State;]
- [(j) "joint farming society" means a co-operative society registered or deemed to be registered as a joint farming society under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961), in which the ownership of all the land under its control vests, and which gets all such land cultivated jointly by its members;]

(k) "land" means land held for an agricultural purpose but does not include land diverted to or used for non-agricultural purpose;

[(l) [XXX]]

(m) [xxx]

(n) [xxx]]

(o) "surplus land" means land which is declared to be surplus land under the provisions of this Act;

(p) words and expressions used but not defined in this Act, and defined in the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), shall have the meaning respectively assigned to them in that Code.

CHAPTER II

EXEMPTIONS AND RESTRICTION ON TRANSFER OF LAND

Section 3 - Exempted lands

[The followings lands shall be exempted from the provisions of this Act, that is to say,--

(a) land held by a local authority or a University established by law within the State;

(b) land held by the Madhya Pradesh State Agro Industries Development Corporation Ltd., or any other Corporation, controlled or managed by the State Government or the Central Government, whether singly or jointly;

(c) land which is the property of a public trust or a wakf for a religious purpose :

Provided that --

(i) such public trust or wakf is registered on or before [the 1st January, 1971] under any enactment relating to public trust or wakf for the time being in force and the entire income of such land is appropriated for the purpose of such trust or wakf;

(ii) such land is property of the public trust or wakf on the appointed day;

(d) land held by a Bhoodan Yagna Board under the Madhya Pradesh Bhoodan Yagna Adhiniyam, 1968 (No. 28 of 1968);

[(e) land held by a co-operative land development bank or, any other co-operative bank registered or deemed to be registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961);]

(f) land held by a bank;

Explanation -- For the purpose of this clause "bank" means a banking company as defined in section 5 of the Banking Regulation Act, 1949 (No. 10 of 1949), and includes the State Bank of India constituted by the State Bank of India Act, 1955 (No. 23 of 1955), a subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (No. 38 of 1959), a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (No. 5 of 1970), the Agricultural Re-finance Corporation established under the Agricultural Re-finance Corporation Act, 1963 (No. 10 of 1963), the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (No. 1 of 1956) and any other financial institution as the State Government may, by notification specify in this behalf;]

[(g) land held by such Co-operative Societies as hold land not exceeding the total area arrived at by aggregating the ceiling area in respect of each of its members on the register of members for the time being and approved by general or special order by the State Government in this behalf:

Provided that in the case of a Joint Farming Society no member shall hold land in excess of the ceiling area;]

(h) any piece of land which the State Government may, for a public purpose, by notification, exempt from the provisions of this Act.]

Section 4 - Transfers or partitions made after the publication of the Bill but before the commencement of the Act

[(1) Notwithstanding anything contained in any law for the time being in force, where after, [the 1st January, 1971] but before the appointed day, any holder has transferred any land held by him by way of sale, gift, exchange or otherwise or has effected a partition of his holding or part thereof or the holding held by the holder has been transferred in execution of a decree of any Court, the competent authority may, after notice to the holder and other persons affected by such transfer or partition and after such enquiry as it thinks fit to make, declare the transfer or partition to be void if it finds that the transfer or the partition, as the case may be, was made in anticipation of or to defeat the provisions of this Act.]

[(2) Nothing in this section shall apply to a transfer made by a holder—

(a) who does not hold land in excess of the ceiling area as specified in Sub-section (1) of Section 7, as substituted by Section 8 of M.P. Ceiling on Agricultural Holdings (Amendment) Act, 1974 on the date of the transfer; or

(b) who is a member of a family and where all the members of the family together do not hold land in excess of the ceiling area; as specified in Sub-section (1) of section 7 as substituted by section 8 of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1974 on the date of the transfer.]

(3) Any person aggrieved by an order of the competent authority under this section may prefer an appeal against such order to the Board of Revenue. The decision of the Board and subject to the decision of the Board in appeal the decision of the competent authority shall be final.

[(4) [In regard to every transfer to which this section applies] the burden of proving that the transfer was not benami or was not made in any other manner to defeat the provisions of this Act shall be on the transferor.

(5) Notwithstanding anything contained in any law for the time being in force,--

(i) no Court shall entertain any suit for the specific performance of any contract of sale of land on the basis of any agreement or document made [on or before the 1st January, 1971], or

(ii) any decree passed by a Civil Court for the specific performance of the contract of sale of land on the basis of any agreement or document made 2[on or before the 1st January, 1971] shall be null and shall not be enforceable, if such suit or decree is for the purpose of defeating the provisions of this Act.]

Section 5 - Restrictions on transfer or sub-divisions of land and consequences of transfer or sub-division made in contravention thereof

(1) Notwithstanding anything contained in any law for the time being in force, no land shall be--

(a) transferred whether by way of sale (including sale in execution of a decree of a Civil Court or of an award or order of any other lawful authority) or by way of gift, exchange, lease or otherwise; or

(b) sub-divided (including sub-division by a decree or order of a Civil Court or any other lawful authority) whether by partition or otherwise;

until a final order under section 11 is passed except with the permission in writing of the Collector.

(2) The Collector may refuse to give such permission if in his opinion the transfer or sub-division of land is likely to defeat the object of this Act.

[(3) Nothing in this section shall apply to a transfer made by holder—

(a) who does not hold land in excess of the ceiling area as specified in Sub-section (1) of Section 7 as substituted by Section 8 of Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1974 on the date of the transfer; or

(b) who is a member of a family and where all the members of the family together do not hold land in excess of the ceiling area; as specified in Sub-section (1) of section 7 as substituted by section 8 of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1974 on the date of the transfer.]

(4) The registering officer shall furnish to the Collector or such other officer as may be authorised by him in writing in this behalf, particulars relating to every transfer of land made on or after [the 1st January, 1971] and before the appointed day in such form and within such period as may be prescribed.

(5) In regard to every transfer [to which this section applies] the burden of proving that the transfer was not benami or was not made in any other manner to defeat the provisions of this Act shall be on the transferor.]

Section 5A - Deleted

[xxx]

Section 5B - Deleted

[xxx]

CHAPTER III

FIXATION OF CEILING AREA, DETERMINATION OF SURPLUS LAND AND ACQUISITION THEREOF

Section 6 - Certain persons deemed or not deemed to be holders for purposes of this Chapter

For the purposes of this Chapter--

(i) where certain land is held by two or more holders jointly or as tenants-in-common, the area of land corresponding to the interest of each holder on the appointed day shall be deemed to be held by such holder;

(ii) where land is held by a joint hindu family, each member of such family who is entitled to share in the joint family property shall be deemed to hold an area of such land proportionate to his share in the property to which he would be entitled if a partition were to take place on the appointed day;

[(iii) any land belonging to a tenure holder which is held by occupancy tenant specified in Sub-section (1) of section 185 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) shall not be deemed to be held by such tenure holder;]

[(iv) any land belonging to a tenure holder which is on or after the 1st January, 1971 held by an occupancy tenant or a Bhumiswami to whom such rights have accrued under section 169 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) or Sub-section (2-A) of section 190 thereof shall notwithstanding anything contained in the said Code, be deemed to be held by such tenure holder and not by the occupancy tenant or Bhumiswami, as the case may be, to whom such rights have accrued under the said respective sections.]

Section 6A - Deleted

[xxx]

Section 6B - Accrual of right of occupancy tenant or Bhumiswami under code to be void

[Where as a consequence of lease given by a tenure holder of land comprised in his holding in contravention of section 168 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) rights of an occupancy tenant or Bhumiswami, as the case may be, have accrued to the lessee under section 169 or Section 190 of the said Code during the period commencing from 1st January, 1971 and ending on the appointed day, accrual of such rights shall be void and of no legal effect whatsoever for the purposes of this Act, notwithstanding anything

contained in this Act or any other law for the time being in force or any judgment, decree or order of any court.]

Section 6BB - Declaration of surplus land in cases to which section 6-B apply

[Where as a result of operation of section 6-B, there is an addition to the quantum of land held by a holder prior to such operation so as to necessitate declaration of surplus land, then notwithstanding anything contained in this Act, the competent authority shall in declaring the surplus land specify the land in the following order:

- (i) the land held by such holder other than the land to which section 6-B relates;
- (ii) if the land so held by him falls short of the requisite surplus the entire land so held and so much of the land to which section 6-B relates as falls short of the requisite surplus.]

Section 6 C - Bar of Jurisdiction of Civil Court in matters falling under section

[Notwithstanding anything contained in Sub-section (4) or Sub-section (5) of section 11 no civil court shall entertain any suit in respect of title to land comprised in holding of a holder to which the provisions of section 3[6-B] apply.]

Section 7 - Maximum extent of land to be held by a person or family-

[(1) Subject to the provisions of this Act, no holder or where the holder is a member of a family, no such family, shall, as from the appointed day, be entitled to hold land other than exempted land in excess of the land as is specified below—

(a) Where the holder is not a member of family	(1) land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops;		10 acres
	(2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop;		15 acres
	(3) dry land		30 acres
(b) Where the holder is a member of a family of five	(1) land capable of yielding two crops and receiving assured irrigation		18 acres

members or less.	or assured private irrigation for both the crops;		
	(2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop;		27 acres
	(3) dry land.		54 acres.
(c) where the holder is a member of a family of more than five members.	(1) land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops;		18 acres plus 3 acres for each member in excess of five subject to the maximum of 36 acres.
	(2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop;	27 acres plus 4.5 acres for each member in excess of five subject to the maximum of 54 acres	
	(3) dry land	54 acres plus 9 acres for each member in excess of five subject to the maximum of 108 acres:	

Provided that where all or any one of the members of a family is also holder and holds land in his own rights, the aggregate land which such family shall hold shall not exceed the ceiling area specified above and the members of the family shall continue to hold land within the ceiling area in proportion to the extent of the land held by each one of them before the appointed day.

(2) Where a holder who is member of a family has one or more major sons, each such son shall, subject to the ceiling area specified in Sub-section (1) for a holder, be entitled to hold land separately from out of the land belonging to the family before the appointed day, as if each such son were a holder:

Provided that if such major son or a member of his family hold land in his own rights and the extent of such land is less than the ceiling area specified in Sub-section (1) for the category of holders under which he falls, he shall

be entitled to hold land out of such family holding only to the extent by which the land held by him as on 1st January, 1971 falls short of the ceiling area:

Provided further that no major son shall be entitled to have land under the preceding proviso, unless he files before the competent authority a declaration in such form and within such period as may be prescribed.]

(3) In computing the ceiling area under Sub-section (1)--

(i) orchards other than banana gardens and vine yards shall be treated as dry land; and

(ii) land which a holder or member of a family has in a 35[Joint Farming Society or any other Co-operative Society] as member thereof shall be treated as land held by such holder or member of a family;

Explanation -- For the purposes of this section different kind of crops grown in either Rabi or Kharif season shall be deemed to be one crop.]

Section 8 - Deleted

[x x x]

Section 9 - Submission of return by person holding land in excess of ceiling-

Every holder who on the appointed day holds land in excess of the ceiling area shall in respect of all land held by him including exempted land, if any, furnish within the period of three months from the appointed day to the competent authority a return containing the following information--

(i) full particulars of land held by him within the State;

(ii) full particulars of the encumbrances, if any, on such land together with the name and address of his creditor;

(iii) [x x x]

[(iii-a) full particulars of any transfers or partition of land effected by him on or after [the 1st January, 1971] and before the appointed day;]

[(iv) full particulars of any pending litigation respecting such land or part thereof;

(v) full names, ages and addresses of the members of his family, their relation with him and land held by each of them];

[(v-a) Full names, ages and addresses of his major sons and land held by each of them as on 1st January, 1971;]

(vi) full description of the land which he desires to retain; and (vii) such other information as may be prescribed:

Explanation -- Any person having lawful custody of the minor, lunatic or idiot or of his property, for the time being, shall be deemed to be his guardian:

Provided further that where land is held by a joint Hindu family, a joint return may be filed by the manager of such family in respect of such land specifying therein the portion of the land which the family desires to retain.

Section 10 - Collection of information

(1) If any person holding land in excess of the ceiling area fails to submit the return under section 9, the competent authority may, by a notice in such form and served in such manner as may be prescribed, require such person to furnish the return within the time specified in the notice and on his failure to do so obtain the necessary information in such manner as may be prescribed.

[(2) xxx]

Section 11 - Preparation of statement of land held in excess of the ceiling area

(1) On the basis of information given in the return under section 9 or the information obtained by the competent authority under section 10, the said authority shall after making such enquiry as it may deem fit, prepare a separate draft statement in respect of each person holding land in excess of the ceiling area, containing the following particulars--

[(i) the name and address of the holder;

(i-a) if the holder is a member of a family, names, addresses and ages of members of the family;]

[(i-b) if the holder who is a member of family has major sons, names, ages and addresses of his major sons and land held by each of them as on the 1st January, 1971;]

(ii) full particulars of land held by him and other members of his family within the State and the total area of such land;]

(iii) the total area of land which the holder is entitled to hold in accordance with the provisions of this Act;

(iv) the description of land which he desires to retain;

(v) the description of land which the competent authority proposes to declare surplus; and

(vi) such other particulars as may be prescribed :

[Provided that if the holder fails to specify the portion of land which he wishes to retain, the competent authority shall, to the extent possible, include the encumbered and improved land in the land to be retained by the holder:]

Provided further that a joint statement may be prepared in respect of holders who are members of a Joint Hindu Family or who hold land jointly or as tenants-in-common.

(2) The transferor shall, for the purpose of this Act, be deemed to be the holder of land the transfer of which -

(i) has been declared to be void under Sub-section (1) of section 4; or

(ii) has been found by the competent authority, on such enquiry as may be prescribed to be in contravention of the provisions of Sub-section (1) of section 5.

(3) The draft statement shall be published at such place and in such manner as may be prescribed and a copy thereof shall be served on the holder or holders concerned, the creditors and all other persons interested in the land to which it relates. Any objection to the draft statement received within thirty days of the publication thereof shall be duly considered by the competent authority who after giving the objector an opportunity of being heard shall pass such order as it deems fit.

(4) If while considering the objections received under Sub-section (3) or otherwise, the competent authority finds that any question has arisen regarding the title of a particular holder and such question has not already been determined by a court of competent jurisdiction, the competent authority shall proceed to enquire summarily into the merits of such question and pass such orders as it thinks fit:

[xxx]

[(5) The order of the competent authority under Sub-section (4) shall subject to the decision in appeal or revision be final and conclusive.]

[(6) After all such objections, have been disposed of, the competent authority shall, subject to the provision of this Act and the rules made thereunder, make necessary alterations in the draft statement in accordance with the orders passed on objections and shall declare the surplus land held by each holder. The competent authority shall, thereafter, publish a final statement specifying therein the entire land held by the holder, the land to be retained by him and the land declared to be surplus and send a copy thereof to the holder concerned. Such a statement shall be published in such manner as may be prescribed and shall be conclusive evidence of the facts stated therein.]

(7) [xxx]

[(8) [xxx] If the land in excess of the ceiling area consists of a small strip of land which cannot be cultivated economically or which cannot be detached from the land having regard to the efficient use thereof for agricultural purposes, the holder of the land may be permitted by the competent authority, for reasons to be recorded in writing, to retain the said strip of land subject to a maximum of one acre in excess of the ceiling area.]

[(9) The competent authority shall dispose of the case --

(i) to which Section 11-A applies, within six months from 1st November, 1988;

(ii) which is pending with him on the 1st November, 1988 or which has been remanded to him before such date within six months from the 1st November, 1988;

(iii) which may be remanded to him or initiated after 1st November 1988;

within six months from the date of remand or intimation as the case may be :

Provided that if the competent authority is unable to dispose of the case within the period aforesaid, it shall make report to--

(i) the Board of Revenue where the competent authority is the Commissioner or Settlement Commissioner;

(ii) the Commissioner where the competent authority is any other Revenue Officer;

before the expiry of such period stating therein the reasons for its inability to do so and the Board of Revenue or the Commissioner as the case may be, may allow it such further period as it/he may consider necessary to dispose of such case. No record of the case or proceedings relating thereto shall be forwarded along with the report unless specially called for by the Board of Revenue/the Commissioner].

Section 11A - Consequences to ensure commencement of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1989

[(1) On the commencement of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1989, the following consequences shall ensue namely-

The competent authority shall --

(a) proceed to deal with and dispose of the cases which were heretofore deferred for decision consequent on reference to Civil Court for decision in the matter of title of land;

(b) take or cause to be taken possession of the land declared surplus under Sub-section (6) of section 11 and vested in the State Government absolutely free from all encumbrances under section 12 immediately; and

(c) by a notice require the holder to give his option within a period of fifteen days from the date of receipt of such notice about the land he intends to retain failing which the competent authority shall to the extent possible include the encumbered and improved land in the land to be retained by the holder.

(2) The Civil Court before whom the cases arising out of section 11 as it stood immediately before 1st November, 1988 were pending may deal with those cases but such pendency before the Civil Court shall not prevent the competent authority from disposing of the cases under this Act, notwithstanding any stay granted or other process issued by the Civil Court debarring the competent authority for doing so.

(3) If the final disposal of the case pending before the Civil Court results in declaration of the title of land to a person other than the holder of the land who had filed return under this Act, such person shall not be entitled for the land of which he had claimed the title, if such land already stands distributed in accordance with the provisions of this Act and in that event the said person shall be paid market value of the said land calculated in such manner as may be prescribed:

Provided that where the total land together with the land to which holder has become entitled under this section exceeds the ceiling limit, nothing in this Sub-section shall apply in respect of that such land which is in excess of the ceiling limit.

(4) (a) No suit or proceeding for declaration of title or any right over any agricultural land declared surplus and vested in the State Government under this Act shall be entertained by any Court unless the plaintiff or applicant, as the case may be, has impleaded the State of Madhya Pradesh as one of the defendants or non-applicants, as the case may be, to such suit or proceeding.

(b) No Court shall proceed with pending suit or proceeding referred to in clause (a) unless, as soon as may be, the State Government is so impleaded as a defendant or non-applicant.

Explanation The expression "suit or proceeding" used in this Sub-section shall include appeal, reference or revision but shall not include any proceeding for or connected with execution of any decree or final order passed in such suit or proceeding.

Section 11B - Consequence of final disposal by appellate or Revisional Authority-

If the final disposal of the case before the Appellate Authority or Revisional Authority results in --

(i) declaration of title of land to a person other than the holder of the land who has filed return under this Act; or

(ii) declaration of land to be exempted from the provisions of this Act; or

(iii) entitlement of holder or person other than holder under any of the provisions of this Act; such person shall not be entitled for the land of which he had claimed the title or such holder shall not be entitled for the land in respect of which he had claimed exemption or the holder or such other person shall not be entitled for land declared in his favour under (iii) above as the case may be, if such land already stands distributed in accordance with the provisions of this Act and in that event the provisions of Sub-section (3) of section 11-A shall apply to such person or holder, as the case may be.]

Section 12 - Vesting of surplus land in the State-

[All surplus land shall be deemed to be needed for a public purpose and shall vest in the State absolutely free from all encumbrances with effect from the date declaring it surplus under Sub-section (6) of section 11 :

Provided that if on such land any crop is standing such vesting shall take place after the crop has been harvested.]

Section 13 - Consequence of vesting-

With effect from the date of vesting --

(i) all rights, title and interests of the holder in the surplus land or of any person having interest in such land through him shall cease; and

(ii) all arrears of revenue, cesses or other dues, in respect of the land so vesting and due by the holder for any period prior to the date of vesting, shall continue to be recoverable from such holder and may, without prejudice to any other mode of recovery, be realized by deducting the amount from the compensation money payable to such holder under this Act.

Section 13A - Holder liable to pay compensation for profit on surplus land-

[Where any land vests in the State Government under section 12, the holder of the land shall be liable to pay to the State Government in such manner and in accordance with such principles as may be prescribed profits earned on the land by him during the period the land has remained with him after the appointed day.]

Section 14 - Demarcation of land and assessment thereof-

Where any land vest in the State Government under section 12, the Sub- Divisional Officer shall demarcate it in accordance with the rules made under Sub-section (5) of section 198 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), and also fix the land revenue in respect of the land remaining with the holder.

Section 15 - Ceiling how effective in future-

[Where after the appointed day the total land held by any holder and where such holder is a member of a family the total land held by such family at any time exceeds the ceiling area by reason of--

- (a) acquisition of land by the holder or member of his family; or
- (b) change in the nature of land, that is to say, dry land subsequently having assured irrigation for one crop or two crops as the case may be, or land having assured irrigation for one crop subsequently having assured irrigation for two crops; or
- (c) land having ceased to be exempted land; all the provisions of this Chapter shall, so far as may be, apply to such holder and where such holder is a member of a family to such family :

Provided that the period of submission of return by such holder under section 9 shall,--

- (i) in case of acquisition of land, be ninety days from the date of such acquisition; and
- (ii) in the case of change in the nature of land, be ninety days from the date the nature of land is changed; and
- (iii) in the case of land ceasing to be exempted land, be ninety days from the date of commencement of the Madhya Pradesh Ceiling on Agricultural Holdings (Second Amendment) Act, 1972 or the date on which such land has ceased to be exempted, whichever is later.]

CHAPTER IV

PAYMENT OF COMPENSATION

Section 16 - Liability of State Government to pay compensation for surplus land-

(1) The State Government shall pay compensation for surplus land vesting in the State under section 12 to the holder of such land in accordance with the rules contained in Schedule II.

[(2) In addition to the compensation payable under Sub-section (1) the State Government shall pay to the holder of such land additional compensation--

(i) for any improvement made by him on land; or

(ii) for trees, if any, standing on land.]

(3) In determining the additional compensation payable under Sub-section (2) the following matters shall be taken into consideration, namely:--

(a) the enhancement of the value of the land due to the improvement;

(b) probable duration of the effect of the improvement;

(c) labour and capital spent by the holder on the improvement;

[(d) nature of trees and value thereof].

(4) The compensation payable under Sub-sections (1) and (2) shall be due as from the date of vesting of surplus land and shall carry interest at the rate of three per centum per annum from the date of vesting to the date of payment.

Section 17 - Manner of payment of compensation-

Subject to the provisions of this Act and the rules made thereunder the compensation payable under section 16 shall be paid in the following manner, namely--

(a) in cash in full within six months of the date of vesting where the total amount of compensation does not exceed one thousand rupees;

(b) in other cases, a sum not less than one thousand rupees shall be paid within six months of the date of vesting and the balance shall be paid in equal annual installments not exceeding nineteen, subject to the condition that no installment except the one that relates to final payment shall be less than one hundred rupees :

Provided that the State Government may at any time for special reason pay to any holder the amount of future installments not exceeding five in advance.

Section 18 - Interim payment-

(1) Where the amount of compensation is not paid to a holder within a period of six months from the date of vesting, the State Government shall, subject to such restrictions and conditions as to security, repayment or otherwise as may be prescribed, direct the payment to each such holder of interim compensation which shall not be less than one-twentieth of the estimated amount of compensation subject to the maximum of one thousand rupees.

(2) Such interim compensation shall be deemed to be part of the compensation payable under this Act, and shall be deducted from and adjusted against it.

Section 19 - Determination of compensation-

After the land of a holder is declared surplus the competent authority shall after making such enquiry as it thinks fit and giving the holder concerned an opportunity of being heard, determine the amount of compensation due to such holder and such compensation shall be payable in accordance with the provisions of this Act.

Section 20 - Apportionment of compensation in certain cases-

Where the holder of the land vested in the State Government under section 12, is--

- (i) a widow; or
- (ii) an unmarried daughter; or
- (iii) a married women who has been deserted by her husband; or
- (iv) a minor; or
- (v) a person subject to physical or mental disability due to old age or otherwise; or
- (vi) a person detained or imprisoned under any process of law; or
- (vii) a person in the service of Armed Forces of the Union; or
- (viii) a public charitable or religious institution; or
- (ix) a local authority or a co-operative society; and such holder has prior to such vesting leased such land in pursuance of the provisions of Sub-section (2) of section 168 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), the compensation payable in respect of the land shall be apportioned between the holder and the lessee in the manner prescribed.

Section 21 - Payment of compensation to be full discharge-

(1) The payment of compensation to the holder or other person entitled thereto in the manner prescribed by or under the Act shall be a full discharge of the State

Government from all liability to pay compensation for the divesting of the surplus land and no further claims for payment of compensation in respect thereof shall lie.

(2) Nothing in this section shall prejudice any rights in respect of the said surplus land to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

CHAPTER V

ENCUMBRANCES OF SURPLUS LAND

Section 22 - Definition

In this Chapter--

(a) "creditor" means a person to whom a secured debt or claim is owing and "debtor" means the person by whom such debt is owed;

(b) "excluded debt" refers to secured debt or claims due in respect of --

(i) any liability in respect of any sum due to any society registered or deemed to be registered under any law relating to co-operative societies in force in any part of Madhya Pradesh;

(ii) any liability in respect of maintenance whether under decree of court or otherwise;

(iii) any liability due to a bank or a company;

(iv) a mortgage claim against property in the hands of a subsequent transferee who has taken the transfer in order to satisfy the mortgage;

(v) any liability arising between mortgagor and mortgagee in respect of land revenue of the mortgaged property which has been paid by the mortgagee on behalf of the mortgagor;

(c) "secured debt or claim" means debt or claim subsisting on the appointed day whether due or not due and secured by the mortgage of or a charge on the surplus land but shall not include land revenue or anything, recoverable as land revenue or any money for the recovery of which a suit is barred by limitation.

Section 23 - Application by creditor to competent authority-

(1) Any creditor of a holder of surplus land may, within sixty days from the publication of the final statement under Sub-section (6) of section 11, file an application to the competent authority specifying therein the amount and particulars of his debt or claims against such holder.

(2) An application under Sub-section (1) shall contain such further particulars as may be prescribed and shall be signed and verified in accordance with the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints.

(3) The claim of every creditor other than a creditor mentioned in the return filed under section 9, who fails to file an application under Sub-section (1) shall be

deemed for all purposes and all occasions to have been discharged against the debtor.

(4) The provision of section 5 of the [Indian Limitation Act, 1908 (IX of 1908)] shall apply to an application under this section.

Section 24 - Withholding of compensation money-

Upon receipt of an application under section 23 if the competent authority finds that any suit or proceeding is pending against the holder of surplus land for the recovery of any amount in respect of a secured debt or claim the competent authority shall issue a notice to the Court concerned and thereupon such suit or proceeding shall be stayed.

Section 25 - Submission of claims and production of documents-

(1) Upon receipt of an application under Sub-section (1) of section 23 the competent authority shall fix a date for hearing and shall cause a notice of the date of hearing together with a copy of the application received, to be served on the holder and shall cause a copy of such application together with a copy of the return filed under section 9 to be affixed on a conspicuous place in its office.

(2) The competent authority shall also issue notice to every creditor, who according to the return filed under section 9 has an interest in the surplus land but has not filed any application under Sub-section (1). Such notice shall be accompanied by a copy of the return.

(3) Every creditor who has filed an application under section 23 or to whom a notice is issued under Sub-section (2) shall, on or before such date as may be fixed by the competent authority file a written statement of his claim signed and verified in the manner prescribed by rule 15 of Order VI of the Code of Civil Procedure, 1908 (V of 1908). Such statement shall be submitted in person or by an agent authorised in writing or by registered post with acknowledgment due and every claim not so submitted shall be deemed for all purposes and all occasions to have been discharged as against the debtor:

Provided that if a creditor files a statement of claim within a further period of two months and satisfies the competent authority that such creditor was for good and sufficient cause unable to file the same before the date fixed for hearing the competent authority may revive the claim.

(4) On the date on which the case is fixed for hearing the creditor shall produce the documents in his possession or control on which he bases his claim. If such documents are not produced at such hearing or at an adjourned hearing fixed for this purpose by the competent authority, the competent authority may declare such claim to be discharged for all purposes and all occasions against the debtor:

Provided that if the competent authority is satisfied that any creditor was for good and sufficient cause, unable to produce such documents he may require

them to be produced on a date fixed for the purpose and may revive the claim.

Section 26 - Determination of debt-

Subject to the provisions of section 27, the competent authority shall, after hearing the debtor and the creditor, if present and making such further enquiry as it may deem fit, determine the amount which should be paid to creditors out of the amount of compensation determined under section 16.

Section 27 - Calculation of interest and reduction of principal in all transactions-

(1) The competent authority shall, notwithstanding anything contained in any other enactment for the time being in force, re-open all transactions made twelve years before the last transaction or before the 1st January, 1940, whichever is earlier, and as far as may be, ascertain in respect of each loan the date on which it was originally advanced. It shall notwithstanding the provisions of any agreement or law to the contrary, calculate the interest due at six per centum per annum or such lower rate of interest as may have been agreed upon between the parties. It shall also determine the amount of principal, if any, of each loan which would have remained unpaid if the calculation of interest had been made as herein provided.

(2) If the competent authority finds that the loan was originally advanced prior to the 1st January, 1940, then it shall reduce the principal determined under Sub-section (1) by twenty per centum.

(3) Notwithstanding anything contained in any law for the time being in force, no competent authority shall, in respect of any secured debt or claim to which this Chapter applies, award on account of arrears of interest a sum greater than the principal of the loan as determined under Sub-section (1).

(4) If the competent authority finds that nothing is due to the creditor, it shall pass an order discharging the secured debt or claim.

(5) The amounts determined due shall not carry any interest after the date of determination.

(6) Nothing in Sub-sections (1) to (5) shall apply to excluded debts. The amount due for such debts shall be determined in accordance with the terms of the contract between the parties or any law for the time being in force.

Section 28 - Priority amongst creditors-

Subject to rules framed under this Act, the competent authority shall, where there are two or more creditors, settle the order of priority in which each creditor shall be entitled to receive the amount due to him.

Section 29 - Distribution of compensation money-

(1) The compensation payable to a holder under section 16 shall be distributed between the secured creditors in the order of their priority and if there are more than one such creditors holding the same order of priority, it shall be distributed rateably between them in proportion to the amounts determined due.

(2) The amount determined payable to the creditors shall be payable in as many instalments as may be fixed for the payment of compensation to the holder of surplus land under the provisions of this Act.

(3) If the total amount determined payable to creditors is less than the compensation payable under section 16 the amount payable to creditor shall be deducted from such compensation and the balance shall be payable to the holder of surplus land.

Section 30 - Order regarding unpaid amount of claims-

If the amount of compensation payable to the holder under section 16 is not sufficient to satisfy the claims of the creditors as determined under this Chapter, the competent authority shall record an order specifying--

(a) the amount remaining unpaid in respect of each claim;

(b) the name of the creditor to whom it is due; and

(c) the particulars of the property other than surplus land belonging to the holder remaining encumbered in respect of each claim.

Section 31 - Recoveries of unpaid amount-

(1) If the property of a holder other than surplus land is encumbered in respect of any claim of the creditor in whose favour an order under section 30 has been passed, the creditor may within one year of the date of such order apply to the civil court for passing a preliminary decree for sale of the encumbered property and the civil court shall accordingly pass a preliminary decree for sale for the amount remaining unpaid in respect of that amount as specified in the said order fixing such time as it may deem fit.

(2) Subject to the provisions of Sub-section (1) any creditor in whose favour an order under section 30 has been passed may recover the amount remaining unpaid in respect of any claim which is due to such creditor according to the said order from the holder in the same manner as an arrear of land revenue.

Section 32 - Court fees by a creditor-

(1) Any creditor who applies to a civil court under section 31 shall be liable to pay such court-fees upon the amount declared as due as he would be liable to pay upon a plaint filed for the recovery of the same and the civil court shall not proceed with the application until such court-fee has been paid:

Provided that no court-fees shall be payable if court-fees have already been paid in respect of a debt.

(2) The amount of court-fees paid by the creditor shall form costs of the proceeding and be recoverable from the debtor.

Section 33 - Appeal against orders of the competent authority-

(1) Any person aggrieved by an order of the competent authority under this Chapter may file an appeal against such order --

(i) in the Court of the District Judge within whose jurisdiction the whole or any part of surplus land which is subject to mortgage or charge, as the case may be, lies if the secured debt or claim does not exceed Rs. 10,000;

(ii) in the High Court if the secured debt or claim exceeds Rs. 10,000.

(2) No appeal under Sub-section (1) shall lie--

(a) to the Court of District Judge, unless it is preferred within 30 days of the communication of the order appealed against;

(b) to the High Court, unless it is preferred within 60 days of the communication of the order appealed against.

Section 34 - Finality of decision-

The decision of the District Court or the High Court, as the case may be, in an appeal under section 33 shall be final and where no appeal has been preferred the decision of the competent authority shall be final.

CHAPTER VI

DISPOSAL OF SURPLUS LAND

Section 35 - Allotment of surplus land vesting in the State Government under this Act-

(1) Subject to the provisions of this Act and the rules framed thereunder surplus land vesting in the State under section 12 shall be allotted in Bhumiswami rights to the persons mentioned hereunder in the order of priority as indicated therein on payment of a premium equivalent to the compensation payable in respect of such land --

[(i) agricultural labourers,

(a) belonging to Scheduled Castes and Scheduled tribes; and

(b) others;

(ii) joint farming society, the members of which are agricultural labourers, or landless persons whose main occupation is cultivation or manual labour on land, or a combination of such persons;

(iii) better farming society, the members of which are agricultural labourers, or landless persons whose main occupation is cultivation or manual labour on land, or a combination of such persons;]

[(iv) freedom fighters;]

(v) displaced tenants subjects to the provisions of section 202 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959);

(vi) holders holding contiguous land;

(vii) joint farming society of agriculturists;

(viii) better farming society of agriculturists;

(ix) any other co-operative farming society subject to the condition that land (including the land as owner or tenant individually by members) shall not exceed the area equal to the number of members multiplied by the ceiling area;

(x) an agriculturist holding land less than the ceiling area :

Provided that unless the State Government otherwise directs surplus land consisting of compact area shall be either reserved for Government farm or allotted to co-operative societies or any other public purpose.

[Explanation I -- For the purpose of clause (iv), "freedom fighter" means a person who by reason of his taking part in any national movement for independence prior to the 15th August, 1947--

(i) had been awarded capital punishment; or

(ii) had to suffer imprisonment or detention for a period exceeding six months; or

(iii) had been permanently incapacitated on account of injuries inflicted upon his person in firing or lathi charge; or

(iv) had to suffer loss of property, whether wholly or partly or loss of employment or loss of his means of livelihood, and includes his principal heir where such person --

(a) was hanged in execution of the capital punishment; or

(b) died during the course of imprisonment or detention.

Explanation II -- For the purpose of Explanation I, "principal heir" means the eldest son of the deceased or, if there is no son of the deceased or, if there is no son surviving, such other heir of the deceased, as the Collector may declare to be the principal heir.]

(2) The premium payable under Sub-section (1) may be paid by the allottee either in a lump sum within six months of the commencement of the agricultural year next following the date of allotment or in twenty equal instalments, the first instalment being payable on the commencement of the agricultural year next following the date of allotment. If the premium is paid in instalments the unpaid balance of such premium shall carry interest at the rate of 3 per centum per annum with effect from the date on which the first instalment falls due.

[(3) Where the land allotted under Sub-section (1) is an orchard other than banana gardens and vine yards, the allottee shall maintain the orchard intact.]

Section 36 - Recovery of premium in case of transfer of allotted land

Where land allotted under section 35 is transferred, the amount of premium remaining unpaid in respect of such land shall be a first charge thereon and shall be recoverable from the transferee in the same manner as an arrear of land revenue.

Section 37 - Temporary leases of land liable to be allotted under section 35-

(1) If in the case of land vesting in the State under this Act the Collector considers that allotment of such land under section 35 is likely to take time and that with a view to preventing the land remaining uncultivated, it is necessary to take such a step, he may lease the land for cultivation to any agriculturist who has under personal cultivation land less than the ceiling area subject to the following conditions--

(i) the lease shall be for a period of one year.

(ii) the lessee shall pay rent at the rate fixed by the Tahsildar subject to the provisions of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959);

(iii) the lessee shall be liable to pay the land revenue and the other cesses payable in respect of the land;

(iv) if the lessee fails to vacate the land on the expiry of the term of the lease, he shall be liable to be summarily evicted by the Tahsildar.

(2) The amount of rent realised under Sub-section (1) shall be credited to Government.

CHAPTER VI A

OFFENCES AND PENALTY

Section 37A - Offences and punishment

[(1) If any person who is under an obligation to furnish a return under this Act refuses or wilfully fails to furnish a return within the time specified for the purpose, or wilfully furnishes an incomplete or incorrect return, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

(2) If any person who is under an obligation to furnish a return under this Act furnishes a return which he knows or has reason to believe to be false, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.]

Section 37B - Cognizance of offence-

[(1) No Court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

(2) No Court shall take cognizance of any offence punishable under this Act except on a complaint in writing by an Officer empowered by the State Government in this behalf.]

CHAPTER VII

MISCELLANEOUS

Section 38 - Presumption about entries in records of rights, etc. -

Every entry in the record of rights and the annual papers prepared in the Mahakoshal region in accordance with the provisions of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), and every entry in the records of a like nature maintained under any law for the time being in force in any other region of this State shall, for the purpose of this Act, be presumed to be correct.

Section 39 - Taking possession of land vested in the State-

Where under the provisions of this Act any land vests in the State, the Tahsildar may, after removing any obstruction that may be offered, forthwith take possession of the land and such land shall, subject to such rules as may be prescribed, be managed by the Collector until it is disposed of in accordance with the provisions of this Act.

Section 40 -Revenue Officer to direct delivery of possession-

The competent authority may upon its own motion or on the application of any person who is entitled to the possession of any land under any of the provisions of this Act, direct that possession of such land be delivered to such person.

Section 41 – Appeals-

[Except where the provisions of this Act provide otherwise, against every order of a Revenue Officer or competent authority under this Act or the rules made thereunder, an appeal shall lie:

(i) if such order is passed by a Revenue Officer either as competent authority or otherwise to the authority competent to hear appeals under Sub-section (1) of Section 44 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) from an order passed by a Revenue Officer of the same rank under the said Code;

(ii) if such order is passed by the competent authority where such authority is an officer other than a Revenue Officer appointed under sub-clause (iii) of clause (e) of section 2 to the Board of Revenue as if such officer were an Additional Settlement Commissioner appointed under section 65 of the said Code] :

[Provided that the surplus land vested in the State Government shall not revert to the holder thereof as a consequence of remand of the case.]

Section 42 – Revision-

The Board of Revenue or the Commissioner may on its/his motion or on the application by any party at any time for the purpose of satisfying itself/himself as to the legality or propriety of any order passed by or as to the regularity of the proceedings of any competent authority subordinate to it/him call for and examine the record of any case pending before or disposed of by such competent authority, and may pass such orders in reference thereto as it/he thinks fit:

Provided that it/he shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard: Provided further that no application for revision shall be entertained against an order against which an appeal is provided under this Act :

[Provided also that the surplus land vested in the State Government shall not revert to the holder thereof as a consequence of remand of the case.]

Section 42A - Bar to grant stay-

[No stay shall be granted by appellate authority under section 41 or by the revisional authority under section 42:

Provided that the stay granted before 1st November, 1988 shall on 1st November, 1988 stand vacated.]

Section 43 - Court fees-

Notwithstanding anything contained in the Court Fees Act, 1870 (Act 7 of 1870), every application or memorandum of appeal or an application for revision under this Act shall bear a Court Fees Stamp of such value as may be prescribed.

Section 44 – Limitation-

Every appeal or application for revision under this Act unless specifically provided otherwise in the Act, shall be filed within a period of sixty days from the date of the order against which such appeal or revision is preferred. The provisions of Sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to the filing of such appeal or application for revision.

Section 45 - Enquiries and proceedings to be judicial proceedings-

All enquiries and proceedings before any Revenue Officer, or competent authority shall be deemed to be judicial proceedings within the meaning of Section 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860 (XLV of 1860).

Section 46 - Bar of jurisdiction of Civil Courts-

[Save as expressly provided in this Act, no Civil Court shall have any jurisdiction-

(i) to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the competent authority; and

(ii) to grant stay in any case under this Act.]

Section 47 - Power to remove difficulties-

If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing the doubt or difficulty.

Section 48 - Protection of action taken under this Act-

(1) 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 in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceedings shall lie against the State 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 Act or for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Section 49 -Act to override other enactments, contracts etc.-

The provisions of this Act and any rules made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other enactment for the time being in force or any custom, usage or agreement or decree or order of a court or other authority.

Section 50 - Power to make rules-

(1) The State Government may, by notification, 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) the procedure to be followed by the competent authority exercising powers under this Act;

(b) the manner in which notices and orders under this Act shall be issued, served, communicated or enforced;

[(c) xxx]

(d) the form in which and the period within which particulars in respect of transfer of land shall be furnished under Sub-section (4) of section 5;

(e) the period within and the manner in which the return has to be submitted under section 9;

(f) (i) the enquiry to be held under Sub-section (2) of section 11;

(ii) the manner in which a copy of the draft statement shall be served on the person or persons concerned under section 11;

[(ff) the manner in which the market value of the land shall be calculated under section 11-A(3)].

[(fff) the manner in which and the principles in accordance with which the holder shall pay to the State Government the profits under section 13-A;

(g) the manner in which an appeal under section 41 may be preferred;

(h) the manner in which any land vested in the State Government shall be disposed of;

(i) any other matter which is to be or may be prescribed under this Act.

(3) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.

[SCHEDULE I

SCHEDULE II {See Section [16(1)]}

1. The amount of compensation payable to a holder of any surplus land in Bhumiswami right, shall be computed on the basis of land revenue per acre of such land according to the scale specified below:

SCALE

Land revenue per acre	Amount of compensation payable per acre
(1)	(2)
(1) Where the land revenue per acre does not exceed one rupee.	Fifty times the land revenue per acre subject to a minimum of rupees twenty.

[Provided that in the case of land having assured irrigation or assured private irrigation, the land revenue per acre shall be a sum arrived at by adding one rupee to land revenue of such land.]

2. The amount of compensation payable to a holder of any land in occupancy rights shall be the amount of compensation determined in accordance with rule 1 as if the land were held in Bhumiswami rights less 15 times the land revenue of such land.

[2-A. The amount of compensation payable to a holder of any land as a Government lessee shall be the amount of compensation determined in accordance with rule 1 had the land been assessed to land revenue under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959)].

3. Where any land is not separately assessed to land revenue the land revenue of such land shall be determined on the basis of the land revenue of the entire land separately assessed to land revenue of which it forms part.