

GOVERNMENT OF TAMIL NADU

1972



[Registered No. M-1.]

[Price, 4 Paise.]

TAMIL NADU GOVERNMENT GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 130] MADRAS, THURSDAY, MARCH 30, 1972 (CHAITRA 10, 1894)

Part IV--Section 3

Tamil Nadu Bills.

**Bill introduced in the Legislative Assembly of the
State of Tamil Nadu.**

Under rule 93 of the Tamil Nadu Legislative Assembly Rules, the following Bill, which was introduced in the Legislative Assembly of the State on the 30th March 1972, is published together with the Statement of Objects and Reasons for general information :—

L.A. Bill No. 15 of 1972.

*A Bill further to amend the Tamil Nadu Land Reforms
(Fixation of Ceiling on Land) Act, 1961.*

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-third Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1972.

(2) It shall be deemed to have come into force on the 1st day of March 1972.

2. *Definition.*—In this Act, “principal Act” means the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961), as modified by the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 (Tamil Nadu Act 17 of 1970) and the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1971 (Tamil Nadu Act 41 of 1971).

3. *Tamil Nadu Act 58 of 1961, as subsequently modified to have effect subject to modifications.*—The principal Act shall, on and from the 1st day of March 1972, have effect as if,—

(1) in section 3 of the principal Act,—

(a) clause (18) had been omitted;

(b) in clause (40), in sub-clause (2), after item (b), the following item had been inserted, namely:—

“(bb) 1.6 acres of wet land irrigated by any Government source other than a source mentioned in item (a); or”;

(2) after section 3-A of the principal Act, the following section had been inserted, namely:—

“3-B. *Certain special definitions.*—Notwithstanding anything contained in this Act, if, by virtue of the operation of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1972, the total extent of land held by any person exceeds the ceiling area, then, in relation to such person and in this Act, unless the context otherwise requires,—

(i) ‘date of the commencement of this Act’ means the 1st day of March 1972;

(ii) ‘notified date’ means the date specified by the Government in a notification, which shall be a date subsequent to the date of the publication of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1972, in the *Tamil Nadu Government Gazette*.”;

(3) in section 5 of the principal Act, in sub-section (5), for the figures and words “60 standard acres”, the figures and words “40 standard acres” had been substituted;

(4) in section 8 of the principal Act, in sub-section (1), in clause (v), the words " other than a hill area " had been omitted;

(5) in section 9 of the principal Act, in sub-section (3), in clause (a), the words " other than a hill area " had been omitted;

(6) in section 10 of the principal Act, in sub-section (1), in clause (vi), the words " other than a hill area " had been omitted;

(7) in section 13 of the principal Act, in sub-section (1), in clause (iii), the words " other than a hill area " had been omitted;

(8) in section 30 of the principal Act, the words " other than a hill area " had been omitted;

(9) after Chapter IV of the principal Act, the following Chapter had been inserted, namely :—

" CHAPTER IV-A.

PERMISSION BY GOVERNMENT TO HOLD EXCESS LAND BY INDUSTRIAL OR COMMERCIAL UNDERTAKINGS.

37-A. *Industrial or commercial undertaking to apply to Government for permission to hold excess land.*—(1) If any industrial or commercial undertaking desires to hold or acquire any land in excess of the ceiling area, it shall make an application to the Government for permission to hold or acquire such land. 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 grant the permission for the whole or part of the land specified in the application subject to such conditions as they deem fit 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) Notwithstanding anything contained in this Act, no industrial or commercial undertaking which has been approved by the Government under clause (iv) of section 73 before the date of the publication of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1972, in the *Tamil Nadu Government Gazette*, shall be entitled to hold or acquire land in excess of the ceiling area unless such industrial or commercial undertaking has obtained the permission of the Government under this section in respect of such excess land.

(5) 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.”;

(10) to section 62 of the principal Act, after the second proviso, the following proviso had been inserted, namely :—

“ Provided further that the authorized 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 half an acre in the case of wet land and one acre in the case of dry land, irrespective of the assessment of such land. ”;

(11) in section 73 of the principal Act,—

(a) for clause (iv), the following clause had been substituted, namely :—

“(iv) any land in respect of which the Government have granted permission to any industrial or commercial undertaking under section 37-A and such permission continues in force :

Provided that such land shall be exempt only so long as the conditions, if any, specified by the Government are complied with; ”;

(b) clause (v) had been omitted;

(c) in clause (xi), the words “ other than a hill area ” had been omitted;

(12) section 111 of the principal Act had been omitted;

(13) in section 112 of the principal Act,—

(a) in the heading, the words “ and orders ” had been omitted;

(b) in sub-section (1), the words and figures “ and all orders made under section 111 ” had been omitted; and

(c) in sub-section (2), the words and figures “ and every order made under section 111 ” and the words “ or order ” wherever they occur had been omitted;

(14) in the principal Act, Schedule I had been omitted;

(15) in the Table under the Explanation to paragraph 3 of Part I of Schedule III to the principal Act, under the heading “ Kanyakumari district ”, after item (2) and the entries relating thereto, the following item and entries had been inserted, namely:—

“ (2-A) Wet land irrigated by other

Government source 6.62 ”.

STATEMENT OF OBJECTS AND REASONS.

Under sub-section (5) of section 5 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961), the maximum extent of land which a family consisting of more than five members can hold is 60 standard acres. It has been decided to reduce this maximum extent from 60 standard acres to 40 standard acres.

2. The Committee of Legislators of both Houses constituted to review the exemptions contained in the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, has recommended the deletion of the exemption in respect of hill areas contained in section 73 (v) of the Act. The Government have accepted this recommendation and the Bill seeks to give effect to the deletion of the exemption in respect of hill areas.

3. Sub-clause (2) of clause (40) of section 3 of Tamil Nadu Act 58 of 1961 prescribes the formula for conversion of ordinary acres into standard acres in respect of lands in the Kanyakumari district. The wet lands irrigated by rain-fed tanks in Kanyakumari district are not covered by this formula. It has, therefore, been decided to amend sub-clause (2) of clause (40) of section 3 so as to treat the wet lands irrigated by rain-fed tanks in the Kanyakumari district to be on a par with the dry lands irrigated by rain-fed tanks for the purpose of calculation of standard acre.

4. Under section 60 of the said Act, the cultivating tenant's ceiling area means 5 standard acres. According to sub-rule (2-A) of rule 51 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962, where the authorized officer finds that the land held by a cultivating tenant in excess of the cultivating tenant's ceiling area is more than $\frac{1}{2}$ an acre in the case of wet lands and one acre in the case of dry lands, the authorized officer may for reasons to be recorded in writing leave such excess land in the possession of the cultivating tenant. On the recommendation of the Committee on Subordinate Legislation, it has been decided to incorporate the above provision in the Act by amending section 62 suitably, as it was felt that the power given under the rules to the authorized officer to allow any land in excess of the cultivating tenant's ceiling area to remain with the tenant would not be proper.

5. According to clause (iv) of section 73 of the said Act, nothing contained in the Act will apply to any land held by any industrial or commercial undertaking other than a co-operative society which in the opinion of the Government *bona fide* carries on industrial or commercial operation and which is approved by the Government. Under this section if the

approval is given by the Government, then the industrial or commercial undertaking can hold any extent of land. There is no power under this section to restrict the extent of land in respect of which the undertaking should enjoy the exemption. It has, therefore, now been decided to provide in new section 37-A that an industrial or commercial undertaking should apply to the Government for permission to hold or acquire land in excess of the ceiling area. The exemption will be applicable only in respect of those lands specified in the order granting permission, provided that the conditions specified in the order granting exemption are complied with.

6. Section 111 of the said Act empowers the Government to issue orders to remove any difficulty that may arise in giving effect to any of the provisions of the Act. The Supreme Court in *Messrs. Jalan Trading Company v. Mill Mazdoor Sabha* (1967 I.S.C.J. 189) has observed that the power to remove difficulty by altering the provisions of the Act would in substance amount to exercise of legislative authority and that such power cannot be delegated to an executive authority. This opportunity has, therefore, been availed of to omit section 111.

7. The Bill seeks to achieve the above objects.

P. U. SHANMUGHAM,
Minister for Food and Revenue.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 3 (9) of the Bill authorises the Government to prescribe the manner and the method of giving effect to certain provisions of the proposed Act. The said clause also empowers the Government to permit an industrial or commercial undertaking to acquire or hold any land in excess of the ceiling area subject to such conditions as they deem fit and also to cancel the permission granted in respect of any land for breach of any condition specified by them.

2. The powers delegated are normal and not of an exceptional character.

FINANCIAL MEMORANDUM.

The Bill provides for acquisition of surplus lands due to the deletion of the exemption in respect of hill areas and due to the reduction of the ceiling area from 60 standard acres to 40 standard acres for families consisting of more than five members. It is not possible at this stage to estimate with any degree of accuracy the expenditure to be incurred.

C. D. NATARAJAN,
Secretary, Legislative Assembly.