

TAMIL NADU LAND ENCROACHMENT ACT, 1905

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TAMILNADU

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Act 3 of 1905

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Tamil Nadu Land Encroachment Act, 1905(Tamil Nadu Act 3 of 1905)Statement of Objects and Reasons - Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905). - For Statement of Objects and Reasons, please see Fort St. George Gazette, Part IV, dated the 23rd December 1904, page 595, for Report of the Select Committee, see ibid, dated the 27th February 1905, page 45; for Proceedings in Council, see ibid, dated the 28th February 1905, page 75 and ibid, dated the 18th April 1905, page 206.Statement of Objects and Reasons - Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965). - The Madras Land Encroachment Act, 1905 (Madras Act III of 1905) lays down the procedure for eviction of encroachments on lands belonging to the Government. This procedure has been found to cause considerable delay in actual practice. Further, the State Government have no powers to consider appeals and revisions under the Act. The question of amending the Act to expedite the process of eviction and simplify the procedure was examined by a Special Committee of officers appointed by the State Government. The Committee's recommendations were examined and it has been decided to amend the Act, inter alia, for the following purposes, namely:-(1) to empower Tahsildars, Deputy Tahsildars and any other officer authorised by the State Government in that behalf to take eviction proceedings;(2) to empower the Revenue Inspector and officers of the Highways Department to initiate eviction proceedings;(3) to dispense with initial notice in the case of repeated encroachments on the same land;(4) to enable the State Government to make rules or orders in regard to certain matters;(5) to confer powers of revision on the State Government; and(6) to fix the period of limitation for appeals and revisions as thirty days.2. This opportunity has also been availed of to extend the principal Act as in force in the rest of this State and as amended by the proposed Amendment Act to the territories added to this

State from the State of Andhra Pradesh by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959) and to repeal the corresponding law in force in the said territories.³ The Bill seeks to achieve the above objects.⁴ The provisions of the Bill are explained in the Notes on clauses. Published in Fort St. George Gazette Extraordinary in the year

1965.Statement of Objects and Reasons - Tamil Nadu Land Encroachment (Amendment) Act, 1993

(Tamil Nadu Act 1 of 1996). - Unauthorised occupation of Government lands has been going on in a large scale. Most of the Government lands which are required for public purposes, such as tanks, burial ground, thrashing floor, etc., have been unauthorisedly occupied. When eviction proceedings are initiated under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905), the encroachers invariably move the Civil Courts to thwart the eviction proceedings by obtaining Tamil Nadu Land Encroachment Act, 1905

injunction, etc. Timely retrieval of lands has become quite difficult.² The Government have, therefore, decided to amend the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905), so as to bar the jurisdiction of Civil Courts with respect to matters falling under the said Act. Opportunity has been availed of to change the reference to the Board of Revenue into the Commissioner of Land Administration, consequent on the abolition of the Board of Revenue by the Tamil Nadu Board of Revenue Abolition Act, 1980 (Tamil Nadu Act 36 of 1980).³ The Bill seeks to achieve the above objects. Published in Part IV-Section 1, page 121 of the Tamil Nadu Government Gazette Extraordinary, dated the 28th October 1993. Received the assent of the Governor on the 19th April 1909, and that of the Governor-General on the 22nd May 1905; the assent of the Governor-General was first published in the Fort St. George Gazette on the 6th June 1905. An Act to provide measures for checking unauthorised occupation of lands which are [the property of Government] [The words 'Crown property' were substituted for the words 'the property of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation (Amendment) Order of 1950.]. Preamble. - Whereas it has been the practice to check the unauthorised occupation of lands which are [the property of Government] [The words 'Crown property' were substituted for the words 'the property

of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation (Amendment) Order of 1950.] by the imposition of penal or prohibitory assessment or charge, and whereas doubts have arisen as to how far such practice is authorised by law and it is expedient to make statutory provision for checking such occupation; It is hereby enacted as follows:-

1. Short title and extent.

- This Act may be cited as The [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969 as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.] Land Encroachment Act, 1905. It extends to the whole of the [State of Tamil Nadu] [Substituted for 'Presidency of Madras' by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.].

1A. [Definition. [Inserted by section 4 of and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 13 of 1960).]

- In this Act, unless the context otherwise requires, the expression "transferred territory" means the Kaqyakumari district and the Shencottah taluk of the Tirunelveli district.]

2. Right of property in public roads, etc., waters and lands.

(1)All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water mark, and of rivers, streams, nalas, lakes and tanks, and [all back waters, canals and watercourses] [Substituted for the words 'allTamil Nadu Land Encroachment Act, 1905

canals and water-courses' by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).] and all standing and flowing water, and all lands, wherever situated, save in so far as the same are the property-(a)of any [zamindar] [Zamindar estate has been abolished. See section 3 of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Tamil Nadu Act XXVI of 1948).], poligar, mittadar,

shrotriendar or [inamdaror] [Inam Estate has been abolished. See section 3 of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963).] any person claiming through or holding imder any of them, or(b)of any person paying shit, kattubadi, jodi, poruppu or quit-rent to any of the aforesaid persons, or(c)of any person holding under ryotwari tenure [including that of a janmi in the Gudalur taluk of the Nilgiris district] [Substituted for the words 'including that of a janmi in Malabar, or of a wargdar in South Kanara' by the Madras Adaptation of Laws Order, 1957.] [and in the transferred territory] [Inserted by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).] or in any way subject to the payment of land-revenue direct to Government, or(d)of any other registered holder of land in proprietary right, or(e)of any other person holding land under grant from [the Government] [The words 'the Crown' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'Government' was substituted for 'Crown' by the Adaptation Order of 1950.] otherwise than by way of licence,and, as to lands, save also in so far as they are temple site or owned as house-site or back yard, are and are hereby declared to be [the property of Government] [The words 'Crown property' were substituted for the words 'the property of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation (Amendment) Order of1950.] except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other land-owners, and to all customary rights legally subsisting.(2)All public roads and streets vested in any local authority shall, for the purposes of this Act, be deemed to be [the property of Government] [The words 'Crown property' were substituted for the words 'the property of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation (Amendment) Order of 1950.].Explanation. - In this section, "high water mark" means the highest point reached by ordinary spring-tides at any season of the year.

3. Levy of assessment on lands unauthorisedly occupied.

- [Any person who shall unauthorisedly occupy in any area other than the transferred territory any land] [Substituted for the words 'Any person who unauthorisedly occupy any land' by section 4 of,

the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).] which is [the property of Government] [The words 'Crown property' were substituted for the words 'the property of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation (Amendment) Order of 1950.], shall be liable to pay by way of assessment-(i)if the land so occupied forms an assessed survey number or part thereof, the full assessment of such number for the whole period of his occupation or a part thereof proportionate to the area occupied, as the case may be, provided that, for special reasons, the Collector [or subject to his control, the Tahsildar or Deputy Tahsildar] [Inserted by section 2 of the Tamil Nadu Act VIII of 1914.] may impose the full Tamil Nadu Land Encroachment Act, 1905

assessment of such number or any lesser sum irrespective of the area occupied;(ii)if the land so occupied be unassessed, an assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar quality in the neighbourhood, or at the highest dry or wet rate of the village, as the case be, or when no such rates exist may, in such manner as may be prescribed in rules or orders under section 8:Provided that payment of assessment under this section shall not confer any right of occupancy.Explanation. - For the purposes of this section, occupation for an incomplete portion of a fasli may be deemed to be occupation for a whole fasli.

3A. [Levy of assessment on lands unauthorisedly occupied in the transferred territory. [Inserted by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).]

- Any person who shall unauthorisedly occupy in the transferred territory any land which is the property of Government shall be liable to pay by way of assessment,-(a)if the land so occupied forms an assessed survey number or part thereof, such assessment for the whole period of his occupation, as may be imposed by the Collector or subject to his control, by the Tahsildar or Deputy Tahsildar, in accordance with such rate as may be prescribed;(b)if the land so occupied be unassessed, such prohibitory assessment for the whole period of his occupation, as may be imposed by the Collector or subject to his control, by the Tahsildar or Deputy Tahsildar:Provided that payment of assessment or prohibitory assessment under this section shall not confer any right of occupancy.Explanation. -

For the purposes of this section, occupation for an incomplete portion of a fasli may be deemed to be occupation for a whole fasli.]

4. Conclusiveness of decision as to amount of assessment.

- The [xxx] [The word 'Collector's' was omitted by section 2 of the Tamil Nadu Act VIM of 1914.] decision as to the rate or amount of assessment payable under section 3 [or section 3-A] [These words, figure and letter were inserted by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).] shall be recorded in writing [xxx] [The words 'and shall not be questioned in any Civil Court' were omitted by section 2 of the Tamil Nadu Land Encroachment (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1996).].

5. Liability of person unauthorisedly occupying land to penalty after notice.

- [Any person in any area other than the transferred territory liable to pay assessment under section 3] [Substituted for the words and figure 'Any person liable to pay assessment under section 3' by of the Tamil Nadu Land Encroachment (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1996).] shall also be liable, at the discretion of the Collector, [or subject to his control, the Tahsildar or Deputy Tahsildar] [These words were inserted by section 2 of the Tamil Nadu Act VIII of 1914.], to pay in addition by way of penalty-(i)if the land be assessed land, a sum not exceeding five rupees or, when ten times the assessment payable for one year under section 3 exceeds five rupees, a sum not exceeding ten times such assessment:Provided that no penalty shall ordinarily be imposed in respectTamil Nadu Land Encroachment Act, 1905 of the unauthorized occupation of such land for any period not exceeding one year;(ii)if the land be unassessed, a sum not exceeding ten rupees, or when twenty times the assessment payable for one year under section 3 exceeds ten rupees, a sum not exceeding twenty times such assessment.

5A. [Liability of person unauthorisedly occupying land to penalty after notice in the transferred territory. [Inserted by section 4 of, and the Second Schedule to the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960). (Tamil Nadu Act 23 of 1960).]

- Any person in the transferred territory liable to pay assessment under section 3-A shall also be

liable, at the discretion of the Collector or subject to his control, the Tahsildar or Deputy Tahsildar, to pay in addition by way of penalty, whether the land is assessed or unassessed, a sum not exceeding two hundred rupees.]

5B. [Notice before proceeding under section 5 or section 5-A. [Inserted by section 2 of the Tamil Nadu Act 26 of 1965.]

- Before taking proceedings under section 5 or section 5-A, the Collector, or Tahsildar or Deputy Tahsildar or Revenue Inspector, shall cause to be served in the manner provided in section 7 on the person reputed to be in unauthorized occupation of land being the property of Government, a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against under section 5 or section 5-A:Provided that where the notice under this section is caused to be served by the Revenue Inspector, he shall require the person reputed to be in unauthorized occupation of the land to show cause against such notice to the Tahsildar or Deputy Tahsildar having jurisdiction and shall also make a report in writing containing such particulars as may be specified in rules or orders made under section 8 to the Tahsildar or Deputy Tahsildar having jurisdiction.]

6. Liability of person unauthorisedly occupying land to summary eviction,

forfeiture of crops, etc.

(1)Any person unauthorisedly occupying any land for which he is liable to pay assessment under section 3 [or section 3- A] [Inserted by section 4 of and the Second Schedule to, the Tamil Nadu Act 23 of 1960.] may be summarily evicted by the Collector, [or subject to his control, by the Tahsildar or Deputy Tahsildar or any other officer authorized by the State Government in this behalf (hereinafter referred to as the 'authorized officer')] [Inserted by section 3 of the Tamil Nadu Act 26 of 1965.] and any crop or other product raised on the land shall be liable to forfeiture and any building or other construction erected or anything deposited thereon shall also, if not removed by him after such written notice as the Collector [or subject to his control, the Tahsildar or Deputy Tahsildar or authorized officer] [Inserted by section 3 of the Tamil Nadu Act 26 of 1965.] may deem reasonable, be liable to forfeiture. Forfeitures under this section shall be adjudged by the Collector [or subject to his control by the Tahsildar or Deputy Tahsildar or authorized officer] [Inserted by

section 3 of the Tamil Nadu Act 26 of 1965.] and any property so forfeited shall be disposed of as the Tamil Nadu Land Encroachment Act, 1905

Collector [or subject to his control, the Tahsildar or Deputy Tahsildar or authorized officer]

[Inserted by section 3 of the Tamil Nadu Act 26 of 1965.] may direct.(2)Mode of eviction. - An

eviction under this section shall be made in the following manner, namely: - By serving a notice in the manner provided in section 7 on the person reputed to be in occupation or his agent requiring

him within such time as the Collector [or the Tahsildar or Deputy Tahsildar or the authorized

officer] [Inserted by section 3 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965

(Tamil Nadu Act 26 of 1965).] may deem reasonable after receipt of the said notice to vacate the

land, and if such notice is not obeyed, by removing or deputing a subordinate to remove any person

who may refuse to vacate the same, and if the officer removing any such person shall be resisted or

obstructed by any person, the Collector [or the Tahsildar or Deputy Tahsildar or authorized officer]

[Inserted by section 3 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu

Act 26 of 1965).] shall hold a summary inquiry into the facts of the case, and if satisfied that the

resistance or obstruction was without any just cause and that such resistance or obstruction still

continues, may issue a warrant for the arrest of the said person and on his appearance commit him

to close custody in the office of the Collector [or of any Tahsildar or Deputy Tahsildar or authorized

officer] [Substituted for the words 'or of any Tahsildar or Deputy Tahsildar' by section 3 of the Tamil

Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).] for such period

not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or

resistance or may send him with a warrant in the form of the schedule for imprisonment in the civil

jail of the district for the like period:Provided that no person so committed or imprisoned under this

section shall be liable to be prosecuted under sections 183,186 or 188 of the Indian Penal Code, 1860

(Central Act XLV of 1860), in respect of the same facts.(3)[Any authorized officer taking

proceedings under this section shall make a report in writing containing such particulars as may be

specified in rules or orders made under section 8 to the Collector, Tahsildar or Deputy Tahsildar

having jurisdiction.] [Added by section 2 of the Tamil Nadu Land Encroachment (Amendment) Act,

1965 (Tamil Nadu Act 26 of 1965).]

7. Prior notice to person in occupation.

- Before taking proceedings [under section 6] [Substituted by section 4 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965) for the words, figure and letter 'under section 5, section 5-A or section 6' which were substituted for the words and figures 'under section 5 or section 6' by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).], the Collector [or Tahsildar, [or Deputy Tahsildar or Revenue Inspector or any authorized officer or] [The words 'or Tahsildar, or Deputy Tahsildar, as the case may be' were inserted by section 2 of the Tamil Nadu Act VIII of 1914.] [any other officer specified by the State Government in this behalf (not being an authorised officer) (hereinafter referred to as the 'specified officer')] [Substituted for the words 'any officer of the Highways Department, not below the rank of a Section Officer and not being an authorised officer' by section 2(i) of the Tamil Nadu Encroachment (Amendment) Act, 1975 (Tamil Nadu Act 20 of 1975).], as the case may be,] shall cause to be served on the person reputed to be in unauthorised occupation of land being The [the property of Government] [words 'Crown property' were substituted for the words 'the property of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation Tamil Nadu Land Encroachment Act, 1905 (Amendment) Order of 1950.] a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against [under section 6.] [Substituted by section 4 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965) for the words, figure and letter 'under section 5, section 5-A or section 6' which were substituted for the words and figures 'under section 5 or section 6' by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).] Such notice shall be served in the manner prescribed in section 25 of the [Tamil Nadu] [Substituted for the words 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.] Revenue Recovery Act, 1864 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January

**1969.] Act II of 1864), of or in such other manner as the [State Government]
[The words 'Provincial**

Government' were substituted for the words 'Local Government' by the Adaptation Order, 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] by rules or orders under section 8 may direct:[Provided that no such notice shall be necessary in the case of any person unauthorisedly occupying any land, if he has been previously evicted from such land under section 6 or if he has previously vacated such land voluntarily after the receipt of a notice under section 5-B or under this section:] [Added by section 4 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).][Provided further that where the notice under this section is caused to be served by any Revenue Inspector or [any specified officer] [Added by section 4 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).], he shall require the person reputed to be in unauthorised occupation of the land to show cause against such notice to the Collector, Tahsildar or [Deputy Tahsildar or authorised officer having jurisdiction, as the case may be,] [Substituted for the words 'or Deputy Tahsildar having jurisdiction' by section 2(ii)(b)of the Tamil Nadu Land Encroachment (Amendment) Act, 1975 (Tamil Nadu Act 20 of 1975).] and shall also make a report in writing containing such particulars as may be specified in rules or orders made under section 8 to the Collector, Tahsildar or 3 [Deputy Tahsildar or authorised officer having jurisdiction, as the case may be.] [Substituted for the words 'or Deputy Tahsildar having jurisdiction' by section 2(ii)(b)of the Tamil Nadu Land Encroachment (Amendment) Act, 1975 (Tamil Nadu Act 20 of 1975).]]

8. Power to make rules.

- [(1)] [The original section 8 was renumbered as sub-section (1) of that section by section 5 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).] The [State Government] [The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order, 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may make rules or orders either generally or in any particular instance-(a)regulating the rates of assessment leviable under section 3 [or section 3-A] [These

words, figure and letter were inserted by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).];(b)regulating the imposition of penalties under section 5 [or section 5-A] [These words, figure and letter were inserted by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Tamil Nadu Land Encroachment Act, 1905

Laws Act, 1960 (Tamil Nadu Act 23 of 1960).];(c)declaring that any particular land or class of lands which are [the property of Government] [The words 'Crown property' were substituted for the words 'the property of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation (Amendment) Order of 1950.]

shall not be open to occupation;(d)regulating the service of notices under this Act [and prescribing the form of such notices] [Added by section 5 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).];(e)[specifying the particulars to be contained in the report under the proviso to section 5-B, under sub-section (3) of section 6 and under the second proviso to section 7;] [These clauses were added by the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).](f)regulating the procedure to be followed in appeals and revisions under this Act; and(g)for the purpose of carrying into effect the provisions of this Act.[xxx]

[The sentence 'Such general rules or orders shall be made only after previous publication' was omitted by the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).](2)[All rules and orders made under this section shall be published in the [Fort St. George Gazette] [These sub-sections were added by the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).] and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they (sic) published.](3)Every rule and every order made under this section shall, as soon as possible after it is made, be placed on the table of [the Legislative Assembly] [Substituted for the words 'both Houses of the Legislature' by the Tamil Nadu Adaptation of Laws Order, 1987, which was deemed to have come into force on the 1st November

1986.] and if before the expiry of the session in which it is so placed or the next session, [the

Legislative Assembly agrees] [These words were substituted for the words 'both Houses agree' by the

Tamil Nadu Adaptation of Laws Order, 1987, which was deemed to have come into force on the 1st November 1986.] in making any modification in any such rule or order or [the Legislative Assembly agrees] [These words were substituted for the words 'both Houses agree' by the Tamil Nadu Adaptation of Laws Order, 1987, which was deemed to have come into force on the 1st November

1986.] that the rule or order should not be made, the rule or order shall, thereafter, have effect only

in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.

9. Recovery of assessment or penalty levied as arrears of land-revenue.

- The amount of assessment and penalty imposed under this Act on any person unauthorisedly occupying any land shall be deemed to be land-revenue and may be recovered from him as arrears of land-revenue under the provisions of the [Tamil Nadu] [Substituted for the word ',Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.] Revenue Recovery Act, 1864 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.] Act II of 1864), or the [Chennai] [Substituted for word Madras' by City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] City Land-Revenue (Amendment) Act, 1867 (Tamil Nadu Act VI of 1867), as the case may be. Tamil Nadu Land Encroachment Act, 1905

10. [Appeal. [Substituted by Tamil Nadu Act VIII of 1914.]

- [xxx] An appeal shall lie-(a)to the Collector from any decision or order passed by a Tahsildar or Deputy Tahsildar [xxx] [The words 'or an authorised officer' were omitted by section 3(i) of the Tamil Nadu Land Encroachment (Amendment) Act, 1975 (Tamil Nadu Act 20 of 1975).] under this Act, and(aa)[to such officer as may be specified by the State Government in this behalf (hereinafter

referred to as the appellate authority) from any decision or order passed by an authorised officer under this Act and different appellate authorities may be specified for different classes of cases; and] [Inserted by section 3(ii) of the Tamil Nadu Land Encroachment (Amendment) Act, 1975 (Tamil Nadu Act 20 of 1975)](b)to the District Collector from any decision or order of a Collector passed otherwise than on appeal, and(c)to the [Commissioner of Land Administration] [Substituted for the word 'Board of Revenue' by section 3 of the Tamil Nadu Land Encroachment (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1996).] from any decision or order of a District Collector passed otherwise than on appeal.[Sub-section (2) was omitted by section 6 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).]

10A. [Revision. [Inserted by section 7 of the Tamil Nadu Land Encroachment (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1996).]

(1)Any decision or order passed under this Act may be revised either suo motu or on application-(a)by the District Collector, if such decision or order was passed by [xxx] a Deputy Tahsildar, Tahsildar or Collector;(b)by the [Commissioner of Land Administration] [Substituted for the word 'Board of Revenue' by section 3 of the Tamil Nadu Land Encroachment (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1996).] if such decision or order was passed by any officer [other than the appellate authority] [Added by section 4(ii) section 3 of the Tamil Nadu Act 1 of 1996.];(c)by the State Government if such decision or order was passed by the [appellate authority or the [Commissioner of Land Administration] [Substituted for the words 'by the Board of Revenue by section 4(iii) of the Tamil Nadu Land Encroachment (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1996).].(2)The power conferred by sub-section (1) shall not be exercised except on the ground that the officer or authority whose decision or order is sought to be revised appears to have exercised a jurisdiction not vested in him or it by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of his or its jurisdiction illegally or with material irregularity.(3)No decision or order shall be passed under sub-section (1) prejudicial to any person without giving such person a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration, before such decision or order is passed.]

10B. Stay pending decision in appeal or revision. - Pending the disposal of any appeal or application or proceedings for revision under this Act, the

Collector, the District Collector, Substituted for the words "by the Board of Revenue by section 4(iii) of the [the appellate authority] [Tamil Nadu Land Encroachment (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1996).], [the Commissioner of Land Administration] [Substituted for the word 'Board of Tamil Nadu Land Encroachment Act, 1905 Revenue' by section 3 of the Tamil Nadu Land Encroachment (Amendment) Act, 1993 (Tamil Nadu Act 1 of 1996).] or the State Government, as the case may be, may, by order, and subject to such conditions as may be specified therein, stay the execution of the decision or order appealed against or sought to be revised.

11. [Limitation for appeal and revision. [Substituted for the original section

11 by section 8 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).] - (1) No appeal shall be preferred under section 10 after the expiration of thirty days from the date on which the decision or order appealed against was received by the appellant.

(2) No application for revision shall be preferred under sub-section (1) of section 10-A after the expiration of thirty days from the date on which the decision or order sought to be revised was received by the applicant. (3) In computing the period of thirty days referred to in sub-sections (1) and (2), the time required to obtain a copy of the decision or order appealed against or sought to be revised shall be excluded. (4) Notwithstanding anything contained in sub-sections (1) and (2), the officer or authority concerned or the State Government may admit an appeal or application preferred after the period specified therein, if such officer or authority or Government is or are satisfied that the appellant or applicant had sufficient cause for not preferring the appeal or application within that period.]

12. Document accompanying petition of appeal [or application for revision]

[Added by section 9(i) of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).].

- Every petition of appeal [or application for revision] [Inserted by section 9(ii) of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965)] under this Act shall be accompanied by the decision or order appealed against [or sought to be revised] [Inserted by section 9(ii) of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965)] or by an authenticated copy of the same.

13. Saving of operations of other laws in force.

- Nothing in this Act contained shall be construed as exempting any person unauthorisedly occupying land from liability to be proceeded against under any other law for the time being in force: Provided that if any penalty has been levied from any person under section 5 [or section 5-A] [Inserted by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960.)] of this Act, no similar penalty shall be levied from him under any other law in respect of such occupation. Tamil Nadu Land Encroachment Act, 1905

14. [Bar of jurisdiction of Courts. [Substituted by Tamil Nadu Land

Encroachment (Amendment) Act, 1995 (Tamil Nadu Act 1 of 1996).]

- Notwithstanding anything contained in any law for the time being in force, no order passed or proceeding taken by any officer or authority or the State Government under this Act shall be called in question in any Court, in any suit or application and no injunction shall be granted by any Court in respect of any action taken or to be taken by such officer or authority or the State Government in pursuance of any power conferred by or under this Act. Construction of references. - In the application of any rule, by-law, regulation notification, form or order made or issued under the Principal Act, any reference to the Board of Revenue shall, unless the context otherwise requires, be deemed to be a reference to the Commissioner of Land Administration.]

15. Validation of levy of penal assessment before the passing of the Act.

- Every proceeding taken by a Collector for the recovery of any sum of money by way of penal or prohibitory assessment or charge from any person who has unauthorisedly occupied any land

hereby declared to be [the property of Government] [The words 'Crown property' were substituted for the words 'the property of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation (Amendment) Order of 1950.] shall, if such sum has been recovered prior to the passing of this Act, be deemed to have been lawfully taken, provided that this section shall not apply to any suits, pending when this Act comes into force in a Court of first instance or in a Court of Appeal or affect the validity and operation of any decree or order already passed by a Court of competent jurisdiction.

15A. [Certain persons deemed to be in unauthorised occupation of land.

[Inserted by section 2 of the Madras Land Encroachment (Amendment) Act, 1950 (Madras Act XXIX of 1950).]

- Where a lease of land which is the property of the Government expires or is terminated by the Government or any other authority competent in that behalf, the lessee or any other person remaining in possession of the land after such expiry or termination, or Where land granted to any person is liable to be resumed by the Government for the breach or non-observance of any of the conditions subject to which the grant is made and the Government or any other authority competent in that behalf have passed orders resuming the land for such breach or non-observance, the grantee or any other person remaining in possession of the land after the passing of those orders shall, for the purposes of sections 3 to 15, be deemed to be a person unauthorisedly occupying such land.]

16. Saving of lands claimed by right of escheat or reversion.

- Nothing in this Act, [save as provided in section 15-A] [Inserted by section 3 of the Madras Land Encroachment (Amendment) Act, 1950 (Madras Act XXIX of 1950).], shall apply to any lands, claimed by right of escheat [xxx] [The word 'resumption' was omitted by section 3 of the Madras Land Encroachment (Amendment) Act, 1950 (Madras Act XXIX of 1950).] or reversion until such Tamil Nadu Land Encroachment Act, 1905

lands have been reduced into possession by [the State Government] [The words 'Provincial Government' were substituted for the word 'Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950].

Schedule

Form of Warrant to be Issued [xxx] [The Words 'by the Collector' We're Omitted By Section 10 Of The Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 Of 1965).] Under Section 6 Seal To The officer in charge of the Civil Jail at. Whereas A. B., of has resisted (or obstructed C. D. in removing E. F. (or himself, that is the said A. B.) from certain land in the village of in the taluk, and whereas it is necessary in order to prevent the continuance of such obstruction or resistance to commit the said A. B. to close custody, you are hereby required under the provisions of section 6 of the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.] Land Encroachment Act, 1905, to receive the said A. B. into the jail under your charge and there to keep him in safe custody for....days. Dated this day of.....Collector [Signature of Tahsildar Deputy Tahsildar Authorised Officer.] [Substituted for the brackets and words '(Signature of Collector)' by section 10 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).] Tamil Nadu Land Encroachment Act, 1905