



The Uttar Pradesh Consolidation of Holdings (Amendment) Act, 1970

Act 31 of 1970

Keyword(s):

Consolidation of Holding, Affidavit, Chak Road, Chak Guls, Assistant Consolidation Officer, Collector

Amendment appended: 3 of 2002

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

127026

Cop. 1

**THE UTTAR PRADESH CONSOLIDATION OF HOLDINGS
(AMENDMENT) ACT, 1970**

(U. P. ACT No. 31 OF 1970) ✓

[*Authoritative English Text of the Uttar Pradesh Jot Chakbandi
(Sanshodhan) Adhiniyam, 1970.]

AN
ACT

further to amend the Uttar Pradesh Consolidation of Holdings Act, 1953

IT IS HEREBY enacted in the Twenty-first Year of the Republic of India as follows :—

1. This Act may be called the Uttar Pradesh Consolidation of Holdings (Amendment) Act, 1970.

Short title.

2. After section 41 of the Uttar Pradesh Consolidation of Holdings Act, 1953, hereinafter referred to as the principal Act, the following section shall be inserted, namely :—

Insertion of new section 41-A in U.P. Act V of 1954.

“41-A. Affidavits to be filed in any proceedings under this Act, including an appeal or revision, shall be made in the same manner and conform to the same requirements as affidavits filed under the Code of Civil Procedure, 1908 and may be verified by any officer or other person appointed by the High Court under clause (b) or by an officer appointed by any other court under clause (c) of section 139 of the said Code.”

3. After section 52 of the principal Act, the following section shall be inserted, namely :—

Insertion of new section 52-A.

“52-A. (1) In the case of a unit in relation to which a notification under sub-section (1) of section 52 has been issued ^{Special provisions for Chack Roads and Chak Guls.} before the commencement of the Uttar Pradesh Consolidation of Holdings (Amendment) Act, 1970, the Collector may, if he is of opinion that there exists no provision or inadequate provision of Chak Roads or Chak Guls in the unit, and shall, if a representation in that behalf by not less than ten per cent of the total number of tenure-holders is made to him within six months of the said commencement, proceed to take action under sub-section (2), anything to the contrary contained in section 52 notwithstanding.

(2) The Collector shall cause a notice of the proposal to take action under this section and also of the representation, if any, received under sub-section (1) to be given in the unit by beat of drum and in such other manner, if any, as he thinks fit, and direct any Consolidation Officer to inspect the locality and take reasonable steps to ascertain the wishes of the tenure-holders, or, as the case may be, of such of them as have not joined in the representation, and to make such other inquiry into the matter as he thinks fit.

(3) Such Consolidation Officer shall make a report to the Collector on the advisability or otherwise of drawing up a plan making provision or, as the case may be, more adequate provision for Chak Roads or Chak Guls in the unit, and the Collector on being satisfied after considering such report that it is necessary or expedient so to do, shall cause a draft plan to be prepared.

[*For Statement of Objects and Reasons, please see Uttar Pradesh Gazette Extraordinary, dated June 12, 1970.]

(Passed in Hindi by the Uttar Pradesh Legislative Council on 19th June, 1970 and by the Uttar Pradesh Legislative Assembly on June 29, 1970.)

(Received the assent of the President on September 7, 1970, under Article 201 of the Constitution of India and was published in the Uttar Pradesh Gazette Extraordinary, dated September 16, 1970.)

Price 05 Paise.

(4) The Assistant Consolidation Officer shall thereupon, after ascertaining informally the wishes of as many tenure-holders of the unit as he considers practicable, prepare a draft plan in the prescribed form proposing such provision or additional provision of Chak Roads or Chak Guls as may be necessary. In preparing the draft plan the Assistant Consolidation Officer shall have regard to the following principles, namely :—

(a) That as far as practicable, provision of Chak Roads and Chak Guls should be made primarily by utilising land vested in the Gaon Sabha and secondarily out of land held by those tenure-holders whose Chaks are connected with the proposed Chak Roads or Chak Guls, and in the last resort, out of any other land.

(b) The re-arrangement of Chaks should be made only to the extent it is really necessary for making provision of Chak Roads and Chak Guls with the minimum possible dislocation in the Consolidation Scheme already confirmed.

(5) The draft plan prepared under sub-section (4) shall be published in the prescribed manner.

(6) Any person affected by the draft plan may, within 15 days from the date of such publication, file an objection in writing before the Consolidation Officer.

(7) (a) The Consolidation Officer shall dispose of all objections after notice to the parties concerned.

(b) Any person aggrieved by the order of the Consolidation Officer under clause (a) may, within 15 days from the date of the order, file an appeal before the Settlement Officer, Consolidation, whose decision thereon shall be final.

(c) Before deciding the objections under clause (a) the Consolidation Officer, and before deciding the appeal under clause (b), the Settlement Officer, Consolidation, may make a local inspection of the site in dispute after notice to the parties concerned.

(d) It shall be lawful, for reasons to be recorded in writing, for the Consolidation Officer under clause (a) and the Settlement Officer, Consolidation, under clause (b) to modify the draft plan in accordance with the principles specified in sub-section (4) and for the Settlement Officer, Consolidation, to remand the same either to the Consolidation Officer or to the Assistant Consolidation Officer with such directions as he thinks fit.

(8) The Settlement Officer, Consolidation, shall confirm the plan—

(a) if no objections are filed within the time specified in sub-section (6) ; or

(b) where such objections are filed, after such modifications or alterations as may be necessary in view of the orders passed on objections and appeals under sub-section (7).

(9) The plan confirmed under sub-section (8) shall be published in the unit in the prescribed manner and shall come into force on the date of such publication, and thereupon the Consolidation Scheme and the allotment orders made final under section 23 shall stand amended to the extent indicated in the plan, and fresh allotment orders shall be issued by the Settlement Officer, Consolidation, accordingly.

(10) The provisions of Chapter IV shall *mutatis mutandis* apply in relation to the said plan as they apply in relation to the final Consolidation Scheme, and for the purposes of application of Chapter IV-land contributed for Chak Roads and Chak Guls provided under this section shall be deemed to be land contributed for public purposes under section 8-A.”

No. 1628(2)/XVII-V-1-1(KA) -12-2002

Dated Lucknow, September 4, 2002

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Jot Chakbandi (Sanshodhan) Adhniyam, 2002 (Uttar Pradesh Adhniyam Sankhya 3 of 2002) as passed by the Uttar Pradesh Legislature and assented to by the Governor on September 3, 2002:-

THE UTTAR PRADESH CONSOLIDATION OF HOLDINGS
(AMENDMENT) ACT, 2002

(U. P. ACT NO. 3 OF 2002)

[As passed by the Uttar Pradesh Legislature]

AN

ACT

further to amend the Uttar Pradesh Consolidation of Holdings Act, 1953.

IT IS HEREBY enacted in the Fifty-third Year of the Republic of India as follows:-

1. (1) This Act may be called the Uttar Pradesh Consolidation of Holdings (Amendment) Act, 2002.

Short title and
commencement

(2) Section 2 shall be deemed to have come into force on June 21, 2002, section 3 shall be deemed to have come into force on November 10, 1980 and the

Insertion of new section 6-A in U. P. Act no. 5 of 1954

2. After section 6 of the Uttar Pradesh Consolidation of Holdings Act, 1953, hereinafter referred to as the principal Act, the following section shall be *inserted*, namely:—

“6-A (1) After the publication of notification under sub-section (2) of section 4 or section 4-A and before start of the proceeding under section 8, a case of undisputed succession shall be disposed of by the Consolidator, and a case of undisputed mutation on the basis of transfer shall be disposed of by the Assistant Consolidation Officer, in such manner and after making such inquiry as may be prescribed :

Provided that no case shall be entertained, continued or disposed of under this section after start of the proceeding under section 8.

(2) An order made under sub-section (1) shall not be a bar to an objection under section 9.”

Amendment of section 48

3. In section 48 of the principal Act, *after* explanation (2) the following explanation shall be *inserted*, namely :—

“*Explanation* (3) The power under this section to examine the correctness, legality or propriety of any order includes the power to examine any finding, whether of fact or law, recorded by any subordinate authority, and also includes the power to re-appreciate any oral or documentary evidence.”

Repeal and saving

4.(1) The Uttar Pradesh Consolidation of Holdings (Amendment) Ordinance, 2002 and the Uttar Pradesh Consolidation of Holdings (Second Amendment) Ordinance, 2002 are hereby repealed.

U.P.
Ordinance
no. 3 of
2002 and
U.P.
Ordinance
no. 12 of
2002

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act as amended by the Ordinances referred to in sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act as if the provisions of this Act were in force at all material times.

By order,
A. B. SHUKLA,
Pramukh Sachiv.

STATEMENT OF OBJECTS AND REASONS

The Uttar Pradesh Consolidation of Holdings Act, 1953 has been enacted to provide for the consolidation of agricultural holdings in Uttar Pradesh for the development of agriculture. As there was no provision in the said Act for the disposal of the cases of the transfer or succession after the publication of notification under sub-section (2) of section 4-A and before start of the proceeding under section 8 due to which the farmers were facing difficulty in getting loan for agricultural purposes and other benefits, it was decided to amend the said Act to provide for empowering the Consolidators and the Assistant Consolidation Officers to dispose of cases of undisputed succession and the cases of undisputed mutation on the basis of transfer, respectively.

2. Since the State Legislature was not in session and immediate legislative action was necessary to implement the aforesaid decision, the Uttar Pradesh Consolidation of Holdings (Amendment) Ordinance, 2002 (U.P. Ordinance no. 3 of 2002) was promulgated by the Governor on June 21, 2002.

3. Section 48 of the aforesaid Act provides for empowering the Director of Consolidation to call for and examine the record of any case decided or proceedings taken by any subordinate authority for the purpose of satisfying himself as to the regularity of the proceedings or as to the correctness, legality or propriety of any order passed by such authority in the case or proceedings and to make, after allowing the parties concerned an opportunity of being heard, such order in the case or proceedings as he thinks fit. In the case of *Gayadeen Versus Hanuman*, the Supreme Court has decided that the revisional power may not include appellate power and the factual conclusions drawn by the subordinate Courts in their decisions can not be modified by the Director, Additional Director, Joint Director, Deputy Director or the Assistant Director of Consolidation. In accordance with the said decision of the Supreme Court errors of the subordinate Courts cannot be rectified due to which the parties have to face many problems. It was, therefore decided to amend the aforesaid Act to clarify that to examine the correctness, legality or propriety of any order includes the power to examine any finding, whether of fact or law and also includes the power to re-appreciate any oral or documentary evidence.

4. Since the State Legislature was not in session and immediate legislative action was necessary to implement the decision mentioned in para 3 above, the Uttar Pradesh Consolidation of Holdings (Second Amendment) Ordinance, 2002 (U.P. Ordinance no. 12 of 2002) was promulgated by the Governor on July 10, 2002.

5. This Bill is introduced to replace the aforesaid Ordinances.