

NOTIFICATION

FOR COMMENTS AND SUGGESTION

ON DRAFT ODISHA AGRICULTURAL LAND LEASING ACT.

Department of Agriculture and Farmers' Empowerment, Govt. of Odisha has formulated Draft DRAFT ODISHA AGRICULTURAL LAND LEASING ACT. The Draft Act seeks to provide for consideration and discussion, a policy framework that will enable our State to facilitate the poor (Landless) farmers for leasing Agriculture land and to provide recognition to farmers for cultivating agricultural lands on lease for enabling them to access loans through credit institution, insurance, subsidies and MSP etc.

Comments/ suggestions on the Draft Act are hereby invited from stakeholders. Comments can be sent at agbus.agfe@gov.in / dafstat.dag@nic.in / agrsec.or@nic.in

The last date for receiving comments is 15.3.2020.

S. Singh
5.3.2020

Draft Odisha Agricultural Land Leasing Act

Preamble

An Act to permit and facilitate leasing of agricultural land, to improve agricultural efficiency and equity, access to land by the landless and semi-landless poor, occupational diversity and for accelerated rural growth and transformation; provide recognition to farmers cultivating agricultural land on lease for enabling them to access loans through credit institutions, insurance, disaster relief, marketing facilities, procurement at Minimum Support Price, subsidies and other support services provided by Government, while protecting fully the land rights of the owners; and matters connected there with or incidental there to.

Whereas, the prohibitions and restrictions under existing state laws governing agricultural land leasing forced the landowners and lessee cultivators to have informal agreements only for cultivating the land and thereby depriving the lessee cultivators of the benefits which are normally due to them, the existing laws also create insecurity among land owners to lease-out agricultural land which reduces the access to land by the landless poor, small and marginal farmers and others by way of leasing.

And whereas, it is considered necessary to enact a law to govern the agricultural land leasing;

Be it enacted by the legislature of the state of Odisha in the----- year of the Republic of India as follows:

CHAPTER – I

PRELIMINARY

1. Short title, extent and commencement

(1) This Act shall be called the Odisha Agricultural Land Leasing Act, -----

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(2) It shall extend to the whole state of Odisha.

(3) It shall come into force on such date as the State Government notifies, but not with retrospective effect.

**Short title,
extent
and
commencement**

2. Definitions

In this Act, unless the context otherwise requires:

(a) "Agricultural land" means land which is used or is capable of being used for the agriculture and allied activities including fallow land;

(b) "Agricultural Year" means the year commencing on ---- and ending on .
-----,

(c) "Agriculture and Allied Activities " shall mean raising of crops including food and nonfood crops, fodder or grass; fruits and vegetables, flowers, any other horticultural crops and plantation; animal husbandry and dairy; livestock and livestock products, poultry farming, stock breeding, sericulture, growing of bamboo; thatching grass, Planting of casuarina trees for fuel, plants used as reeds for mattings, fishery; agro forestry, agro-processing and other related activities by farmers and farmer groups

(d) "Competent Authority" means the Tahsildar or a Revenue Officer of equal rank

(e) "Government" means the State Government of Odisha

(f) "Lease means" a contract between the Land owner – Lessor and the Lessee Cultivator by which the Land owner – Lessor conveys use of his/her agricultural land to the Lessee cultivator for agriculture and allied activities for a specified period for a consideration based on an agreement with terms and conditions mutually agreed by the Land owner – Lessor and the Lessee Cultivator ;

- (g) "Lessee Cultivator" means a person or a registered group of cultivators (self-help group, joint liability group, farmers producers organization, Company etc.) who leases in the agricultural land for the purpose of agriculture and allied activities against a consideration in cash or kind or a share of produce payable to the Land owner - Lessor as per the lease agreement
- (h) "Land owner-Lessor" means a person who owns agricultural land and has leased out that land to a lessee cultivator, under mutually agreed terms and conditions;
- (i) "Leasing in" means the use of agricultural land by a Lessee Cultivator for a consideration which could be in cash or kind or share of produce;
- (j) "Leasing out" means the transfer of land by a Land owner – Lessor to a Lessee Cultivator for an agreed lease period for a consideration which could be in cash or kind or share of produce;
- (k) "Farmer" includes a person who owns and cultivates land himself / herself as well as a person who may or may not own land but cultivates land leased in from others;
- (l) "Farmer groups" includes self help groups, joint liability groups, farm producers organizations (FPOs) and the like;

CHAPTER – II

LANDLEASE–AGREEMENT, TERMINATION, RIGHTS AND RESPONSIBILITIES

3. Agricultural land leasing under this Act

Notwithstanding anything contained in any other law in force , on and from the commencement of this Act, every person intending to lease in lease out agricultural land for agriculture and allied activities shall be entitled to enter into a written lease agreement on mutually agreed terms and conditions, consistent with the terms of this Act;

Agricultural land leasing under this Act

4. Parties to lease agreement

The lease shall be between the Land owner (Lessor) and the Lessee Cultivator who leases in land for agriculture and allied activities;

Parties to lease agreement

5. Lease in Scheduled Areas

In scheduled areas, the agricultural land of a scheduled tribe owner shall be permitted to be leased out only to the scheduled tribe farmers, while other category of land owners can lease-out agricultural land to both scheduled tribe and non-schedule tribe farmers.

Lease in Scheduled Areas

6. Details, terms and conditions of lease agreement

- (a) The lease agreement shall contain the following details, terms and conditions namely:-
- i) The names of the Land owner Lessor and Lessee Cultivator;
 - ii) Survey number, boundaries, location and area of leased outland;
 - iii) The duration of the lease expressed in months or years and including the starting and ending dates of the lease and should be compatible with the crop cycle/agricultural year;
 - (iv) The lease amount/consideration and the due date of

Details, terms and conditions of lease agreement

such amount payable by the Lessee Cultivator;

- (v) The terms and conditions for renewal or extension of lease if any;
- (vi) Provisions for termination of the conditions of lease
- (vii) Any other mutually agreed provision, consistent with the terms of this Act
- (viii) The list of agricultural activities for which the leased land will be used by the Lessee

On the whole Agriculture & Allied Activities shall cover Activities defined under National Industrial Classification (All Economic Activities) 2008 broadly covered under Section A: Division 01 (Except for Group 17), Division 02 & Division 03

- (b) The duration of the lease and the consideration amount shall be subject to mutual agreement between the Lessor & Lessee

Provided further that any period of lease as per the lease agreement under this Act shall not create any protected tenancy right on a Lessee

7. Registration and recording of lease agreement

Registration and recording of lease agreement

- (a)The lease agreement may or may not be registered under the Registration Act, 1908, depending upon the mutual agreement of the Lessor and the Lessee.
- (b) The written lease agreement may be attested by Revenue Inspector or Sarpanch or Local Bank Officer or a Notary with two witness;
- (c) Provided that an oral lease shall also be legal in the sense that a lessor leasing land on oral basis shall not forfeit his/her right over the land.

(d) In case of an oral lease both Lessor & Lessee have to apply to the designated Revenue Officer. And the matter will be discussed in the Gram Sabha and then will be approved by the designated officer.

8. Lessee Acquires no right over the land (Lessee Cultivator acquires no right over the land)

(a) A lease agreement written or oral shall not be entered into Record of Rights, as the leasing for any period whatsoever, shall not create any occupancy or protected tenancy or right against lawful eviction or lease termination under this law.

(b) A lease agreement either registered under the Registration Act or attested by the village Revenue Inspector or Sarpanch or a Notary shall not create or confer any right over land including protected tenancy/ occupancy right or any other right against eviction or lease termination or interest on the Lessee other than those contained in this law or the lease agreement and shall not be used to establish any permanent right over the land in the court of law.

(c) The leased land shall automatically revert to the land owner-lessor on the expiry of agreed lease period, unless it is renewed again for a period mutually agreed upon by the Landowner-Lessor and the Lessee Cultivator

(d) In the event of a dispute, the Lessee Cultivator and the Land owner-Lessor shall utilize a dispute resolution mechanism, consistent with the terms of this Act.

9. Rights and responsibilities of Land owner - Lessor

The Landowner –Lessor referred to as Lessor henceforth in this Act shall

- a) hand over the possession of the leased land to the Lessee on the first day of the lease and shall not interfere with the Lessee's use and possession thereof so long as the Lessee Cultivator (i) does not default in the payment of lease amount , (ii) does not cause any willful damage to the leased land and/or immovable assets on it (iii) does not use the land for purposes other than what is agreed upon in the lease agreement and (iv) does not sublease the land to any other person;
- b) be entitled to receive the agreed lease consideration in either fixed cash or fixed produce or share of produce or fixed combination of both cash and kind from the Lessee Cultivator within the agreed time as per the lease agreement;
- c) be entitled to automatic resumption of the land on the expiry of the initially agreed lease period or the mutually extended lease period without any encumbrances.

Provided that the discharge of any charge or interest or liability

Rights and responsibilities of land owner-Lessor

Right to resumption, alienation etc.

Created by the Lessee Cultivator during the lease period shall
Not be binding on the Landowner–Lessor after expiry of lease
period;

- d) have right to resume the leased-out land during the existing lease term only if the written lease agreement so provides, with prior written notice to the Lessee Cultivator, as mutually agreed upon. If the Land owner-Lessor and Lessee Cultivator mutually agree that the Lessee Cultivator needs greater security of tenure, the written lease agreement should clearly specify the period during which no resumption of Land owner Lessor shall be allowed;
- e) be entitled of govt. support if provided by the government for long term/permanent damage of the land due to natural calamity or similar.
- f) not interrupt any available resource of the land like access to surface water, ground water, pathway, electricity etc if mutually agreed upon by the Lessor and the Lessee and mentioned in the agreement
- g) Have the right to terminate the lease if the Lessee Cultivator commits any of the defaults set out under such clause (a) hereof;
- h) have the right to alienate the leased-out agricultural land including by way of a sale, gift, mortgage etc. during the currency of the agreed lease period, subject to the condition that such transfer shall not affect in any manner the Lessee Cultivator's right to cultivate the land until the expiry of the agreed lease period;

10. Rights and responsibilities of the Lessee Cultivator

The lessee-Cultivator referred to as Lessee henceforth in this Act shall

**Rights and
responsibilities
of lessee
cultivator**

- a) Be entitled to an undisturbed possession and use of the agricultural land for the agreed period as is provided for in the lease agreement.
- b) Not acquire any right over the land by virtue of the lease other than those set forth in this Act or in the lease agreement.
- c) Not sub-lease or mortgage the leased-inland.

- d) be eligible to raise loans from banks / cooperative societies or any other government financial institutions without mortgaging the leased in land, based on the lease agreement either registered under the Indian Registration Act, 1908 or attested by Revenue Inspector or Sarpanch or local bank officer or a notary. The expected value of production / returns from leased in land during the lease period may be used as collateral by credit institutions for advancing loan to a lessee cultivator if this is mutually agreed between the institution and the Lessee Cultivator.
- e) be entitled to obtain crop insurance, disaster relief subsidy, marketing facility, procurement at Minimum Support Price (MSP) or any other benefits or facilities provided to the farmers by the State or Central Government, based on the lease agreement and during the currency of the lease period.
- f) Have the right to voluntarily surrender the leased-in land with such notice to the Land owner-Lessor, as specified in the terms and conditions of the lease agreement.
- g) Vacate the leased in land immediately at the end of the initially agreed term of the lease or the mutually extended period without any encumbrances created during the lease period.
- h) Not have the right to build structures or any fixtures on the land without the written permission of the Landowner-Lessor.

- i) Pay to the Lessor, the lease consideration in time as specified in the lease agreement, as delay in payment beyond three months from the due date, shall constitute major default, entitling the landowner to issue notice for termination of lease.
- j) Use the land only for agriculture and allied activities, as mentioned in the lease agreement.
- k) Not cause any willful damage to the land and shall be liable to Lessor for any damage caused to the leased in land and immovable as set on it unless the damage is due to natural calamity or similar event.
- l) Not have any right to the leased agricultural land other than those specifically set forth in the lease agreement or in this Act.
- m) Not sublease the leased-in land to any other person, and any such act shall constitute a major default, entitling the Land owner Lessor to issue notice for termination of lease.
- n) Not disturb the boundary of the land and survey stones if any during the lease period.
- o) Be entitled to use the available resources and facilities like water, pathway/ road, electricity etc. as mentioned in the lease agreement
- p) Be eligible to take land lease to such extent that total cultivable land including owned land is less than 'ceiling area' as per 'Odisha Land Reforms Act'.

11. Heritability of Lease

Leases under this Act shall not be normally heritable. In the event of death of a single Land owner Lessor, the Lessee Cultivator shall continue to cultivate the leased in land for the remaining lease period, unless the Lessee Cultivator and the heirs of Landowner Lessor agree to end the lease agreement early by mutual consent. In case of multiple lessors, as long as one of the original lessors is surviving, the lease agreement shall stand. If the single Lessee Cultivator dies, land shall revert to the Land owner Lessor, at the end of the crop year, unless the Landowner Lessor and heirs of Lessee Cultivator mutually agree to continue the lease. In case the Lessee Cultivator has included the name(s) of his/her son(s) or daughter(s) as a co-lessee in the lease agreement, the surviving co-lessee shall continue the lease for the remaining lease period or any mutually agreed extended lease period.

**Leases are
not heritable**

12. Termination of the lease

Termination of lease

The lease executed under this Act, can be terminated –

- a) On expiry of the agreed lease period
- b) When the Lessee Cultivator fails to pay the lease consideration as per the agreed terms and in the agreed time, with major default a grace period of 3 months.
- c) If the Lessee Cultivator uses the land for purposes other than agriculture and allied activities or those specified in the lease agreement
- d) If the Lessee Cultivator sub-leases the leased-in land
- e) If there is any willful damage caused to the land or any assets standing thereon by the Lessee
- f) If the Landowner- Lessor and Lessee Cultivator mutually agree to terminate the lease.
- g) If the Lessee Cultivator dies during the lease period, in which case the lease period is terminated, subject to the provisions under Section – 6 of this Act.
- h) When the Lessee Cultivator voluntarily surrenders the land during the lease period, under provisions of Section – 5(f) of this Act.
- (i) If acquisition of land takes place by the Government during the lease period

CHAPTER – III

Enforcement of Lease Agreement and Dispute Resolution

13. Enforcement of lease terms

The Competent Authority shall be responsible for the following:

- (i) Enforcement of terms of lease;
- (ii) Facilitating return of the leased out agricultural and to the Landowner Lessor on expiry of the lease period.
- (iii) Ensure that landowner- Lessor who lease out land but do not record the lease under the Act and avail benefits from government which are explicitly meant for actual cultivator of the piece of land may be subject to legal action for fraud and misrepresentation

**Enforcement
of
lease
agreement**

14. Dispute Resolution

- (i) The Lessee Cultivator and the Landowner-Lessor shall make all efforts to amicably settle any dispute between them arising out of lease agreement under this Act, using third party mediation or Gram Panchayat or Gram Sabha.
- (ii) If the dispute is not settled through the mechanisms mentioned in clause(i) above, either party may file a petition before the competent authority i.e. Tahsildar or equal rank revenue officer by any other name in a state which shall adjudicate the dispute using summary procedure within a period of four weeks.
- (iii) For every order other than interim order passed by the competent authority under this Act an appeal shall lie to the Collector/District Magistrate/Divisional Commissioner as may be specified by the state.

**Dispute
Resolutio
n**

15. Constitution of a Special land Tribunal

The state government shall constitute a special and tribunal, headed by a retired high court or district court judge, which shall be the final authority to adjudicate disputes, under this Act.

**Special land
Tribunal**

16. Bar of Jurisdiction of Civil Courts-

- (a) No decision made or order passed or proceeding taken by any Officer or authority or the State Government under this Act, not being a decision, order or proceeding affecting the title to the land of a person, shall be called in question before a Civil Court in any suit, application or other proceeding and no Injunction shall be granted by any Court in respect of any proceedings taken or about to be taken by such Officer or Authority or State Government in pursuan any power conferred by or under this Act.
- (b) No Civil courts will have jurisdiction over disputes under This Act.

**Bar of
Jurisdiction of
Civil Courts**

CHAPTER-IV

Miscellaneous

17. Facilitation of Land Leasing

The Competent Authority to facilitate the Act shall:

- a) create awareness
- b) bring in all non-cultivating landowners and landless cultivators into the provision of the Act.
- c) strive to create a village wise database of landowners and landless cultivators
- d) facilitate services like credit, insurance, disaster relief, marketing, subsidies, MSP etc.
- e) for the lessee cultivators
- f) take necessary steps to ensure that the Lessor shall not be eligible for any government facilities for the leased land during the lease period

18. Protections for persons acting in good faith

No suit, prosecution or other legal proceeding shall lie against any officer of the Government for anything which is in good faith done or Intended to be done under this Act or the rules made there under.

**Protections for
persons acting in
good faith**

19. Repeals and Savings

- (1) The provisions of the Act shall override any other law in force on the subject from the date of its coming into force.
- (2) Provided that any rights accrued, actions taken, cases pending under any other law in force will be governed by the provisions of such law.

Provided further that if an existing lease agreement between a Land owner- Lessor and Lessee Cultivator is sought to be

Further extended or replaced by a new lease, the provisions of this Act shall apply.

- (3) This Acts shall not have any retrospective effect. The existing protected tenants/sharecroppers, under the old Acts shall not be affected by this Act.

20. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of this Act, the Government may by order published in the Official Gazette make provisions not inconsistent with the provisions of the Act as appear to them to be necessary and expedient for removing the difficulty

**Power to
remove
difficulties**

21. Power of the State Government to make Rules

- (a) The State Government may, by notification, make rules to carry out the provisions of this Act.

**Power of the State
Government makes rules**

- (b) Every rule make under this Act shall be laid before the state Legislature during its next session.

22. Power to make Regulations

Subject to the provisions of this Act and its Rules, the State Government may make regulations to carry out the purpose of this Act.

Power to make regulations

