

THE CENTRAL PROVINCES TENANCY ACT, 1920

[Published in the "Central Provinces Gazette" of the 31st January 1920.]

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39767

CENTRAL PROVINCES ACT No. I OF 1920*

THE CENTRAL PROVINCES TENANCY ACT, 1920

[Published in the "Central Provinces Gazette" of the 31st January 1920.]

An Act to consolidate and amend the law relating to agricultural tenancies and village-service [lands]† in the Central Provinces

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies and village-service [lands]† in the Central Provinces;

AND WHEREAS the previous sanction of the Governor-General required by section 79‡, sub-section (2), of the Government of India Act, 1915 (5 and 6 Geo. 5 ch. 61), has been obtained to the passing of this Act;

It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY

1. (1) This Act may be called the Central Provinces Tenancy Act, 1920; Short title, extent and commencement.

(2) It extends to the whole of the Central Provinces; and

(3) [It]§ shall come into force on such day¶ as the Provincial Government may, by notification, direct.

2. In this Act, unless there is anything repugnant in the subject or context,— Definition.

(1) the expressions "abadi," "agricultural year," "estate," "kamil-jama," "land-revenue," "legal practitioner," "mahal," "malik-makbuza," "patti," "proprietor," "record-of-rights," "Sambalpur Territory," "sir-land," "survey-number," and "village" have the meanings assigned to them, respectively, in the Central Provinces Land Revenue Act, 1917 (II of 1917):

(2) "Agriculture" includes—

(a) the raising of annual or periodical crops and garden produce;

(b) horticulture;

(c) the planting and upkeep of orchards; and

(d) the reserving of land for fodder, grazing or thatching grass:

*For Statement of Objects and Reasons, see *Central Provinces Gazette*, 1919, Part VII, pp. 43—51; for the Report of the Select Committee, see *ibid.*, 1919, Part VII, pp. 97—102; for Proceedings in Council, see *ibid.*, 1919, Part VIII, pp. 57—69 and pp. 326—403.

†Substituted by section 2 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

‡See section 80 (3) of the Government of India Act.

§Omitted and substituted by section 3 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

¶The rest of the Act came into force on the 1st May 1920, see *Central Provinces Gazette*, 1920, Part I, p. 306.

(3) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable :

(4) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions :

(5) "improvement" means, with reference to a holding, any work which adds materially to the letting value of the holding which is suitable thereto and consistent with the purpose for which it is held and which, if not executed on the holding, is either executed directly for its benefit or is, after execution, made directly beneficial to it; and, subject to the foregoing provisions, includes—

(a) the construction of tanks, wells, water-channels, embankments and other works for storage, supply or distribution of water for agricultural purposes;

(b) the construction of works for the drainage of land or for the protection of land from floods, or from erosion or other damage from water;

(c) the reclaiming, clearing, enclosing, levelling or terracing of land;

(d) the erection of buildings on or in the vicinity of the holding, elsewhere than in the abadi, required for the convenient or profitable use or occupation of the holding; and

(e) the renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto; but does not include—

(f) temporary wells and such water-channels, embankments, levellings, enclosures or other works, or petty alterations in or repairs to such works, as are commonly made by tenants of the locality in the ordinary course of agriculture; or

(g) any work which substantially diminishes the value of any land, wherever situated, in the occupation of any other person, whether as proprietor or tenant.

Explanation.—A work which benefits several holdings may be deemed to be an improvement with respect to each of such holdings :

(6) "land" means land which is let or occupied for agricultural purposes or for purposes subservient thereto, and includes the sites of buildings appurtenant to such land :

(7) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or but for a contract would be, liable to pay rent for such land :

(8) "pay", with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver," with its grammatical variations and cognate expressions :

(9) "rent" means whatever is paid or payable in money or kind by a tenant on account of the use or occupation of land held by him :

(10) "Revenue Officer", in any provision of this Act means such Revenue Officer appointed under the Central Provinces Land Revenue Act, 1917 (II of 1917), as the Provincial Government may, by notification, direct to discharge the functions of a Revenue Officer under that provision, and shall include a Settlement Officer :

(11) "tenant" means a person who holds land of another person, and is, or but for a contract would be, liable to pay rent for such land to such other person, but does not include—

- (a) a farmer, mortgagee or thekadar of proprietary rights; or
- (b) a person to whom only the right to cut grass, or to graze cattle, or to grow *singhara* (*Trapa bispinosa*), or to propagate or collect lac is granted; or
- (c) a servant holding land as his remuneration and not liable to pay any rent.

Explanation I.—An inferior proprietor is not, as such, a tenant.

Explanation II.—The holder of a survey number in a village let in farm by Government, or held by a gaontia in the Sambalpur Territory, is a tenant of the farmer or gaontia for the time being.

3. There shall be three classes of tenants, namely—

Classes of tenants.

- (1) absolute occupancy tenants;
- (2) occupancy tenants; and
- (3) sub-tenants.

CHAPTER II.—ABSOLUTE OCCUPANCY TENANT

4. Every person who, at the commencement of this Act, is the tenant of any holding in respect of which he, or a person whose rights he had acquired, had been recorded in any record-of-rights made before the first day of January 1884, as an "absolute occupancy raiyat," or in terms equivalent thereto, shall unless he had parted with his rights, be deemed to be an absolute occupancy tenant of such holding.

Definition of "absolute occupancy tenant".

5. The interest of an absolute occupancy tenant in his holding shall on his death pass by inheritance or survivorship in accordance with his personal law.

Rights of succession.

*[6. (1) An absolute occupancy tenant may transfer any right in his holding without reference to his landlord to the extent and in the manner herein indicated, namely—

Rights of transfer without reference to the landlord.

- (a) he may transfer any right in his holding to a co-tenant or to any person who, if he survived the tenant without nearer heirs, would inherit his right; or
- (b) he may mortgage any right in his holding by a simple mortgage or by a mortgage by conditional sale as defined in the Transfer of Property Act, 1882 (IV of 1882); or
- (c) he may sublet any right in his holding for a period not exceeding five years.

*Substituted by section 4 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

(2) An absolute occupancy tenant shall be competent to bequeath by will subject to his personal law any right in his holding only to a co-tenant or to any person who, if he survived the tenant without nearer heirs, would inherit his right.

Rights of transfer in other cases and landlord's right of pre-emption.

6-A. In respect of a transfer by an absolute occupancy tenant of any right in his holding to an extent or in a manner not provided for in sub-section (1) of section 6, or the sale or foreclosure of such right under a decree or order of a Civil Court, or the sale of such right under an order of a Revenue Officer or the sale of such right under an order made in pursuance of the provisions of the Central Provinces Co-operative Land Mortgage Banks Act, 1937 (C. P. Act I of 1937), the following provisions shall apply :—

- (1) If the tenant intends to make a transfer to an extent or in a manner not provided for in sub-section (1) of section 6, he shall give his landlord a written notice of his intention, stating therein the particulars of the intended transfer including, if the intended transfer is by sale, the amount of the consideration for which he intends to transfer the right, and shall defer proceeding with the transfer for a period of thirty days from the date on which the notice is delivered.
- (2) The landlord may, within fifteen days from the date on which the notice under sub-section (1) is delivered, give written notice to the tenant of his intention to purchase the right which is intended to be transferred, or to permit the transfer.
- (3) If the landlord fails to give notice as provided for in sub-section (2), he shall be deemed to have permitted the intended transfer.
- (4) If the landlord gives notice to the tenant of his intention to purchase the right, he shall be entitled to purchase it,—
 - (i) if the intended transfer is by sale, for the amount of the consideration stated in the notice, or
 - (ii) if the intended transfer is otherwise than by sale, for a sum equal to the value, fixed by a Revenue Officer, of the right intended to be transferred.
- (5) If the landlord is entitled to purchase the right, and
 - (a) if the intended transfer is by sale, he may purchase the right from the tenant by private sale within thirty days from the date on which the notice under sub-section (1) is delivered or apply within that period to a Revenue Officer, in the manner hereinafter provided, or
 - (b) if the intended transfer is otherwise than by sale, he may apply, within thirty days from the date on which the notice under sub-section (1) is delivered, to a Revenue Officer, in the manner hereinafter provided.

- (6) If the landlord gives notice of his intention to purchase the right, but fails to purchase it by private sale or to apply to a Revenue Officer, in the manner hereinafter provided, the tenant may proceed with the intended transfer or enforce specific performance by the landlord in the manner hereinafter provided:
- (7) If the landlord permits the intended transfer or is deemed to have permitted it, he shall be entitled by way of consent money,—
- (i) if the transfer is by sale, to a sum equal to three per cent of the consideration stated in the sale-deed or the annual rent of the holding or part of the holding, the right in which is transferred, whichever is greater, or
 - (ii) if the transfer is otherwise than by sale, to a sum equal to the annual rent of the holding or part of the holding, the right in which is transferred.
- (8) If the tenant makes a transfer of any right in his holding in contravention of the foregoing provisions of this section and if the transferee temporarily or permanently obtains possession of the right, the landlord shall be entitled at his option,—
- (a) if the transfer is by sale and the consideration for the right transferred can be determined from the sale deed, to purchase the right through a Revenue Officer, in the manner hereinafter provided, for the amount of the consideration stated in the sale deed, or to receive consent money of a sum equal to three per cent of such consideration or the annual rent of the holding or part of the holding, the right in which is transferred, whichever is greater, or
 - (b) if the transfer is by sale and the consideration for the right transferred cannot be determined from the sale deed or if the transfer is otherwise than by sale, to purchase the right through a Revenue Officer, in the manner hereinafter provided, for a sum equal to the value, fixed by the Revenue Officer, of the right transferred, or to receive consent money of a sum equal to the annual rent of the holding or part of the holding, the right in which is transferred.
- (9) If the landlord permits the intended transfer or is deemed to have permitted it, if the transferee temporarily or permanently obtains possession of the right and if it appears that the notice given under sub-section (1) was incorrect in material particulars as compared with the deed of transfer executed by the tenant, the landlord shall be entitled at his option to purchase the right through a Revenue Officer or to receive consent money as provided for in sub-section (8) :

Provided that if the transfer is by sale and the consideration for the right transferred can be determined from the sale deed, the landlord shall be entitled

to purchase the right or to receive consent money on the basis of the amount of the consideration stated either in the notice or in the sale deed at his option.

- (10) If any right in the holding is sold in execution of, or foreclosed under, a decree or order of a Civil Court, other than a decree obtained by the landlord, or is sold under an order of a Revenue Officer other than an order obtained by the landlord or under an order made in pursuance of the provisions of the Central Provinces Co-operative Land Mortgage Banks Act, 1937 (C. P. Act I of 1937), and if, in pursuance of such sale or foreclosure, any person, other than a person specified in clause (a) of sub-section (1) of section 6, obtains possession of such right, the landlord shall be entitled at his option,—
- (a) if the right is sold and no other immovable property is sold along with it in one lot, to purchase the right through a Revenue Officer, in the manner hereinafter provided, for the amount of the purchase money, or to receive consent money of a sum equal to three per cent of such amount or the annual rent of the holding or part of the holding, the right in which is transferred, whichever is greater, or
- (b) if the right is sold along with other immovable property in one lot, or if the right is foreclosed, to purchase the right through a Revenue Officer, in the manner hereinafter provided, for a sum equal to the value, fixed by the Revenue Officer, of the right sold or foreclosed or to receive consent money of a sum equal to the annual rent of the holding or part of the holding, the right in which is transferred.
- (11) (a) If the landlord elects to purchase the right through a Revenue Officer under sub-section (5), sub-section (8), sub-section (9) or sub-section (10) and the value of the right is not required to be fixed by the Revenue Officer, the landlord shall deposit the necessary amount in the office of a Revenue Officer and apply to him to get a sale deed executed by the tenant or the transferee, as the case may be, and put him in possession of the right.
- (b) If, on such application being made, the Revenue Officer is satisfied that the amount so deposited is the amount to which the tenant or the transferee, as the case may be, is entitled, he shall, subject to rules made under section 109, call upon the tenant or the transferee, as the case may be, to execute the sale deed and if the tenant or the transferee neglects or refuses to execute it, execute it on his behalf, pay the amount deposited to the tenant or the transferee, as the case may be, deliver the sale deed to the landlord and put him in possession of the right.

- (12) (a) If the landlord elects to purchase the right through a Revenue Officer under sub-section (5), sub-section (8), sub-section (9) or sub-section (10) and the value of the right is required to be fixed by the Revenue Officer, the landlord shall apply to a Revenue Officer to fix the value of the right and the Revenue Officer shall, in accordance with rules made under section 109, fix the value thereof.
- (b) If the right is already mortgaged or charged, the Revenue Officer shall fix the value of the right as if it were not mortgaged or charged and if the landlord is put in possession under clause (d), the mortgage debt or charge shall be a charge on the purchase money in exoneration of the land.
- (c) On the value of the right being fixed by the Revenue Officer, the landlord shall, within such period, not less than one month, as may be ordered by the Revenue Officer, deposit in his office the sum so fixed.
- (d) On such deposit being made, the Revenue Officer shall, subject to rules made under section 109, call upon the tenant or the transferee, as the case may be, to execute the sale deed, and if the tenant or the transferee neglects or refuses to execute it, execute it on his behalf, deliver the sale deed to the landlord and put him in possession of the right and the sum deposited shall, subject to the rights of the mortgagee or the charge-holder under clause (b), be paid to the tenant or the transferee, as the case may be.
- (e) If the landlord fails to make the deposit within the time prescribed, he shall be deemed to have waived his claim in respect of the right.
- (13) If there are crops standing on the land of which the landlord has to be put in possession under clause (b) of sub-section (11) or clause (d) of sub-section (12), he shall be put in possession of the land after such crops have been reaped.
- (14) Any sum to which the landlord is entitled as consent money under this section shall be recoverable from the transferee as an arrear of rent of the holding or part of the holding, the right in which is transferred.
- (15) Notwithstanding anything contained in this section, if any right in the holding is sold by the tenant, the landlord shall, on the ground that the consideration is fraudulently stated in the sale deed and does not represent the actual consideration, be entitled to institute a civil suit for purchasing the right for a consideration to be determined by the Civil Court.
- (16) If the tenant elects to enforce specific performance by the landlord under sub-section (6), he shall file a duly executed sale deed in the office of a Revenue Officer and apply to the Revenue Officer to recover from the landlord and pay him the amount due to him and put the landlord in possession of the right.

- (17) If, on such application being made, the Revenue Officer is satisfied that the sale deed so filed is in accordance with the notice given under sub-section (1), he shall, subject to rules made under section 109, call upon the landlord to deposit the necessary amount together with interest at six per cent per annum on such amount from the date on which the notice under sub-section (2) was delivered to the tenant and if the landlord neglects or refuses to deposit the total amount, recover it in the same manner as an arrear of land revenue, pay it to the tenant, deliver the sale deed to the landlord and put him in possession of the right.

Explanation.—For the purpose of this section the rent of a part of a holding shall be deemed to be a sum which bears the same proportion to the rent of the whole holding as the part bears to the whole holding.]

Absolute occupancy tenants not liable to ejection.

7. Notwithstanding any contract to the contrary, an absolute occupancy tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent fixed for period of settlement.

8. The rent of the holding of every absolute occupancy tenant shall be fixed by the Settlement Officer at each settlement of the area in which such holding is comprised, and the rent so fixed shall not be altered during the currency of the settlement, except under sections 56, 57, *[61-A], 62, †[63-A] or 64.

Power to declare absolute occupancy tenants as malik-makbuzas.

‡[8-A. (1) Subject to rules made under section 109, a Revenue Officer may, except in such areas as the Provincial Government may, by notification, exclude from the operation of this section, on an application made by an absolute occupancy tenant and on his depositing ten times the rent of the holding for being paid to the landlord of whom he holds the holding, declare such tenant to be a malik-makbuza of the land comprised in the holding, fix the amount of land revenue payable for such land and pay the landlord the amount deposited by the tenant :

Provided that no such application shall lie in respect of a part of a holding.

(2) A declaration made under sub-section (1) shall take effect from the commencement of the agricultural year next following the date of such declaration.

(3) A declaration made under sub-section (1) of an absolute occupancy tenant as a malik-makbuza of the land comprised in his holding shall not affect the rights in trees standing in such land on the date on which the declaration takes effect.]

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*The figures and letter "61-A" were inserted by section 2 of the Central Provinces Tenancy (Second Amendment) Act, 1935 (C. P. Act III of 1935).

†The figures and letter "63-A" were inserted by section 2 of the Central Provinces Tenancy (Amendment) Act, 1932 (C. P. Act II of 1932).

‡Inserted by section 5 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

§Omitted by section 6 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

CHAPTER III.—OCCUPANCY TENANTS

10. Every tenant who is not an absolute occupancy tenant or a sub-tenant is an occupancy tenant. Definition of "occupancy tenant".

*[11. The interest of an occupancy tenant in his holding shall on his death pass by inheritance or survivorship in accordance with his personal law.] Rights of succession.

†[12. (1) An occupancy tenant may transfer his holding only to the extent and in the manner herein indicated, namely :— Rights of transfer.

(a) he may sublet any right in his holding for a period not exceeding five years; or

(b) he may transfer by sale or otherwise, except by a simple mortgage as defined in the Transfer of Property Act, 1882 (IV of 1882), any right in his holding to any co-tenant or person who, if he survived the tenant without nearer heirs, would inherit his right; or

(c) he may transfer by sale any right in his holding to any other person.

(2) Except in pursuance of a transfer permitted by this Act, or in pursuance of a document registered before the twenty-first day of October, 1898, no decree or order shall be passed for the sale or foreclosure of any right of an occupancy tenant in his holding, nor shall such right be attached or sold in execution of any decree or order, nor shall a receiver be appointed to manage such holding under section 51 of the Code of Civil Procedure, 1908 (V of 1908), nor shall such right vest in the Court or in a receiver under the Provincial Insolvency Act, 1920 (V of 1920).

(3) Nothing in sub-section (2) shall apply to a decree or order for the recovery of an arrear of rent of the holding of an occupancy tenant.

(4) Nothing in this section shall prevent an occupancy tenant from transferring any right in his holding to secure payment of, or shall affect the right of the Crown to sell such right for the recovery of, an advance made to him under the Land Improvement Loans Act, 1883 (XIX of 1883), or the Agriculturists' Loans Act, 1884 (XII of 1884).

(5) Nothing in this section shall prevent an occupancy tenant from transferring any right in his holding to secure payment of an advance made to him by a land mortgage bank established under the Co-operative Societies Act, 1912 (II of 1912), or a land mortgage bank established by Government under any other enactment, or shall affect the right of the bank to sell such right for the recovery of such advance, notwithstanding the forfeiture or the extinction of the tenant right in any manner whatsoever, provided the bank discharges all liabilities of the tenant in respect of arrears of rent due on account of the holding.

*Substituted by section 7 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Substituted by section 8 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

(6) Notwithstanding anything contained in the Indian Registration Act, 1908 (XVI of 1908), no officer empowered to register documents thereunder shall admit to registration any document which purports to contravene the provisions of this section.

Pre-emption
by the
landlord.

12-A. In respect of a sale by an occupancy tenant of any right in his holding as provided for in clause (c) of sub-section (1) of section 12 or the sale of such right in execution of a decree or order of a Civil Court or the sale of such right under an order of a Revenue Officer or the sale of such right under an order in enforcement of a transfer made under sub-section (5) of section 12, the following provisions shall apply :—

- (1) If the tenant intends to make a sale as provided for in clause (c) of sub-section (1) of section 12, he shall give his landlord a written notice of his intention, stating therein the particulars of the intended sale including the amount of the consideration for which he intends to sell the right, and shall defer proceeding with the sale for a period of thirty days from the date on which the notice is delivered.
- (2) The landlord may, within fifteen days from the date on which notice under sub-section (1) is delivered, give written notice to the tenant of his intention to purchase the right which is intended to be sold, or to permit the sale.
- (3) If the landlord fails to give notice as provided for in sub-section (2), he shall be deemed to have permitted the intended sale.
- (4) If the landlord gives notice to the tenant of his intention to purchase the right, he shall be entitled to purchase it for the amount of the consideration stated in the notice.
- (5) If the landlord is entitled to purchase the right, he may purchase the right from the tenant by private sale within thirty days from the date on which the notice under sub-section (1) is delivered or apply within that period to a Revenue Officer, in the manner hereinafter provided.
- (6) If the landlord gives notice of his intention to purchase the right, but fails to purchase it by private sale or to apply to a Revenue Officer, in the manner hereinafter provided, the tenant may proceed with the intended sale or enforce specific performance by the landlord in the manner hereinafter provided.
- (7) If the landlord permits the intended sale or is deemed to have permitted it, he shall be entitled to consent money of a sum equal to five per cent of the consideration stated in the sale deed or one and a half times the annual rent of the holding or part of the holding, the right in which is sold, whichever is greater.

- (8) If the tenant makes a sale of any right in his holding in contravention of the foregoing provisions of this section and if the purchaser temporarily or permanently obtains possession of the right, the landlord shall be entitled at his option,—
- (a) if the consideration for the right sold can be determined from the sale deed, to purchase the right through a Revenue Officer, in the manner hereinafter provided, for the amount of the consideration stated in the sale deed or to receive consent money of a sum equal to five per cent of the consideration or one and a half times the annual rent of the holding or part of the holding, the right in which is sold, whichever is greater, or
 - (b) if the consideration for the right sold cannot be determined from the sale deed, to purchase the right through a Revenue Officer, in the manner hereinafter provided, for a sum equal to the value, fixed by the Revenue Officer, of the right sold or to receive consent money of a sum equal to one and a half times the annual rent of the holding or part of the holding, the right in which is sold.
- (9) If the landlord permits the intended sale or is deemed to have permitted it, if the purchaser temporarily or permanently obtains possession of the right and if it appears that the notice given under sub-section (1) was incorrect in material particulars as compared with the sale deed, the landlord shall be entitled at his option to purchase the right through a Revenue Officer or to receive consent money as provided for in sub-section (8) :
- Provided that if the consideration for the right sold can be determined from the sale deed, the landlord shall be entitled to purchase the right or to receive consent money on the basis of the amount of the consideration stated either in the notice or in the sale deed at his option.
- (10) If any right in the holding is sold in execution of a decree or order of a Civil Court other than a decree obtained by the landlord or under an order of a Revenue Officer other than an order obtained by the landlord or under an order in enforcement of a transfer made under sub-section (5) of section 12 and if in pursuance of such sale any person, other than a person specified in clause (b) of sub-section (1) of section 12, obtains possession of such right, the landlord shall be entitled at his option,—
- (a) if the right is sold and no other immovable property is sold along with it in one lot, to purchase the right through a Revenue Officer, in the manner hereinafter provided, for the amount of the purchase money paid at the sale, or to receive consent money of a sum equal to five per cent of such amount or one and a half times the annual rent of the holding or part of the holding, the right in which is sold, whichever is greater, or

- (b) if the right is sold along with other immovable property in one lot, to purchase the right through a Revenue Officer, in the manner hereinafter provided, for a sum equal to the value, fixed by the Revenue Officer, of the right sold or to receive consent money of a sum equal to one and a half times the annual rent of the holding or part of the holding, the right in which is sold.
- (11) (a) If the landlord elects to purchase the right through a Revenue Officer under sub-section (5), sub-section (8), sub-section (9) or sub-section (10) and the value of the right is not required to be fixed by the Revenue Officer, the landlord shall deposit the necessary amount in the office of a Revenue Officer and apply to him to get a sale deed executed by the tenant or the purchaser, as the case may be, and put him in possession of the right.
- (b) If, on such application being made, the Revenue Officer is satisfied that the amount so deposited is the amount to which the tenant or the purchaser, as the case may be, is entitled, he shall, subject to rules made under section 109, call upon the tenant or the purchaser, as the case may be, to execute the sale deed, and if the tenant or the purchaser neglects or refuses to execute it, execute it on his behalf, pay the amount deposited to the tenant or the purchaser, as the case may be, deliver the sale deed to the landlord and put him in possession of the right.
- (12) (a) If the landlord elects to purchase the right through a Revenue Officer under sub-section (5), sub-section (8), sub-section (9) or sub-section (10) and the value of the right is required to be fixed by the Revenue Officer, the landlord shall apply to a Revenue Officer to fix the value of the right and the Revenue Officer shall in accordance with rules made under section 109, fix the value thereof.
- (b) If the right is already mortgaged or charged, the Revenue Officer shall fix the value of the right as if it were not mortgaged or charged, and if the landlord is put in possession under clause (d), the mortgage debt or charge shall be a charge on the purchase money in exoneration of the land.
- (c) On the value of the right being fixed by the Revenue Officer, the landlord shall, within such period, not less than one month, as may be ordered by the Revenue Officer, deposit in his office the sum so fixed.
- (d) On such deposit being made, the Revenue Officer shall, subject to rules made under section 109, call upon the tenant or the purchaser, as the case may be, to execute the sale deed, and if the tenant or the purchaser neglects or refuses to execute it, execute it on his behalf, deliver the sale deed to the landlord and put him in possession of the right and the

sum deposited shall, subject to the rights of the mortgagee or the charge-holder under clause (b), be paid to the tenant or the purchaser, as the case may be.

- (e) If the landlord fails to make the deposit within the time prescribed, he shall be deemed to have waived his claim in respect of the right.
- (13) If there are crops standing on the land of which the landlord has to be put in possession under clause (b) of sub-section (11) or clause (d) of sub-section (12), he shall be put in possession of the land after such crops have been reaped.
- (14) Any sum to which the landlord is entitled as consent money under this section shall be recoverable from the purchaser as an arrear of rent of the holding or part of the holding, the right in which is sold.
- (15) Notwithstanding anything contained in this section, if any right in the holding is sold by the tenant, the landlord shall, on the ground that the consideration is fraudulently stated in the sale deed and does not represent the actual consideration, be entitled to institute a civil suit for purchasing the right for a consideration to be determined by the Civil Court.
- (16) If the tenant elects to enforce specific performance by the landlord under sub-section (6), he shall file a duly executed sale deed in the office of a Revenue Officer and apply to the Revenue Officer to recover from the landlord and pay him the amount due to him and put the landlord in possession of the right.
- (17) If, on such application being made, the Revenue Officer is satisfied that the sale deed so filed is in accordance with the notice given under sub-section (1), he shall, subject to rules made under section 109, call upon the landlord to deposit the necessary amount together with interest at six per cent per annum on such amount from the date on which the notice under sub-section (2) was delivered to the tenant, and if the landlord neglects or refuses to deposit the total amount, recover it in the same manner as an arrear of land revenue, pay it to the tenant, deliver the sale deed to the landlord and put him in possession of the right.

Explanation.—For the purpose of this section the rent of a part of a holding shall be deemed to be a sum which bears the same proportion to the rent of the whole holding as the part bears to the whole holding.]

*[12-B. (1) If in the course of a sale of a holding of an occupancy tenant in execution of a decree or order of a Civil Court or in pursuance of an order of a Revenue Officer or of an

Pre-emption
by co-tenants
and heirs.

*Substituted by section 9 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

order made under any law for the time being in force, such holding is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order :—

- (a) any co-tenant,
- (b) any person who, if he survived the tenant without nearer heirs, would inherit his right.

(2) No such claim shall be allowed unless it is made within thirty days from the date of sale and accompanied by a deposit of twenty-five per cent of the amount of the last bid.

(3) The amount of the balance of the last bid shall be paid by the claimant within fifteen days from the date of his claim being allowed, and if such amount is not paid, the deposit shall be forfeited to the Crown.

(4) If a claim under sub-section (1) is allowed and the amount of the balance of the last bid is paid by the claimant, the sale shall be set aside, the auction-purchaser shall be repaid the amount of the purchase money deposited by him, the amount paid by the claimant shall be applied towards the satisfaction of the amount recoverable under the decree or order and he shall be given a certificate, specifying his name, the date of the auction sale, the amount of the pre-emption money and the property pre-empted and shall be put in possession of the property.]

Right of certain persons to apply to set aside transfers by occupancy tenants.

13. If an occupancy tenant transfers his right in his holding or any portion thereof in contravention of section 12, *[any co-tenant or] any person who, if he survived the tenant without nearer heirs, would inherit the holding, or the landlord of such tenant may apply to a Revenue Officer to be placed in possession, subject, so far as the Revenue Officer may, in accordance with rules made under section 109, determine, to his acceptance of the liabilities of the tenant for arrears and for advances for necessary expenses of cultivation.

Procedure on application to set aside transfers.

14. (1) If an application is made under section 13, the Revenue Officer may, after such inquiry as he thinks fit, reject the application on the ground that the transfer was in accordance with section 12.

(2) If the Revenue Officer finds that the transfer was not in accordance with section 12, he shall issue a notice to all persons who seem to him *prima facie* to have a right equal, or prior, to that of the applicant and shall also cause a proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenants to appear before him on a date fixed, and shall, after hearing all of such persons as appear and any other persons who may apply to be heard, decide who, from among such of them as desire to be placed in possession, is first entitled to be so placed, and shall determine what amount, if any, is payable on account of the liabilities of the tenant specified in section 13 and the period within which such amount shall be deposited in his office, and

*Inserted by section 10 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

shall place such person in possession on his depositing this amount within such period:

Provided that—

- (i) no person who has consented to the transfer in writing shall be entitled to be placed in possession under this section;
- (ii) if the transfer has been by sub-lease and the Revenue Officer is satisfied that the tenant is able and willing to cultivate the holding, the Revenue Officer may replace the tenant in possession of the holding on repayment to the sub-tenant of any consideration which it is proved has been paid for the sub-lease, and to the applicant of the costs incurred by him in the application.

*[(3) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue to a co-tenant, if any, and failing any such co-tenant, in the order in which persons entitled to inherit the right of the tenant in the subject of the transfer, would have inherited it, if the tenant had died, and failing any such persons, the right shall accrue to the landlord.]

(4) The Revenue Officer shall determine the proportions in which the amount deposited under sub-section (2), should be distributed between the landlord and other persons for arrears of rent or for the repayment of advances made for the necessary expenses of cultivation, and shall make payment accordingly.

15. (1) Unless the Provincial Government otherwise directs, the rent of the holding of every occupancy tenant shall be fixed by the Settlement Officer at each settlement of the area in which such holding is comprised, and, except as otherwise provided in this Act, the rent so fixed shall not be altered during the currency of the settlement. Rent of occupancy tenant to be fixed at settlement.

(2) Subject to the provisions of this Act, the rent payable by an occupancy tenant in respect of a holding acquired pending the currency of the settlement of the area in which the holding is comprised, or payable by an occupancy tenant in an area in which rents have not been fixed at settlement under sub-section (1), shall be the rent fixed by agreement between him and his landlord, or, in the absence of any such agreement or on the expiration of the term for which such agreement has been made, the rent fixed by a Revenue Officer on the application of either party.

16. Subject to rules made under section 109, the rent payable in money by an occupancy tenant may, during the currency of a settlement, be enhanced— Enhancement of rent payable by occupancy tenants during settlement.

- (a) by agreements †[in writing] with the landlord; or
- ‡[(aa) by order of a Revenue Officer, in accordance with the provisions of section 63-A; or]

*Substituted by section 11 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Inserted by section 12 of the Central Provinces Tenancy (Amendment) Act, 1939 XI of 1940).

‡This clause was inserted by section 3 of the Central Provinces Tenancy (Amendment) Act, 1932 (C. P. Act II of 1932).

(b) on the application of the landlord, by order of a Revenue Officer, in accordance with the provisions of section 56, 62 or 63, or on the ground that—

- (i) the rate of rent is below the rate paid by occupancy tenants for land of a similar description and with similar advantages in the same village or neighbouring villages, and that there is no sufficient reason for the tenant holding at so low a rate;
- (ii) there has been a rise in the local prices of produce since the rent was fixed;
- (iii) since the rent was last fixed, there has been a permanent increase in the total area in cultivation within the holding;

or any other ground declared by the Provincial Government to justify an enhancement:

Provided that—

(1) except as provided in section 56, 62, *[63 or 63-A], the rent of any such holding shall not be enhanced—

- (i) within ten years of such rent having been fixed at any settlement or under any provision of this Act except section 56, 62, *[63 or 63-A]; or
- (ii) with ten years of the full enhancement of a progressive rent fixed under section 66 having become payable;

(2) no order shall be made for the enhancement of rent which is inconsistent with any contract made after the current settlement and still in force, such contract being consistent with this Act.

Procedure on enhancement by agreement.

17. If the rent of an occupancy tenant is enhanced by agreement, such enhancement shall not take effect, notwithstanding such agreement, unless and until the landlord has given notice to the Tahsildar of such enhancement in accordance with rules made under section 109, and until the commencement of the agricultural year following the date of giving such notice.

Procedure for enhancement on application to a Revenue Officer.

18. (1) If a landlord wishes to enhance the rent of an occupancy tenant and the tenant does not agree to such enhancement, he may apply to a Revenue Officer for an order of enhancement.

(2) Such application may be made in respect of any number of tenants collectively:

Provided that all such tenants are tenants of the same landlord and of the same mahal or patti.

Tenant's improvements how to be treated in fixing rents.

19. If the land, in respect of which an application under section 18 is made, has been improved in accordance with this Act by the tenant, and such improvement was made during the term of the current settlement or the term of the settlement immediately preceding it, the quality and advantages of the

*The figures, word and letter were substituted for the word and figure " or 63" by the Central Provinces Tenancy (Amendment) Act, 1932 (C. P. Act of 1923).

land, as cultivated land, shall, notwithstanding anything contained in any contract to the contrary, be deemed to be the quality and advantages which the land would have had enjoyed if the improvement had not been made.

20. In sections 21, 22 and 88 the produce of a holding means— Definition of "produce of a holding"

- (a) crops and other products of the earth standing or ungathered on the holding;
- (b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

21. Any person appropriating the produce of a holding of an occupancy tenant shall be liable to the landlord to the extent of the value of such produce for any arrear due on account of such holding during the previous or current agricultural year and for the instalment of rent of the current agricultural year next falling due after the date of such appropriation. Lien on produce for rent.

22. (1) If the produce of a holding of an occupancy tenant is attached by order of a Civil Court, such Court shall give notice of such attachment to the landlord, who may apply to such Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of— Procedure when produce is under attachment.

- (a) any rent which has fallen due to him in respect of the holding within the previous or current agricultural year; and
- (b) the instalment of rent of the current agricultural year falling due next after the date of the attachment.

(2) If the Court on inquiry finds the landlord's claim to the whole or any part of the rent to be proved, it shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale, in the first instance, to satisfy such claim.

(3) Notwithstanding anything contained in section 106, the finding of a Court on an inquiry under this section shall have the force of a decree in a suit between the parties.

*[23. * * * *
 †[24. * * * *

*Omitted by section 13 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Omitted by section 14 of the Central Provinces Tenancy (Amendment) Act, of 1940.

Ejectment
for diversion.

*[25. (1) Notwithstanding any contract to the contrary, an occupancy tenant shall not be liable to be ejected from his holding except in execution of a decree of a Civil Court in a suit for ejectment brought by the landlord on the ground of his having diverted the land to non-agricultural purposes.

(2) A suit for the ejectment of an occupancy tenant under sub-section (1) shall not be entertained, unless the landlord has given the tenant a written notice calling upon him, if the damage caused by the diversion is capable of remedy, to remedy the same, or to pay reasonable compensation for the damage, and the tenant has failed to comply with the notice within a reasonable time.

(3) A decree passed in a suit for ejectment under sub-section (1) may direct the ejectment of the tenant from the holding or from such portion of the holding as has been diverted to non-agricultural purposes or from that portion and such additional land as may be necessary for the reasonable enjoyment of that portion.

(4) Such decree shall further direct that if the tenant repairs the damage or pays such compensation to the landlord as the Court thinks fit within one month from the date of the decree, or such further time as the Court may for reasons to be recorded allow, it shall not be executed.]

Procedure
when
occupancy
tenant in
suit pleads
excessive
rent.

26. (1) If, in any suit for arrears against an occupancy tenant, the tenant at any time before a decree is passed pleads that his rent is excessive, the Court shall enquire into the circumstances of the rent.

(2) If the Court finds that the rent payable by the tenant has been enhanced by contract or consent above the rent determined by a Settlement Officer at the current settlement or by a Revenue Officer under this Act, or, if not so determined, above the rent at which the holding was first taken up by the tenant, the Court may stay the proceedings and refer the case to a Revenue Officer, who shall thereupon fix a fair and equitable rent for the holding, and if the rent so fixed is equal to or more than the rent previously payable, the Court shall decree the arrears claimed and proved, or, if the rent so fixed is less than the rent previously payable, the Court shall decree against the tenant arrears on account of any year only to the extent of the amount, if any, by which his payment for that year fell short of such rent, and the tenant shall be entitled to remain in occupation at such rent from the commencement of the agricultural year next following the date of the institution of the suit.

(3) If the Court finds that the rent, in respect of which the plea is made by the tenant, was not enhanced or determined in the manner specified in sub-section (2), but was the rent at which the tenant first took up the holding from the landlord, the Court shall pass a decree for such sum as may be due at the rent so payable, but may, before or after passing the decree, refer the case to a Revenue Officer, who shall thereupon fix a fair and equitable rent for the holding, and, if the tenant pays the amount decreed within one month from the date on which the

*Substituted by section 15 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

rent is so fixed, he shall be entitled to remain in occupation of his holding, at such rent, with effect from the commencement of the agricultural year next following the date of the institution of the suit.

(4) Nothing in this section shall be construed to authorize a Revenue Officer to determine the rent higher than that payable by the tenant at the date of the institution of the suit, except from the commencement of the agricultural year next following the date of the institution of the suit, and on the application of the landlord.

*[27.

28. (1) The following provisions shall be applicable in the case of every occupancy tenant ejected from a holding:—

- Rights of ejected tenants in respect of crops and land prepared for sowing.
- (a) if the tenant has, before the date of his ejection, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of such land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the labour and capital expended by him in preparing such land and sowing, planting and tending such crops, together with reasonable interest thereon;
- (b) if the tenant has, before the date of his ejection, prepared for sowing any land comprised in his holding, but has not sown or planted crops thereon, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in preparing such land, together with reasonable interest thereon:

Provided that—

- (i) a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section if, after the commencement of proceedings by the landlord for his ejection, he has cultivated or prepared such land contrary to local usage;
- (ii) the rent, if any, payable to the landlord by the tenant at the time of ejection may be set off against any sum payable to the tenant under this section.
- (2) The Court or Revenue Officer ejecting the tenant shall determine the amount, if any, payable under sub-section (1).

29. If a landlord elects, under section 28, sub-section (1), to allow a tenant to retain possession of any land for the purpose specified therein, the tenant shall pay to the landlord, for the use and occupation of such land during the period for which he is allowed to retain possession of the same, such rent as the Court or Revenue Officer may deem reasonable.

Payment by tenant for occupation of land under section 28.

*Omitted by section 16 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

Right of tenant on ejection to compensation for improvements.

30. If an occupancy tenant or his predecessor in interest has made an improvement in respect of his holding, he shall not be ejected until he has received compensation for such improvement, unless it was begun after the institution of the proceedings which resulted in the decree or order for ejection, but no such compensation shall be claimable, if the tenant has made such improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained such advantage.

Right of tenant on ejection to remove all things attached to the earth.

*[30-A. (1) Without prejudice to any other right under the foregoing sections, if an occupancy tenant, who, after diverting his holding to non-agricultural purposes, is ejected therefrom in execution of a decree of a Civil Court, or if such a tenant or his transferee loses possession of the holding in favour of the landlord under section 14, he shall, at any time before he is ejected or loses possession, be entitled to remove therefrom all things which he has attached to the earth: provided that he shall leave the holding in the state in which it was before the diversion.

(2) If the holding is not left in the state in which it was before the diversion the landlord may apply to a Revenue Officer for assessment of the compensation for the damage thereby caused.]

Execution of a decree for ejection of an occupancy tenant who has made improvement.

31. (1) If a Civil Court makes a decree for the ejection of an occupancy tenant, it shall ascertain whether he claims to have made any improvement, and, if so, shall refer the question of the amount of compensation due to a Revenue Officer, and shall stay the execution of the decree pending the order of the Revenue Officer.

(2) If the Revenue Officer reports that any compensation is due, unless the landlord deposits the amount certified, less the costs decreed in the suit as due to the landlord, within six months from the date of the order of the Civil Court requiring him to do so, the decree shall be deemed to be fully satisfied.

†[32. * * * *]

Assessment of compensation for improvement.

33. (1) In estimating the compensation to be awarded under section 30, regard shall be had—

- (a) to the amount by which the letting-value or the produce of the holding, or the value of such produce, is increased by the improvement;
- (b) to the labour and capital required for the making of the improvement; and
- (c) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

*This section was inserted by section 4 of the Central Provinces Tenancy (Amendment) Act, 1932 (C. P. Act II of 1932).

†Omitted by section 17 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

(2) If the amount of the compensation has been assessed, the landlord and the tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

34. (1) If the improvement benefits both land from which the tenant is to be ejected and other land in his occupation, the compensation payable shall be estimated with reference to extent to which the land from which the tenant is to be ejected has benefited by such improvement.

Improvement benefiting land from which a tenant is not ejected.

(2) If the improvement has been executed on land from which the tenant is to be ejected, the landlord, on payment of the compensation awarded to such tenant, shall become the owner thereof, and the tenant shall be entitled to the benefit of the improvement in respect of the land remaining in his occupation, to the same extent and in the same manner as such land has hitherto benefited thereby.

(3) If the improvement has been executed on land which remains in the occupation of the tenant, the landlord, on payment of the compensation awarded to such tenant, shall be entitled to the benefit thereof in respect of the land from which the tenant is ejected, to the same extent and in the same manner as such land has hitherto benefited thereby.

35. (1) If an occupancy tenant ceases to cultivate his holding, either by himself or by some other person, and has allowed one year's rent to fall into arrears and has left the village in which he usually resides, the landlord may, at any time after the end of the agricultural year, file a notice in the office of the Tahsildar, stating his intention to treat such holding as abandoned.

Abandonment of holding by an occupancy tenant.

(2) Such notice shall be published in such manner as may be prescribed by rules made under section 109, and on such publication the landlord shall be entitled to enter on the holding.

36. Any tenant whose holding has been treated as abandoned under section 35 may apply to a Revenue Officer to be reinstated in his holding, on the ground that he had no intention of abandoning his holding, and, subject to rules made under section 109, the Revenue Officer may, after such inquiry as he thinks fit, direct that the tenant be reinstated in his holding on such terms as he thinks fit.

Reinstatement of a tenant in his holding after abandonment.

*[36-A. (1) Subject to rules made under section 109, a Revenue Officer may, except in such areas as the Provincial Government may, by notification, exclude from the operation of this section, on an application made by an occupancy tenant and on his depositing twelve and a half times the rent of the holding for being paid to the landlord of whom he holds the holding, declare such tenant to be a malik-makbuza of the land

Power to declare occupancy tenants as malik-makbuzas.

*Inserted by section 18 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

comprised in the holding, fix the amount of land revenue payable for such land and pay the landlord the amount deposited by the tenant :

Provided that no such application shall lie in respect of a part of a holding.

(2) A declaration made under sub-section (1) shall take effect from the commencement of the agricultural year next following the date of such declaration.

(3) A declaration made under sub-section (1) of an occupancy tenant as a malik-makbuza of the land comprised in his holding shall not affect the rights in trees standing in such land on the date on which the declaration takes effect.]

CHAPTER IV.—SUB-TENANTS

Definition of "sub-tenant".

37. (1) A person who holds land from a tenant of such land is a sub-tenant thereof.

(2) Any person—

(a) who holds, as a tenant, land from a malik-makbuza or from the holder of a survey number, and who is not an absolute occupancy tenant or was not recorded in the Settlement Records of the last Settlement made before this Act came into force as an occupancy tenant, or

(b) who holds sir-land as a tenant, shall be deemed to be a sub-tenant of such land.

Tenure to be according to agreement.

38. Except as otherwise provided for in this Act, a sub-tenant shall hold on such terms as may be agreed upon between him and his landlord :

Provided that—

(i) notwithstanding any contract to the contrary, a lease granted to a sub-tenant by an occupancy tenant shall not be valid for a period exceeding [five years]* ;

(ii) if, at the time of the subletting of the land, the tenant is a co-sharer in the mahal or patti in which the land lies, and does not hold the land sublet as an absolute occupancy tenant, the sub-tenant shall have the rights of an occupancy tenant.

Devolution of tenure.

†[38-A. Subject to the terms of the contract of the sub-lease, the right of a sub-tenant shall on his death pass by inheritance or survivorship in accordance with his personal law.]

Ejectment of a sub-tenant in execution of a decree for arrears.

39. A decree for an arrear due in respect of the holding of a sub-tenant may be executed by his ejectment.

*Substituted by section 19 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Inserted by section 20 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

*[40. (1) Subject to rules made under section 109, a Revenue Officer may, either of his own motion or on an application made by a sub-tenant holding land from a tenant, declare such sub-tenant to be an occupancy tenant of such land on the ground that the land is habitually sublet and fix the rent payable by him for the land to the landlord of the village, mahal or patti in which the land is situate, and thereupon the right of the original tenant in the land shall be extinguished :

Power to declare sub-tenants of tenancy land as occupancy tenants.

Provided that no such declaration shall be made in the case of a sub-tenant holding land from a charitable or religious endowment :

Provided further that no such declaration shall be made in the case of a sub-tenant holding land under a lease made before the first day of November 1939 :

Provided also that no land shall be deemed to be habitually sublet by reason of a lease made before the first day of November 1939.

(2) A declaration made under sub-section (1) shall take effect from the commencement of the agricultural year next following the date of such declaration.

Explanation.—For the purpose of this section land may be presumed to be habitually sublet, if it is sublet for a total period exceeding seven years during any consecutive period of ten years, but no such presumption shall necessarily be made in the case of land of a minor or any other person subject to a legal disability or physical infirmity or a woman.]

†[41. (1) Subject to rules made under section 109, Revenue Officer may, either of his own motion or on an application made by a sub-tenant holding land from a malik-makbuza or holding sir land from a proprietor, declare such sub-tenant to be an occupancy tenant of such land, on the ground that the land is habitually sublet and fix the rent payable for the land :

Power to declare sub-tenants of malik-makbuza lands or of sir lands as occupancy tenants.

Provided that no such declaration shall be made in the case of a sub-tenant holding land from a charitable or religious endowment or from a malik-makbuza who is recorded in the record-of-rights as a malik-makbuza muafidar sarkar or in terms equivalent thereto :

Provided further that no such declaration shall be made in the case of a sub-tenant holding land under a lease made before the first day of November 1939 :

Provided also that no land shall be deemed to be habitually sublet by reason of a lease made before the first day of November 1939.

(2) If a sub-tenant has been declared to be an occupancy tenant under sub-section (1), he shall, with effect from the commencement of the agricultural year next following the date of the declaration, be deemed to be an occupancy tenant of the

*Substituted by section 21 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Substituted by section 22 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

land in respect of which the declaration has been made, and shall hold the land from, and pay the rent fixed to, the malik-makbuza or proprietor, as the case may be.

(3) If such occupancy tenant is declared a malik-makbuza of the land in his possession under the provisions of section 36-A, the right of the original malik-makbuza or the sir right of the proprietor, as the case may be, in the land shall be extinguished.

Explanation.—For the purpose of this section land may be presumed to be habitually sublet, if it is sublet for a total period exceeding seven years during any consecutive period of ten years, but no such presumption shall necessarily be made in the case of land of a minor or any other person subject to a legal disability or physical infirmity or a woman.]

CHAPTER V.—VILLAGE SERVANT

Definition of [village service land]*.

42. Land which is recorded in the papers of the current settlement as, or which may, during the currency of the settlement, be declared by order of a Revenue Officer to be held by a village-servant rent-free or on favourable terms on condition of rendering village-service is a [village-service land]*

Devolution of village-servant's rights in [his village-service land]†.

43. If a village-servant dies, resigns or is lawfully dismissed, his right in his [village-service land]† shall pass to his successor in office.

Restrictions on transfer of village-servant's rights in [his village-service land]‡.

44. (1) A transaction by which a village-servant attempts to transfer his interest in his [village-service land]‡ by sale, gift, mortgage, sub-lease or otherwise, except by a sub-lease for a period not exceeding one year, shall be void.

(2) The right of a village-servant in [his village-service land]‡ shall not be attached or sold in execution of a decree, nor shall a receiver be appointed to manage [such land]‡ under section 51 of the Code of Civil Procedure, 1908 (V of 1908).

Grounds on which a village-servant may be ejected.

45. A village-servant shall not be ejected from [his village-service land]§ except in execution of an order for ejection passed by a Revenue Officer on the ground—

(a) that he has attempted to transfer [such land]§ in contravention of section 44, sub-section (1); or

(b) that he has ceased to render the service which he is bound to render or has failed to render it properly; or

(c) that he has diverted [such land]§ to non-agricultural purposes; or

(d) that he has resigned, or been dismissed from, his office.

*Substituted by section 23 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Substituted by section 24 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

‡Substituted by section 25 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

§Substituted by section 26 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

46. If a village-servant is ejected from [his village-service land]* under section 45, or if he dies, a Revenue Officer shall place his successor in office in possession of [such land]*

Power to place village-servant's successor in possession of [village-service-land]*.

47. If a village-servant is ejected from, or loses possession of, [his village-service land]† otherwise than in accordance with this Act, a Revenue Officer may reinstate him in the possession of [such land]† and may eject any person who may be in possession thereof.

Power to reinstate village-servant in possession of [his village-service-land]†.

48. If [a Revenue Officer]‡ declares that the services rendered by a village-servant are no longer required, he shall declare such village-servant to be an occupancy tenant of [his village-service land]§, and shall fix the rent to be paid by him.

Disposal of [village-service land]§ when services of a village-servant are no longer required.

CHAPTER VI.—EX-PROPRIETORS

¶[49. (1) A proprietor, who temporarily or permanently loses, whether under a decree or order of a Civil Court or a transfer or otherwise, his right to occupy his sir-land, in whole or in part, as a proprietor, shall, at the date of such loss, become an occupancy tenant of such sir-land except in the following cases—

Accrual of tenant right in sir-land in certain cases of transfers thereof.

- (a) when a transfer of such sir-land is made by him expressly agreeing to transfer his right to cultivate such sir-land, or
- (b) when such sir-land is sold in execution of, or foreclosed under, a decree of a Civil Court which expressly directs the sale or foreclosure of his right to cultivate such sir-land.

(2) Nothing in sub-section (1) shall affect rights under any document duly registered before the twenty-first day of October 1898, and on any transfer being made, decreed or ordered in pursuance of such document, the right of the transferee to occupy and cultivate such sir-land shall accrue.

*Substituted by section 27 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Substituted by section 28 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

‡The words in the brackets were substituted for the words "The Deputy Commissioner or the Settlement Officer, as the case may be," by section 2 of the Central Provinces Tenancy (Amendment) Act, 1923 (C. P. Act VII of 1923).

§Substituted by section 29 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

¶Substituted by section 30 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

(3) Nothing in sub-section (1) shall apply to land in the Sambalpur Territory recorded as *bhogra* in the record-of-rights of the current settlement.

(4) Nothing in sub-section (1) shall affect any loss of possession of any sir-land in the course of a partition.]

*[50. * * * * *]

Rent payable by an ex-proprietor tenant of sir-land.

51. (1) If a proprietor becomes an occupancy tenant of any sir-land in accordance with the provisions of section 49, the rent payable by him shall be the sum determined at the current settlement as the rental value of such land, or such rent as may be fixed by a Revenue Officer, in accordance with rules made under section 109, on the application of either landlord or tenant.

Separation of ex-proprietor's holding from sir-land.

(2) If there are two or more sharers in any sir-land, and one of them becomes an occupancy tenant under section 49, his share in such sir-land shall, on application made by him or by any co-sharer or by his landlord, be divided off by a Revenue Officer, and his rights shall be limited to the land comprised in such share.

†[(3) If a proprietor becomes an occupancy tenant of a part of his sir-land in accordance with the provisions of section 49, a Revenue Officer shall, on an application made by him or his landlord, demarcate such part in accordance with rules made under section 109.]

CHAPTER VII.—IMPROVEMENTS

Right to make improvements.

52. An absolute occupancy tenant or occupancy tenant shall be entitled to make improvements in his holding.

Permission to landlord to make improvements in holding.

53. If the landlord of an absolute occupancy or occupancy tenant desires that an improvement other than the erection of a building, be made, whether wholly at his own expense or partly at his own expense and partly at the expense of the Crown, he may apply to a Revenue Officer for permission to make such improvement himself, and, subject to rules made under section 109, the Revenue Officer may, after such inquiry as he thinks fit, notwithstanding anything in section 52, grant such permission, and any improvement made with such permission shall be deemed to have been made in accordance with this Act.

Disputes as to right to make improvements, etc.

54. Any dispute arising between a tenant and his landlord—

- (a) as to the right to make an improvement, or
- (b) as to whether a particular work is an improvement, shall be decided by a Revenue Officer.

*Omitted by section 31 of the Central Provinces Tenancy (Amendment) Act, 1939, (XI of 1940).

†Inserted by section 32 of the Central Provinces Tenancy (Amendment) Act, 1939, (XI of 1940).

55. A stipulation in a contract providing--

- (a) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, an improvement on his holding which he is entitled to make under this Act, or,
- (b) that a tenant on ejection from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

Avoidance of stipulations barring right to make, or be compensated for, improvements.

shall be void.

56. Notwithstanding anything contained in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue Officer on the ground that an improvement has been effected, since the present rent was fixed in accordance with this Act, by or at the expense of the landlord.

Enhancement of rent when productive power of holding increased by landlord.

57. If the rent of any tenant has been enhanced under section 56, or was fixed at the current settlement with regard to an improvement effected by or at the expense of the landlord, a Revenue Officer may at any time, on the application of the tenant, modify or cancel the order for enhancement, or reduce such rent, on the ground that the effect of the improvement in increasing the productive power of the holding has diminished or ceased since the date of the order for enhancement, or of the last modification of such order made under this section, or since the rent was fixed by the Settlement Officer, as the case may be.

Reduction of rent when effect of improvement ceases.

58. In sections 56 and 57 an improvement effected partly at the expense of the Crown and partly at the expense of the landlord shall be deemed to be an improvement effected by the landlord.

When improvement made partly by landlord to be deemed effected by landlord.

***[CHAPTER VII-A.—RECOVERY OF RENT**

58-A. The rent of the holding of an absolute occupancy or occupancy tenant shall, subject to the provisions of the Land Improvement Loans Act, 1883 (XIX of 1883), be a first charge thereon and notwithstanding anything contained in section 100 of the Transfer of Property Act, 1882 (IV of 1882), and Order XXXIV of the First Schedule of the Code of Civil Procedure, 1908 (V of 1908), such holding shall be liable to sale for the satisfaction of such charge—

Rent first charge on holdings and holdings saleable for arrears.

- (i) in execution of a decree for rent against the tenant, whether such decree orders such sale or not, or
- (ii) in proceedings for recovery of the total amount due as determined under sub-section (1) of section 58-C.

58-B. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908), an arrear of rent due by an absolute occupancy or occupancy tenant may be realized

Rent realizable by Revenue Officers.

*Inserted by section 33 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

by a Revenue Officer on an application made in that behalf by his landlord by any of the following processes,—

(a) by attachment and sale of such movable property as is liable to be attached and sold under the provisions of the Central Provinces Land Revenue Act, 1917 (C. P. Act II of 1917), for the recovery of an arrear of land revenue; or

(b) by sale of the holding or part thereof :

Provided that the landlord shall not be entitled to make such application unless and until he has paid the land revenue payable by him in respect of the village, mahal or patti in which the holding of such tenant is situate, for the year for which the arrear of rent is due.

(2) No application under sub-section (1) shall be made after the expiry of a period of seven months from the date when such rent fell due.

(3) An application made under sub-section (1) shall contain such particulars as may be prescribed by rules made under section 109 and shall bear a court-fee stamp of one-third of such value, subject to a minimum of annas six, as would be required for a plaint in a civil suit for the total amount claimed.

Explanation.—For the purpose of this section no arrear of rent in respect of which the tenant has executed a bond shall be deemed to be an arrear.

Summary
inquiry by
Revenue
Officer.

58-C. (1) On receipt of an application under sub-section (1) of section 58-B, the Revenue Officer shall make a summary inquiry into the claim and record a finding, stating what amount, if any, is due. He shall also determine the interest, if any, payable under section 82 and the costs incurred by the landlord in the proceedings and shall require the tenant to pay the total amount determined as above within such time not exceeding one month from the date of his order or such longer period not exceeding two months as the Provincial Government may, by notification, prescribe for any local area.

(2) No suit shall lie in a Civil Court for the recovery of an arrear of rent to the extent found due under sub-section (1).

(3) No appeal shall lie from an order passed under sub-section (1), but subject to the provisions of sub-section (2), any person affected by such order may institute a suit in a Civil Court to establish the right which he claims.

Issue of
process by
Revenue
Officer and
application
of proceeds
of sale of
movable
property.

58-D. (1) If the total amount due is not paid within the time allowed under sub-section (1) of section 58-C or deposited under section 58-E, the Revenue Officer shall, for the recovery of such amount, issue any of the processes provided for in sub-section (1) of section 58-B.

(2) The provisions of Chapter X of the Central Provinces Land Revenue Act, 1917 (C. P. Act II of 1917), relating to the attachment and sale of movable property and sale of immovable property shall apply, as nearly as may be, to the attachment and sale of movable property and sale of a holding or part thereof in proceedings for the recovery of the total amount due as determined under sub-section (1) of section 58-C.

(3) The proceeds of the sale of movable property in such proceedings shall be applied, first, to the payment of the costs incurred by the landlord in the proceedings and, secondly, to the payment of the total amount due as determined under sub-section (1) of section 58-C and the surplus, if any, shall be paid to the tenant whose property has been sold.

58-E. Any person claiming an interest in the holding of an absolute occupancy or occupancy tenant may deposit in the office of a Revenue Officer, before which an application under sub-section (1) of section 58-B is pending, the total amount due as determined under sub-section (1) of section 58-C or in the Civil Court executing a decree for an arrear of rent, the amount due under such decree, and the deposit shall be credited in satisfaction of the total amount due as determined under sub-section (1) of section 58-C or the amount of the decree, as the case may be.

Deposit of total amount due.

58-F. (1) The proceeds of the sale of a holding or part thereof in proceedings for the recovery of the total amount due as determined under sub-section (1) of section 58-C or in execution of a decree for an arrear of rent shall, subject to the provisions of the Land Improvement Loans Act, 1883 (XIX of 1883), be applied as follows :—

Application of proceeds of sale of holding.

- first, to the payment of the costs incurred by the landlord in the proceedings;
- secondly, to the payment of the total amount due as determined under sub-section (1) of section 58-C; and
- thirdly, to the payment to the landlord of any instalment of rent which has fallen due in the course of the proceedings.

(2) If there is any surplus after payments have been made in accordance with sub-section (1), it shall be paid to the tenant whose holding or part thereof has been sold.

58-G. If, after the application of the proceeds of any sale of the whole holding in the manner specified in sub-section (1) of section 58-F, any sum due to the landlord on account of arrears of rent in respect of such holding or interest on such arrears or costs incurred by the landlord in proceedings or a suit for the recovery of such arrears, remains unsatisfied, no claim by the landlord in respect of such sum shall lie against the tenant either before a Revenue Officer or in a Civil Court.

No claim maintainable for balance of dues after application of sale proceeds of holding.

58-H. Any sum to which the landlord is entitled as consent money under section 6-A or section 12-A or sub-section (4) of section 91 may be recovered by a suit in a Civil Court or by an application to a Revenue Officer in the same manner as an arrear of rent.]

Recovery of consent money.

CHAPTER VIII.—OTHER PROVISIONS RELATING TO RENT

59. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of such holding for the agricultural year immediately preceding.

Presumption as to amount of rent payable.

Date from which order fixing rent operates.

60. An order fixing, altering or commuting the rent of a holding shall take effect from the commencement of the agricultural year next following the date of application, or from any subsequent day, or, if it is made on the ground of increase, diminution or deterioration of the holding, from the date of such increase, diminution or deterioration, unless the order directs that it shall take effect from any date subsequent thereto.

Time for payment of rent.

61. Rent shall be payable in such instalments and on such dates as the Provincial Government may, by notification, prescribe, and, in the absence of such notification, according to the contract between the parties, or, where there is no such contract, according to local usage.

Power to reduce rent during currency of settlement.

*[61-A. (1) If, at any time, during the currency of the settlement, the Provincial Government finds that, having regard to changes in general conditions subsequent to settlement, it is desirable that the rent payable by an absolute occupancy tenant or occupancy tenant should be reduced, it may reduce such rent for such period as it may deem fit.

(2) An order made under sub-section (1) shall take effect from the commencement of the agricultural year next following the date thereof, unless the Provincial Government otherwise directs.]

Power to alter rent when holding is increased, diminished or deteriorated.

62. If the area of a holding, the rent of which is payable in money, is increased or diminished by fluvial action or otherwise, or if the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other circumstances, a Revenue Officer may, notwithstanding any contract between the parties, on the application of the landlord or of the tenant, alter the rent with reference to such increase, diminution or deterioration.

Power to alter rent in case of new assessment.

63. If a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, if while such lease or contract is in force,—

(a) land revenue is for the first time made payable in respect of the holding, or

(b) land-revenue having been previously payable in respect of it, the land revenue payable when such lease or contract was granted or made is increased or diminished,

a Revenue Officer may, notwithstanding any contract to the contrary, on the application of the landlord or of the tenant, alter the rent with reference to the land revenue.

Alteration of rent of holding on diversion to non-agricultural purposes.

†[63-A. (1) Where a tenant has diverted the whole or any part of his holding to non-agricultural purposes, a Revenue Officer may, either on his own motion or on the application

*This section was inserted by section 3 of the Central Provinces Tenancy (Second Amendment) Act, 1935 (C. P. Act III of 1935).

†This section was inserted by section 5 of the Central Provinces Tenancy (Amendment) Act, 1932 (C. P. Act II of 1932).

of the landlord, alter the rent of such holding with reference to its increased value :

Provided that he shall not alter the rent of an occupancy holding on his own motion unless the landlord has failed, within two years from the date of such diversion, to institute a civil suit for the ejection of the tenant.

(2) Where the whole or any part of a holding has been diverted to non-agricultural purposes, and is subsequently reconverted to agricultural purposes, a Revenue Officer may, on the application of either the landlord or tenant, alter the rent of such holding with reference to its decreased value.

(3) Where the rent of a tenant's holding is so altered, he shall have the same rights therein as he had in it before its diversion to non-agricultural purposes.]

64. (1) If a tenant, other than a sub-tenant, pays rent for a holding either in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or in more than one of these ways, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract, other than a contract whereby waste land is let for the purpose of reclamation, apply to a Revenue Officer to commute the rent to a fixed money-rent.

Commutation of rent payable in kind.

(2) On receipt of such application, the officer may, after giving notice to the other party and hearing him, if he appears, fix the sum to be paid in money as rent, and such sum shall be the rent of the holding.

65. (1) If from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue Officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of such land to an amount which would bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect thereof, and may distribute the amount so remitted or suspended amongst the tenants holding such land in such manner as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land-revenue :

Remission and suspension of rent consequent on like treatment of land revenue.

Provided that, if the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(2) No Civil Court shall entertain or try any suit to recover any rent the payment of which has been remitted or suspended, and any such suit pending at the date of the order of remission or suspension under sub-section (1) shall be dismissed, and no orders regarding costs shall be made.

(3) If the rent suspended is subsequently ordered to be recovered, the plaintiff or his successor in interest may apply for the suit to be restored, and it shall thereupon be proceeded with.

*[(3-a) The provisions of sub-sections (2) and (3) shall apply, so far as may be, to an application under sub-section (1) of section 58-B for the recovery of an arrear of rent.]

(4) The provisions of sub-sections (1), (2) and (3) shall apply to land of which the land-revenue has been wholly or in part released, compounded for or redeemed, in any case in which if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue Officer, have been remitted or suspended.

(5) If, subsequent to the publication of an order of remission or suspension, the landlord collects any rent of which the payment has been remitted, or, before the expiry of the period of suspension, collects any rent the payment of which has been suspended, he shall be liable, by order of a Revenue Officer, to a penalty not exceeding the total amount of the revenue payable by him on account of the mahal in which such rent was recovered, or, if the revenue has been released, compounded for or redeemed, of the kamil-jama of such mahal.

(6) Nothing in sub-section (5) shall affect the right of a tenant from whom such recovery has been made to recover a penalty under section 74.

Progressive rents.

66. If a Revenue Officer in any proceeding under this Act passes an order which enhances a tenant's rent, but considers that the immediate enforcement of such order to its full extent will be attended by hardship to such tenant, he may direct that the enhancement shall be gradual, and that the rent shall be reduced in such manner and to such extent as he may, subject to rules made under section 109, think fit, for any period not exceeding fifteen years, until the full enhancement has been reached.

Procedure when a tenant holds land at rent lower than that fixed at settlement.

67. If, by reason of the receipt by the landlord of any consideration whether in money or otherwise, or in pursuance of any agreement with the landlord, a tenant is holding at a rent lower than that fixed by the Settlement Officer under section 8 or 15, the Settlement Officer may, subject to rules made under section 109, notwithstanding in this Act or any contract to the contrary, declare him to be entitled to hold at such lower rent for such term as the Settlement Officer, having regard to the circumstances, fixes as fair and equitable:

Provided that in no case shall the tenant be entitled to hold at such lower rent for a period longer than that for which the settlement is being made.

Power to deposit rent in certain cases with Revenue Officer.

68. If a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant, or if a tenant in any case is doubtful as to the person entitled to receive rent payable in money, such tenant may apply to a Revenue Officer for permission to deposit the amount of rent which he believes to be due.

* Inserted by section 34 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

69. The application shall contain a statement of the contents of application to deposit grounds on which it is made and shall state—

- (a) the name of the person to whose credit the deposit is to be entered, or
- (b) the names of the persons to whom the rent is due; or
- (c) the names of the person or persons to whom rent was last paid, and of the person or persons now claiming it.

70. (1) If it appears to the Revenue Officer that the applicant is entitled to make the deposit under section 68, he shall receive such deposit and give a receipt therefor. Receipt for deposit to be granted.

(2) Such receipt shall operate as an acquittance for the amount of the rent payable by the tenant and deposited by him, in the same manner and to the same extent as if such amount had been paid to the person to whom it was due. Receipt for deposit a valid acquittance.

71. The Revenue Officer shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims, or is entitled to, the deposit. Notice of deposit.

72. The Revenue Officer may pay the amount of such deposit to any person appearing to him to be entitled thereto or may retain it pending a decision of the Civil Court as to the person entitled thereto. Payment of deposit.

73. No suit or other proceedings shall be instituted against Barring of suits. *~~the Crown~~ or any servant of the Crown], in respect of anything done regarding a deposit under sections 68, 69, 70, 71 and 72, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering the same from any person to whom it has been paid under section 72.

74. A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent legally payable shall on the application of such tenant †[or otherwise], be liable, by order of a Revenue Officer, to pay as penalty a sum not exceeding five hundred rupees or, if double the amount or value of the sum levied exceeds five hundred rupees, not exceeding double such amount or value, and such sum shall be awarded to the tenant as compensation. Penalty for levy of anything in excess of rent by landlord.

75. (1) If rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees in writing, be presumed to be a payment on account of rent. Presumption as to payments to landlord.

(2) If a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and such payment shall be credited accordingly: Payments on account of instalments.

Provided that, if any rent is in arrears, no payment shall be credited to any instalment not yet due.

*These words were substituted for the words "The Secretary of State for India in Council, or against any officer of Government" by the Adaptation Order.

†These words were inserted by section 2 of the Central Provinces Tenancy (Amendment) Act, 1936 (XXXI of 1936).

(3) If a tenant does not make any such declaration, the landlord may credit the payment to any arrear not barred by limitation.

Right of tenant to a receipt for rent.

76. (1) A tenant who makes a payment on account of rent shall be entitled to obtain forthwith from the landlord a receipt therefor.

(2) The Provincial Government may prescribe, by rules made under section 109, a form of receipt book for the use of tenant, and the procedure to be followed in making entries therein.

(3) If, at the time of making any payment on account of rent, the tenant produces the receipt book prescribed under sub-section (2), the landlord shall give the receipt for the rent paid in that book, and shall enter the date of payment and the amount paid, and shall either state that the payment made is in full discharge of all arrears entered therein or shall specify the instalments in respect of which the payment has been accepted.

(4) If, at the time of payment of any rent, the tenant fails to produce a receipt book, the landlord shall give a receipt for the amount paid, and shall specify therein—

- (a) the name of the payer and the payee, and, if the payer is not the tenant, the name of the tenant on whose account the payment is made;
- (b) the name of the village, mahal or patti in which the holding, in respect of which the rent is paid, lies;
- (c) whether the payment has been accepted as a payment in full of all rent due by the tenant in respect of the village, mahal, or patti, or only on account;
- (d) the date on which the payment is made.

Penalty for refusing to grant receipt or giving defective receipt.

77. A landlord who fails to grant a receipt, or to enter the receipt in a receipt book if produced by the tenant under section 76, sub-section (3), or who grants a receipt under section 76, sub-section (4), but fails to specify therein the particulars prescribed in that sub-section **[or fails to carry out the requirements of sub-section (2) of section 75]* shall, on the application of the tenant †*[or otherwise]*, be liable, by order of a Revenue Officer, to pay as a penalty a sum not exceeding double the amount or value of the rent, and such sum shall be awarded to the tenants as compensation.

Power to direct that suits between landlords and tenants be entered in separate registers.

78. The Provincial Government may direct that all suits for arrears, other than arrears due by a sub-tenant, shall be registered in such special registers as it may prescribe, by rules made under section 109, and not in the register of suits kept under the Code of Civil Procedure, 1908 (V of 1908).

Plaint in suits between landlords and tenants.

79. The Provincial Government may prescribe, by rules made under section 109, the form of, and particulars to be entered in, complaints in suits for arrears.

*These words were inserted by section 3 of the Central Provinces Tenancy (Amendment) Act, 1936 (C. P. Act XXXI of 1936).

†Inserted by section 2 of the Central Provinces Tenancy (Amendment) Act, 1938 (C. P. Act III of 1938).

80. In suits for arrears the Court shall not allow the fees of a legal practitioner as costs, unless it states its reasons for so doing in writing.

Legal practitioner's fees not allowed unless for special reasons.

81. No set-off shall be allowed in any suit **[or proceedings]* for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue Officer.

Set-off when allowed in suits for arrears.

82. In suits †*[or proceedings]* for arrears simple interest at such rate, not exceeding †*[six]* per cent per annum, as the Court †*[or the Revenue Officer]* thinks fit, may be allowed up to the date of institution of the suit †*[or proceedings]*.

Interest on arrears.

83. A decree passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of a Subordinate Judge †*[of the first class]* as defined in the Central Provinces Courts Act, 1917 (I of 1917), shall not be subject to appeal, unless—

No appeal in certain suits for arrears.

- (a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or
- (b) a question relating to a title to land or some interest in land has been determined as between parties having conflicting claims thereto.

Explanation.—For the purposes of this section a right to hold land rent-free or on favourable terms shall be deemed to be an interest in land.

84. An application for the execution of a decree for an arrear by sale of the holding in respect of which the arrear accrued §*[or by ejection of the tenant]* shall contain a statement showing the tahsil and village in which the holding is situate, the numbers borne in the village rent-roll by the fields constituting the holding, the right in which the holding is held, the rent annually payable and the years in which the decreed arrears accrued.

Application for execution by sale of holding §*[or by ejection]*.

85. No application specified in section 84 shall be admitted until after the expiration of the agricultural year in which the arrear, or any part thereof, accrued.

When application under section 84 to be admitted.

¶*[86.* If, in answer to a suit or an application made under sub-section (1) of section 58-B for the recovery of an arrear of rent, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other calamity beyond his control, the Court or Revenue Officer may order that the holding shall not be sold for the recovery of the arrear for such time as it or he may deem fit.]

Power to deal with cases of drought or other calamity in suits or proceedings for arrears.

* Inserted by section 35 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

† Inserted by section 36 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

‡ Inserted by section 37 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

§ Omitted by section 38 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

¶ Substituted by section 39 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

CHAPTER IX.—OTHER RIGHTS OF LANDLORD AND TENANT

Land broken up from waste.

87. (1) In any local area in which the Provincial Government may, by notification, declare this section to be in force, a Revenue Officer may enquire into the claim of any tenant other than a sub-tenant, to hold any land, contiguous to his holding but not previously included therein, which land he or his predecessor in interest has broken up from waste, and may subject to rules made under section 109, declare such tenant to be an occupancy tenant of such land and fix the rent payable therefor, and shall at the time of making such declaration direct that a sum not exceeding six times the rent so fixed shall be paid by the tenant to the landlord on account of compensation :

*[Provided that no such declaration shall be made unless the land is in the same village, mahal or patti in which the holding of the tenant making the claim is situate.]

(2) In any such local area, if it appears in any suit or proceedings in a Civil Court for the ejection of any tenant from any land referred to in sub-section (1), that such tenant has filed an application before a Revenue Officer under sub-section (1), or if he files such application before the Court, the Court shall stay proceedings until the application has been disposed of, and shall, if the application is filed before itself, forward such application to a Revenue Officer for disposal.

(3) No declaration shall be made under sub-section (1) unless the land has been cultivated for three years by the tenant or his predecessor in interest before the date of the application or the date of institution of the civil suit or ejection.

Penalty for illegal distraint or interference by landlord.

88. (1) Any landlord of a holding who distrains or attempts to distrain the produce of such holding, or prevents or attempts to prevent any person from tending, reaping, gathering, storing, removing or otherwise dealing with any such produce, shall be liable, by order of a Revenue Officer, to a penalty which may extend to five hundred rupees, and such sum shall be awarded to the tenant as compensation.

(2) Nothing in this section shall affect the right of any person to recover compensation in a civil suit :

Provided that the Court in any such suit shall take into account any sum paid or recovered as compensation under sub-section (1).

Penalty for *begar* taken by landlord.

†[88-A. (1) No landlord shall—

(a) employ his tenant or a member of the family of such tenant or a servant of such tenant, or

(b) make use of any cattle or agricultural implement of such tenant,

against the will of such tenant or without making, or agreeing to make, any payment for such employment or use.

*Inserted by section 40 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Inserted by section 2 of the Central Provinces Tenancy (Amendment) Act, 1938 (Act III of 1938).

*(Provided that in case the person employed is a member of the family of a tenant and has attained majority, the consent of such person, and not that of the tenant, shall be necessary.)

Explanation.—For the purpose of this sub-section, the expression “member of the family of a tenant” shall mean a member of the family of a tenant who ordinarily resides with him.)

(2) If no payment is made, the landlord shall, on the application of the person to whom such payment is due or otherwise, be liable, by order of a Revenue Officer, to pay as a penalty a sum not exceeding twenty times the market rate of wages or hire prevailing in the locality for such employment or use, or when no such market rate can conveniently be determined, to a penalty not exceeding one hundred rupees, and such sum shall be awarded to the tenant as compensation.]

89. (1) An absolute occupancy tenant or occupancy tenant may, by delivering to his landlord not less than thirty days before the date of commencement of the agricultural year a registered document executed in favour of the landlord, surrender his holding, and thereupon he shall cease to be a tenant from the agricultural year next following such date. Surrender of holding by a tenant.

(2) No surrender shall be valid unless effected by a registered document.

90. If a person, at the time of taking a theka or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking such theka or farm. Tenant taking theka or farm.

†[91. (1) Notwithstanding anything contained in this Act, an absolute occupancy or occupancy tenant holding land in a village, mahal or patti may exchange his holding or any part of his holding for land of another absolute occupancy or occupancy tenant in the same village, mahal or patti or of the landlord of whom he holds his holding. Exchange of lands.

(2) Where an exchange takes place under sub-section (1), each party to the exchange shall be deemed to have the same rights in the land accepted by him as he had in the former land.

(3) (a) If the exchange is between tenants, each party shall be liable to pay the rent assessed on the land accepted by him.

(b) If the exchange is between a tenant and the landlord, the tenant shall be liable to pay such rent for the land accepted by him as may be agreed to by him and the landlord.

(4) If, in any transaction of exchange between two tenants under sub-section (1), either of them receives any consideration, in addition to land, the landlord shall be entitled to consent money of a sum equal to five per cent of such additional consideration, which sum shall be recoverable from the tenant receiving the consideration as an arrear of rent of the holding or part of the holding which he gets in exchange.]

*Inserted by section 41 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Substituted by section 42 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

*[92. * * * * *]

Partition
of holdings.

93. If in any holding, other than that of a sub-tenant, there are more persons than one having tenancy rights, any such person may apply to a Revenue Officer for a partition of his share in the holding, and the Revenue Officer may, subject to rules made under section 109, after hearing the objection of the landlord and the co-tenants, divide the holding and apportion the rent :

Provided that no such partition shall be made if any question of title is raised, until such question has been decided by a Civil Court.

Partition of
a holding
consisting
partly of
sir-land.

94. If a holding consists partly of sir-land, the landlord or tenant may apply to a Revenue Officer to separate the sir-land from the remainder of the holding and to declare it to be a separate holding, apportioning the rent between the two separated holdings, and, subject to rules made under section 109, the Revenue Officer shall separate the holding and apportion the rent accordingly :

†[Provided that the land comprised in the holding was leased before the first day of November 1939.]

Accrual of
same right
in sir-land
as in
khudkasht
land if leased
together.

‡[94-A. Notwithstanding anything contained in this Act or any contract to the contrary, if sir and khudkasht lands are leased as one holding on or after the first day of November 1939, the lessee shall acquire the same right in the sir-land as he would in the khudkasht land and the sir-right in such land shall be extinguished.]

Tenant's
right to
trees in
holdings.

§[95. (1) Subject to any right existing on the first day of November 1939 or to any entry in the village administration paper, a tenant other than a sub-tenant shall have during the period of his tenancy the same right in all trees in his holding as he has in the holding itself :

Provided that, notwithstanding any contract to the contrary, he shall be entitled to fell, and take the timber of, any *babul* (*Acacia arabica*) tree in his holding or to clear his land of scrub-jungle :

Provided further that with the previous permission of a Revenue Officer and subject to the condition that the landlord shall be entitled to the timber of the tree, he shall be entitled to fell any other tree which hinders the cultivation of the holding.

(2) If a tenant other than a sub-tenant does not have the same right in trees in his holding as in the holding itself, he may apply to a Revenue Officer to fix the value of such right, and purchase the right through the Revenue Officer, in such manner as may be prescribed by rules made under section 109.]

*Omitted by section 43 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Inserted by section 44 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

‡Inserted by section 45 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

§Substituted by section 46 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

*[96. Notwithstanding any entry in^o the village administration paper, custom, or decree or order of a Civil Court, or any contract, a tenant other than a sub-tenant shall be entitled to propagate lac on trees in his holding and take the produce thereof or to pluck and appropriate the leaves of *tendu* (*Diospyros melanaxlor*) plants or trees in his holding :

Tenant's right to propagate and collect lac and to pluck and appropriate.

Provided that a sale made by a tenant other than a sub-tenant, by written contract to his landlord, before the first day of November 1939, of his right to propagate lac on trees in his holding and take the produce thereof, shall have effect for a period of five years from the first day of November 1939 :

Provided further that a lease made by a tenant other than a sub-tenant, by written contract, to his landlord, before the first day of November 1939, of his right to propagate lac on trees in his holding and take the produce thereof, shall have effect for a period of five years from the first day of November 1939, if not determined earlier.]

†[97. (1) The transfer in any manner except by a sub-lease for a period not exceeding five years of trees standing in any land comprised in a holding shall be void, unless the land itself is transferred.

Transfer of right in trees and attachment or sale of trees in execution of a decree, etc.

(2) Trees standing in any land shall not be attached or sold in execution of a decree or order of a Civil Court or under an order of a Revenue Officer or under an order made in pursuance of the provisions of any law for the time being in force, unless the land itself it attached or sold.]

98. (1) Subject to rules made under section 109, a Revenue Officer, not below the class of Deputy Commissioner, may, on the application of the landlord of a holding, and on being satisfied that the landlord is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose, put the landlord in possession of such holding or part thereof upon such conditions, including payment of full compensation to the tenant, as the Revenue Officer may think fit, and thereupon the tenant shall cease to be the tenant of such holding or part thereof.

Acquisition of tenant's land by landlord.

(2) Any tenant, whose holding or part thereof has been acquired under sub-section (1), may apply to a Revenue Officer, not below the rank of a Deputy Commissioner, to be reinstated in his holding or part thereof, on the ground that the landlord has broken the conditions on which the holding or part thereof was acquired, and, subject to rules made under section 109, the Revenue Officer may, after such inquiry as he thinks fit, direct that the tenant be reinstated in such holding or part thereof, on such terms as he may think fit.

Explanation I.—The furtherance of the propagation of lac may be deemed to be a reasonable and sufficient purpose within the meaning of this section.

*Substituted by section 47 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

† Substituted by section 48 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

Explanation II.—Compensation may be in cash, which may be directed to be paid in instalments, or by the exchange of land.

Inquiry into rent-free grants.

99. If any tenant, other than a sub-tenant, claims to hold any land rent-free or at a reduced rent, whether under an agreement entered into with the landlord or his predecessor in interest or under any order recorded at settlement or under a decree of a Civil Court, the Settlement Officer shall enquire into such claim, and notwithstanding any such agreement, order or decree, may subject to rules made under section 109, either—

- (i) disallow the claim, or
- (ii) determine the period for and conditions including rent, if any, on which the land shall be held.

Reinstatement of tenant illegally ejected.

100. Any tenant, other than a sub-tenant, who has been ejected from his holding, or from any portion thereof, otherwise than in accordance with this Act, may, on application to a Revenue Officer, be reinstated in possession of such holding or portion thereof :

Provided that—

- (i) no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant whose application for reinstatement is rejected to establish his title to his holding and to recover possession thereof by means of a suit ;
- (ii) possession of a tenancy, or of any portion thereof, shall not be recoverable under section 9 of the Specific Relief Act, 1877 (I of 1877), by a tenant, other than a sub-tenant dispossessed thereof.

CHAPTER X.—MISCELLANEOUS

Exemption in case of land in reserved forest or belonging to local authority.

101. Nothing in this Act regarding the rights of an absolute occupancy tenant or an occupancy tenant shall be deemed to apply to the tenant of any land situate within the limits of any area which has been declared to be a reserved forest under the Indian Forest Act, 1878 (VII of 1878)*, or which is the property of, or is in the occupation of, a local authority.

Power to exempt company's lands from operation of the Act.

102. The Provincial Government may, by notification, exempt from the operation of any of the provisions of this Act any land which is the property of a company as defined in the Land Acquisition Act, 1894 (I of 1894) :

Provided that—

- (i) such exemption shall not affect any right subsisting at the date of such notification, and
- (ii) such notification shall issue only after previous publication, to which, as far as may be, the provisions of section 22 of the Central Provinces General Clauses Act, 1914 (C. P. Act I of 1914), shall apply.

*See now the Indian Forest Act, 1927 (XVI of 1927).

103. (1) If any landlord or tenant of a holding desires that the extent of such holding be ascertained, or that evidence relating to any improvement made in respect thereof or to the state of the holding at any specified time, be recorded, he may apply to a Revenue Officer, and such officer shall thereupon—

Applications to measure or ascertain condition of holdings.

- (a) make or cause to be made inquiry as he thinks fit with a view to ascertaining the extent of the holding, and record his finding thereon; or
- (b) if the applicant desires to have evidence recorded, record such evidence:

Provided that no such action shall be taken by any Revenue Officer if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(2) If any matter has been recorded under this section, the record thereof shall, notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), be admissible in evidence in any subsequent proceedings between the landlord and tenant, or any persons claiming under them.

104. (1) The suits and applications specified in the Second Schedule annexed to this Act shall be instituted and made within the time prescribed in that Schedule for them respectively; and every such suit instituted and application made after the period of limitation so prescribed shall be dismissed.

Limitations for suits and applications under the Act.

(2) Any suit which would be barred under sub-section (1) may be instituted within one year next after the commencement of this Act or within the period of limitation previously in force, whichever period expires first.

(3) If the payment of any rent has been suspended under section 65, the period of suspension shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of such rent.

*[(3-a) The provisions of sub-section (3) shall apply, so far as may be, to an application under sub-section (1) of section 58-B for the recovery of an arrear of rent.]

(4) Subject to the provisions of sub-section (1), the provisions of the Indian Limitation Act, 1908 (IX of 1908), with the exception of sections 6, 7, 19 and 20 thereof, shall apply to suits and applications under this Act.

105. Except as otherwise provided in this Act, no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which the Provincial Government, † . . . a Revenue or Settlement Officer is, by this Act, empowered to determine, decide or dispose of; and,

Jurisdiction of Civil Courts barred in certain cases.

*Inserted by section 49 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†The words "Financial Commissioner" were omitted by the Adaptation Order.

in particular and without prejudice to the generality of this provision, no Civil Court shall exercise jurisdiction over any of the following matters :—

- *[(a) any matter as to the enforcement of the right of pre-emption under section 6-A or section 12-A except under sub-section (15) of section 6-A or sub-section (15) of section 12-A;];
- (b) the fixation, alteration, commutation, enhancement, reduction, remission, suspension or apportionment of rents under section 8, 15, 16, 26, 48, 51, 57, 62, 63, †[63-A], 64, 65, 66, 87, 93 or 94;
- ‡[(b-1) the declaration of an absolute occupancy or occupancy tenant to have the rights of a malik-makbuza and the fixation of land revenue under sections 8-A and 36-A;];
- (c) claims to set aside transfers by occupancy tenants under section 13;
- (d) disputes relating to improvements and the determination of amount of compensation payable therefor under section 30, §[30-A], 31 or 54;
- (e) the reinstatement in possession of a tenant whose holding is treated as abandoned under section 36;
- (f) the declaration of sub-tenants as having the rights of occupancy tenants under section 40 or 41;
- (g) the declaration of land to be a [village-service land]¶ under section 42;
- (h) the ejection of a village-servant from a ¶[village-service land] and the placing of the successor in office of such servant in possession of ¶[such land] under section 45 and section 46;
- (i) the declaration of a village-servant to be an occupancy tenant of a ¶[village-service land] under section 48;
- **[(i-1) applications for the recovery of arrears of rent due by absolute occupancy or occupancy tenants under section 58-B;];

††(j)

* * * *

*Substituted by section 50 (i) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†These figures and letter were inserted by section 6 of the Central Provinces Tenancy (Amendment) Act, 1932 (C. P. Act II of 1932).

‡Inserted by section 50 (ii) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

§These figures and letter were inserted by section 6 of the Central Provinces Tenancy (Amendment) Act, 1932 (C. P. Act II of 1932).

¶Substituted by section 50 (iii) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

**Inserted by section 50 (iv) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

††Omitted by section 50 (v) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

- (k) the imposition of penalties on landlords and the award of compensation to tenants under section 65, 74, 77 or 88;
- (l) claims by tenants to hold land at a rent lower than the assessed rent under section 67;
- (m) applications by tenants for permission to deposit rents and the disposal of such deposits by Revenue Officers under section 68, 69, 70, 71 or 72;
- (n) claims to be declared tenants of waste land under section 87;
- (o) the partition of holdings under section 93;
- (p) the partition of a holding which consists partly of sir-land under section 94;
- *[(p-1) applications for purchase of right in trees under sub-section (2) of section 95;];
- (q) claims to acquire holdings or to be reinstated in holdings under section 98;
- (r) any matter provided for in section 99 as to any land held or claimed to be held rent-free or at a reduced rent; and
- (s) any claim to compel the performance of any duty imposed by this Act on the Provincial Government, † Revenue Officer or Settlement Officer.

106. Except as provided in section 105, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such :

Jurisdiction of Civil Courts in suits between landlords and tenants.

‡[Provided that a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue Officer, hear any suit for an arrear of rent other than an arrear of rent due by a sub-tenant, or any suit for consent money to which the landlord is entitled under this Act.]

107. (1) In fixing rents and disposing of all matters under this Act, Revenue Officers shall, as nearly as may be, and subject to the provisions of this Act or the rules made thereunder, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land Revenue Act, 1917 (C. P. Act II of 1917) :

Procedure on applications to Revenue Officers and appeals from their orders.

Provided that nothing in that Act shall allow any person to bring any suit to establish or enforce any right, unless such suit is expressly permitted by this Act.

(2) From every decision or order of a Revenue Officer under this Act or the rules made thereunder §[except an order under sub-section (1) of section 58-C], an appeal shall lie as if such decision or order has been passed by such officer under the Central Provinces Land Revenue Act, 1917 (C. P. Act II or 1917).

*Inserted by section 50 (vi) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†The words "Financial Commissioner" were omitted by the Adaptation Order.

‡Substituted by section 51 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

§Inserted by section 52 of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

Recovery of penalties.

108. Any penalty or sum of money, except rent, payable under the orders of a Revenue Officer under this Act shall be recoverable as if it was an arrear of land-revenue.

Power to make rules.

109. *[(1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act and may attach to the breach of any such rule a penalty which may extend to two hundred rupees.]

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

†[(a) * * * * *]

‡[(a-1) the guidance of Revenue Officers with regard to the enforcement of the right of pre-emption under section 6-A or section 12-A;

(a-2) the guidance of Revenue Officers in declaring an absolute occupancy tenant to have the rights of a malik-makbuza under sub-section (1) of section 8-A;];

(b) the regulation of the procedure of Revenue Officers in disposing of claims to be placed in possession of an occupancy holding which has been transferred under section 13;

(c) the regulation of the enhancement of rent under sections 16, 17 and 18;

§[(d) * * * * *]

(e) the prescription of the manner of publication of notice under section 35, sub-section (2), and the regulation of the disposal of claims by tenants to be reinstated in their holdings under section 36;

¶[(e-1) the guidance of Revenue Officers in declaring an occupancy tenant to have the rights of a malik-makbuza under sub-section (1) of section 36-A;];

(f) the guidance of Revenue Officers in declaring a sub-tenant holding from a tenant or a malik-makbuza to have the rights of an occupancy tenant under section 40 or 41;

||[(g) * * * * *]

*This sub-section was substituted by the Adaptation Order.

†Clause (a) was omitted by section 3 of the Central Provinces Tenancy (Amendment) Act, 1928 (C. P. Act I of 1928).

‡Inserted by section 53 (i) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

§Omitted by section 53 (ii) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

¶Inserted by section 53 (iii) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

||Omitted by section 53 (iv) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

- (h) the regulation of the procedure of Revenue Officers in fixing the rent of ex-proprietary tenants of sir-land [and demarcating such land]* under section 51;
- (i) the regulation of matters connected with improvements under section 53;
- †[(i-1) the prescription of particulars to be entered in an application made under sub-section (1) of section 58-B;];
- (j) the instalments in which and the dates on which rents shall fall due under section 61;
- ‡[(j) the regulation of the alteration of rent under section 63-A;];
- (k) the regulation of the progressive enhancement of rents under section 66;
- (l) the regulation of the procedure of the Settlement Officer in declaring a tenant entitled to hold at a rent lower than the assessed rent under section 67;
- (m) the prescription of the form of, and the procedure to be followed in making entries in, tenants' receipt books under section 76, sub-section (2);
- (n) the prescription of registers for registering suits between landlords and tenants under section 78;
- (o) the prescription of the form of, and particulars to be entered in, plaints in suits for arrears under section 79;
- (p) the regulation of the disposal of claims of persons who have taken up waste land to be recorded as tenants under section 87;
- (q) the regulation of the partition of holdings under section 93;
- (r) the regulation of the procedure in making partition of a holding which consists partly of sir-land under section 94;
- §[(r-1) the guidance of Revenue Officers with regard to applications for purchase of right in trees under sub-section (2) of section 95];
- (s) the regulation of the acquisition of a tenant's land by the landlord, or of the reinstatement of the tenant when the conditions are broken by the landlord, under section 98;

*Inserted by section 53 (v) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†Inserted by section 53 (vi) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

‡This clause was inserted by section 7 of the Central Provinces Tenancy (Amendment) Act, 1932 (C. P. Act II of 1932).

§Inserted by section 53 (vii) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

(t) the regulation of the disposal of claims to hold land rent-free or at a reduced rent, under section 99;

(u) generally, for the guidance of Revenue Officers and all other persons in all proceedings under this Act.

(3) The power to make rules under sub-section (2), clauses (c), (e), (f), (g), (i), (p), (s) and (t), shall be subject to the condition of the rules being made after previous publication.

(4) No rule made under this Act shall take effect until it has been published in the Official Gazette.

Extent of savings.

110. All rules and assessments made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records framed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed, and other things done under any of the enactments hereby repealed shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

Repeals.

111. The enactments mentioned in the First Schedule are repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE

ENACTMENTS REPEALED

(See section 111.)

(1)	(2)	(3)	(4)
Year	No.	Short title	Extent of repeal
<i>Acts of the Governor-General in Council.</i>			
1898	XI	The Central Provinces Tenancy Act	.. The whole.
1899	XXI	The Central Provinces Tenancy (Amendment) Act	The whole.
<i>Acts of the Chief Commissioner of Central Provinces.</i>			
1917	III	The Central Provinces Tenancy (Amendment) Act	The whole.

THE SECOND SCHEDULE

LIMITATION FOR SUITS AND APPLICATIONS

(See section 104.)

Description of suit or application	Period of limitation	Time from which period begins to run
SUITS		
1. For possession of a holding by a person claiming to be a tenant from which he has been dispossessed or excluded from possession by any person.	Three years*..	The date of dispossession or exclusion
2. For arrears of rent payable in cash, whether by enforcement of the charge specified in section [58-A]† or otherwise.	Three years ..	When the arrears became due.
3. For the landlord's share of the produce or its value, when rent is taken by division of the produce or appraisal of the crop.	Six months ..	When the rent instalment on account of the harvest to which the crop belongs fell due.
4. To recover the value of produce appropriated under section 21.	Three months	The date of appropriation.
‡[4-A. For ejection of an occupancy tenant on the ground of his having diverted the land to non-agricultural purposes under section 25 (1).	Three years ..	The date of diversion.]
5. For ejection of a tenant who has been reinstated by the order of a Revenue Officer under section 100.	One year ..	The date of reinstatement.
APPLICATIONS		
§[1. Under sub-section (11) (a) or sub-section (12) (a) read with sub-section (8) or sub-section (9) or sub-section (10) of section 6-A for an application by the landlord to enforce the right of pre-emption.	One year ..	The date on which possession was lost.
1-A. Under sub-section (16) of section 6-A for an application by a tenant to enforce specified performance.	One year ..	When the period specified in sub-section (5) of section 6-A is completed.
1-B. Under sub-section (11) (a) or sub-section (12) (a) read with sub-section (8) or sub-section (9) or sub-section (10) of section 12-A for an application by the landlord to enforce the right of pre-emption.	One year ..	The date on which possession was lost.

*These words were substituted for the words "Two years" by section 3 of the Central Provinces Tenancy (Amendment) Act, 1937 (C. P. Act XII of 1937).

†Substituted by section 54 (1) (a) of Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

‡Inserted by section 54 (1) (b) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

§Inserted by section 54 (2) (a) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

THE SECOND SCHEDULE—*concl'd.*

Description of suit or application	Period of limitation	Time from which period begins to run
APPLICATIONS— <i>concl'd.</i>		
1-C. Under sub-section (16) of section 12-A for an application by a tenant to enforce specified performance.	One year ..	When the period specified in sub-section (5) of section 12-A is completed.]
2. Under section 13 to set aside a transfer by an occupancy tenant.	One year ..	The first day of the agricultural year next after the transfer of possession.
3. Under section 22 for the sale of any produce.	One month ..	The date of service of notice.
4. Under section 36 for reinstatement of a tenant in an abandoned holding.	One year ...	The first day of the agricultural year next after the entry by the landlord.
5. Under section 65 (3) for the restoration of a suit for rent.	Six months ..	The date of publication or order for recovery.
*[5-A. Under section 65 (3-a) for the restoration of an application for rent.	Three months	The date of publication of order for recovery.]
6. Under section 74 for the imposition of a penalty for the levy of anything in excess of the legal rent.	One year† ..	The date of such levy.
7. Under section 77 for the imposition of a penalty for failure to grant a receipt or for the grant of a defective receipt.	‡[One year] ..	The date of such failure or grant.
§[7-A. Under section 88-A for the imposition of a penalty for taking <i>begar</i> by landlord.	One year ..	The date of such <i>begar</i> .]
8. Under section 98 (2) for reinstatement of a tenant whose holding or part thereof has been acquired.	One year ..	The date on which the conditions of acquisition were broken.
9. Under section 100 for reinstatement of a tenant illegally ejected from his holding.	One year ..	The date of ejection.

*Inserted by section 54 (2) (b) of the Central Provinces Tenancy (Amendment) Act, 1939 (XI of 1940).

†These words were substituted for the words "Six months" by section 4 of the Central Provinces Tenancy (Amendment) Act, 1936 (C. P. Act. XXXI of 1936).

‡Substituted by section 3 of the Central Provinces Tenancy (Amendment) Act, 1938 (IV of 1938).

§Inserted by section 3 of the Central Provinces Tenancy (Amendment) Act, 1938 (III of 1938).

CENTRAL PROVINCES AND BERAR ACT
No. VIII OF 1941

THE CENTRAL PROVINCES TENANCY
(AMENDMENT) ACT, 1941

[Received the assent of the Governor on the 10th April 1941; assent first published in the *Central Provinces and Berar Gazette* on the 18th April 1941.]

An Act further to amend the Central Provinces Tenancy Act, 1920

WHEREAS it is expedient further to amend the Central Provinces Tenancy Act, 1920, for the purposes hereinafter appearing;

AND WHEREAS the Governor of the Central Provinces and Berar has assumed to himself under the Proclamation, dated the 10th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under that Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of the Central Provinces and Berar is pleased to make the following Act:—

1. This Act may be cited as the Central Provinces Tenancy (Amendment) Act, 1941.

2. Section 12 of the Central Provinces Tenancy Act, 1920, shall, till the date on which the Central Provinces Tenancy (Amendment) Act, 1939, comes into force, have effect, as if—

(i) in sub-section (3-a) thereof, for the words "by a land mortgage bank established under the Co-operative Societies Act, 1912, or a land mortgage bank established by Government under any other enactment, or shall affect the right of that bank", the words "by a society registered under the Co-operative Societies Act, 1912, or shall affect the right of the society"; and for the words "provided the bank", the words "provided the society" had been substituted;

(ii) in sub-section (3-b) thereof, for the word "bank", the word "society" had been substituted; and

(iii) after sub-section (3-b) thereof, the following sub-section had been inserted, namely:—

"(3-c) Notwithstanding anything contained in sub-section (2), any right in the holding of an occupancy tenant may be sold under an order of a Civil Court or Revenue Officer for the recovery of an advance made to such tenant before the commencement of the Central Provinces Tenancy (Amendment) Act, 1941, by a society registered under the Co-operative Societies Act, 1912."

[Price—One Anna]

Commencement
of sections 4
and 5.

3. The following sections shall take effect from the date on which the Central Provinces Tenancy (Amendment) Act, 1939, comes into force. XI of 1940.

Amendment of
section 12, Act
I of 1920.

4. In section 12 of the Central Provinces Tenancy Act, 1920 (hereinafter referred to as the said Act),— I of 1920

(i) in sub-section (5),—

(a) for the words "by a land mortgage bank established under the Co-operative Societies' Act, 1912, or a land mortgage bank established by Government under any other enactment, or shall affect the right of the bank", the words "by a society registered under the Co-operative Societies Act, 1912, or shall affect the right of the society" shall be substituted; and II of 1912.

(b) for the words "provided the bank", the words "provided the society" shall be substituted.

(ii) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5-a) Notwithstanding anything contained in sub-section (2), any right in the holding of an occupancy tenant may be sold under an order of a Civil Court or Revenue Officer for the recovery of an advance made to such tenant before the commencement of the Central Provinces Tenancy (Amendment) Act, 1941, by a society registered under the Co-operative Societies Act, 1912." VIII of 1941.
II of 1912.

Amendment of
section 12-A,
Act I of 1920.

5. In section 12-A of the said Act,—

(i) for the words, brackets and figures "or the sale of such right under an order in enforcement of a transfer made under sub-section (5) of section 12", the words, brackets and figures "or the sale of such right under an order in enforcement of a transfer made under sub-section (5) or the sale of such right under an order made under sub-section (5-a) of section 12" shall be substituted; and

(ii) in sub-section (10), after the words, brackets and figure "under sub-section (5)", the words, brackets, figure and letter "or under an order made under sub-section (5-a)" shall be inserted.

CENTRAL PROVINCES AND BERAR ACT
No. XIII OF 1945

THE CENTRAL PROVINCES TENANCY (AMENDMENT)
ACT, 1945

[Received the assent of the Governor on the 26th October 1945; assent first published in the *Central Provinces and Berar Gazette* on the 2nd November 1945.]

An Act further to amend the Central Provinces Tenancy
Act, 1920

WHEREAS it is expedient further to amend the Central Provinces Tenancy Act, 1920, for the purpose hereinafter appearing;

AND WHEREAS the Governor of the Central Provinces and Berar has assumed to himself under the Proclamation, dated the 10th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of the Central Provinces and Berar is pleased to make the following Act:—

1. This Act may be cited as the Central Provinces Tenancy (Amendment) Act, 1945.

Short title.

2. After section 41 of the Central Provinces Tenancy Act, 1920, the following section shall be inserted, namely:—

Insertion of section 41-A in Act I of 1920.

“41-A. (1) For the purposes of Explanations to sections 40 and 41, any period spent by a tenant, malik-makbuza, or proprietor, as the case may be, in the Military, Naval or Air Service of the Crown or, in such service connected with the prosecution of the war as the Provincial Government may, by notification, declare, shall not be taken into account in computing the period of seven years referred to in those Explanations.

Exemption from the operation of sections 40 and 41.

(2) Any such tenant, malik-makbuza or proprietor entering or leaving the said service at any time during the agricultural year shall, for the purpose of sub-section (1), be deemed to have spent the whole of such agricultural year in the said service.

(3) In the case of land held by a joint Hindu family the provisions of this section shall apply if any member of the family who was actively taking part in the cultivation is in the said service.”

[Price—Six Pies]

CENTRAL PROVINCES AND BERAR ACT
No. VII OF 1946

THE CENTRAL PROVINCES TENANCY
(AMENDMENT) ACT, 1946

[Received the assent of the Governor on the 20th April 1946; assent first published in the *Central Provinces and Berar Gazette Extraordinary* on the 20th April 1946.]

An Act further to amend the Central Provinces
Tenancy Act, 1920

WHEREAS it is expedient further to amend the Central Provinces Tenancy Act, 1920, for the purpose hereinafter appearing;

AND WHEREAS the Governor of the Central Provinces and Berar has assumed to himself under the Proclamation, dated the 10th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of the Central Provinces and Berar is pleased to make the following Act:—

1. (1) This Act may be cited as the Central Provinces Tenancy (Amendment) Act, 1946. Short title and commencement.

(2) It shall come into force on such date as the Provincial Government may, by notification, appoint in this behalf.

2. In sub-section (1) of section 58-F of the Central Provinces Tenancy Act, 1920, in the second description, the word "and" shall be omitted, and after the third description, the following description shall be inserted, namely:— Amendment of section 58-F, Act I of 1920.

XII of
1934.

"fourthly, to the payment of a loan granted under the Agriculturists' Loans Act, 1884, if such holding or the part thereof which has been sold was hypothecated as security for such loan."

[Price—Six Pies]