



Government of Bombay  
Legal Department

# The Bombay Code

Volume VI

containing

The unrepealed Acts of the Bombay Legislative Council  
from 1931 to 1936 and of the Bombay Legislature  
for 1937: and a Chronological Table of Acts  
reproduced in the Volume with an index

*FIFTH EDITION*

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## PREFACE

The present fifth edition of the Bombay Code is based partly on the last edition edited and published by the Legislative Department of the Government of India and partly on the last edition of the supplementary volumes (containing Bombay Acts from 1923-1934), edited and published by the Legal Department of the Government of Bombay. It contains, with some exceptions, the unrepealed Bombay Regulations, the Local Acts of the Governor General in Council in force in the Province of Bombay, the Acts passed by the Governor of Bombay in Council, the Bombay Legislative Council and the Bombay Legislature.

2. The exceptions referred to above are—

(a) certain enactments which are now only in force within narrow limits and which were excluded from the last edition of the Code ;

(b) the following Acts, which are of a purely personal character :—

Act XVIII of 1848 (Nawab of Surat).

Act VI of 1893 (Sir Dinshah Manockjee Petit).

Act XIX of 1911 (Sir Cowasjee Jehangir Baronetcy).

Act IV of 1913 (Sir Currimbhoy Ebrahim Baronetcy).

Act II of 1915 (Sir Sassoon Jacob David Baronetcy).

Act X of 1915 (Sir Jamssetjee Jeejeebhoy Baronetcy).

Act XXV of 1917 (Sir Currimbhoy Ebrahim Baronetcy Amendment).

Bom. Act VIII of 1924 (Sir Chinubhai Madhavlal Ranchhodlal Baronetcy).

Bom. Act XVI of 1936 (Sir Chinubhai Madhavlal Ranchhodlal Baronetcy Amendment).

3. This edition of the Code consists of six volumes, and like the earlier edition is divided into parts according to the class of enactments in each part. Volume I contains Part I, which reproduces unrepealed Bombay Regulations published in the last edition ; and Part II which consists of unrepealed Local Acts of the Governor General in Council, now in force in the Province of Bombay. The other five volumes contain Parts III and IV which reproduce the Acts passed by the

local Council and the Bombay Legislature, respectively, from 1862 onwards. Volume II consists of the Acts passed during the years 1862 to 1887, Volume III those passed from 1888 to 1897, Volume IV those passed from 1898 to 1922, Volume V those passed from 1923 to 1930 and Volume VI those passed from 1931 to 1937.

4. Since its last publication in 1922 a large number of amending acts and new enactments have been passed by the Bombay Legislative Council. The Government of India (Adaptation of Indian Laws) Order, 1937, passed under section 293 of the Government of India Act, 1935, has made considerable changes in almost all the Acts and Regulations enacted prior to 1st April 1937. In publishing this edition, all Acts purely of an amending nature modifying the main Bombay Acts have been omitted except those which have modified the Acts of the Central Government.

5. In order to facilitate ready reference to all the changes carried out in any Act, a table has been inserted at the commencement of each Act setting out the number and years of all amending and repealing Acts. A chronological table of Acts and a short index are also appended to each of the volumes. The changes made by the Government of India (Adaptation of Indian Laws) Order, 1937, are referred to in the foot-notes as being made by the Adaptation of Indian Laws Order in Council.

All Acts are printed as modified up to 31st December 1937.

LEGAL DEPARTMENT :

28th January 1938.

### III—CHRONOLOGICAL TABLE OF THE UNREPEALED ACTS OF THE BOMBAY LEGISLATIVE COUNCIL.

(1931 TO 1936)

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1931	V	The Cattle-trespass (Bombay Amendment) Act, 1931.	....	1
1931	VII	The Indian Motor Vehicles (Bombay Amendment) Act, 1931.	....	3
1932	I	The Tobacco Duty (Town of Bombay) Amendment Act, 1932.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	5
1932	II	The Bombay Finance Act, 1932.	Amended by Bom. Act 6 of 1932 ; Amended by Bom. Act 1 of 1933 ; Amended by Bom. Act 1 of 1934 ; Amended by Bom. Act 1 of 1935 ; Amended by Bom. Act 3 of 1936 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	7
1932	IV	The Bombay Cotton Con- tracts Act, 1932.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	35
1932	IX	The Provincial Small Cause Courts (Bombay Amendment) Act, 1932.	....	45
1932	XV	The Bombay Weights and Measures Act, 1932.	Amended by Bom. Act 9 of 1935 ; Amended by Bom. Act 33 of 1935 ; Amended by Bom. Act 22 of 1936 ; Amended by Bom. Act 5 of 1937 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	47
1932	XVI	The Bombay Special (Emergency) Powers Act, 1932.	Supplemented by Act 9 of 1933 ; Amended by Bom. Act 27 of 1935 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	69

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1933	II	The Bombay (District) Tobacco Act, 1933.	Amended by Bom. Act 2 of 1935; Amended by Bom. Act 26 of 1935; Adapted and modified by the Adaptation of Indian Laws Order in Council.	81
X 1933	III	The Prevention of Cruelty to Animals (Bombay Amendment) Act, 1933.	....	93
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X 1933	VI	The Bombay Village Panchayats Act, 1933.	Amended by Bom. Act 34 of 1935; Amended by Bom. Act 24 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council.	97
1933	X	The Bombay (Emergency Powers) Whipping Act, 1933.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	143
1933	XIII	The City of Bombay Municipal (Amendment) Act, 1933.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	147
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1933	XXII	The Bombay Live-Stock Improvement Act, 1933.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	161
1934	IX	The Bombay Trade Disputes Conciliation Act, 1934.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	171
1934	X	The Bombay Devadasis Protection Act, 1934.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	183
1934	XI	The Opium (Bombay Amendment) Act, 1934.	....	189
1934	IV	The Identification of Prisoners (Bombay Amendment) Act, 1935.	....	191

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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page
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1935	VII	The Bombay Nurses, Midwives and Health Visitors Registration Act, 1935.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	195
1935	XIV	The Indian Motor Vehicles (Bombay Amendment) Act, 1935.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	207
1935	XVIII	The Mussalman Wakf (Bombay Amendment) Act, 1935.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	211
1935	XXI	The Identification of Prisoners (Bombay Second Amendment) Act, 1935.	....	225
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1935	XXIX	The Bombay Criminal Procedure (Elections Offences) Amendment Act, 1935.	....	241
1935	XXXIV	The Bombay Motor Vehicles Tax Act, 1935.	Amended by Bom. Act 24 of 1936; Adapted and modified by the Adaptation of Indian Laws Order in Council.	243
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1936	XIX	The Bombay Famine Relief Fund Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	279
1936	XX	The Bombay Opium Smoking Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	283
1936	XXIII	The Parsi Public Trusts Registration Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	295

**IV—CHRONOLOGICAL TABLE OF THE UNREPEALED ACTS  
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1937	I	The Bombay Legislature Members (Removal of Disqualifications) Act, 1937.	....	309
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**BOMBAY ACT No. V OF 1931.<sup>1</sup>**

[THE CATTLE-TRESPASS (BOMBAY AMENDMENT) ACT, 1931.]

[23rd May, 1931.]

**An Act further to amend the Cattle-trespass Act, 1871, in its application to the Presidency of Bombay.**

WHEREAS it is expedient further to amend the <sup>2</sup>Cattle-trespass Act, 1871, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Cattle-trespass (Bombay Amendment) Act, 1931. Short title.

2. In the proviso to section 14 of the <sup>2</sup>Cattle-trespass Act, 1871, for the words "Magistrate of the District" the words "officer authorised to sell them by public auction" shall be substituted. Amendment of section 14 of Act 1 of 1871.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1931, Part V, p. 43, and Proceedings in Council, see *Bombay Legislative Council Debates*, 1931, Vol. XXX.

<sup>2</sup> Central Acts.



BOMBAY ACT No. VII OF 1931.<sup>1</sup>

[THE INDIAN MOTOR VEHICLES (BOMBAY AMENDMENT) ACT, 1931.]

[23rd May, 1931]

An Act further to amend the Indian Motor Vehicles Act, 1914, in its application to the Presidency of Bombay.

VIII WHEREAS it is expedient further to amend the <sup>2</sup>Indian Motor Vehicles Act, 1914, in its application to the Presidency of Bombay in of manner hereinafter appearing; and whereas the previous sanction of 1914. the Governor General required by sub-section (3) of section 80A of the 5 & 6 Government of India Act has been obtained for the passing of this Act; Geo.V, It is hereby enacted as follows:—  
c. 61.

1. This Act may be called the Indian Motor Vehicles (Bombay Short title. Amendment) Act, 1931.

VIII 2. After section 18 of the <sup>2</sup>Indian Motor Vehicles Act, 1914, the New section 18A of Act of 1914 following section shall be inserted, namely:—

“18A. (1) Notwithstanding anything contained in sub-section (2) Cancellation and suspension of driver's permit and disqualification for obtaining it. of section 18, where the offence of which a person is convicted is one against rules regulating the use of motor vehicles let or plied for hire in public places, the Court by which the person is convicted of such offence shall, if such person holds a permit to drive any such vehicle issued under the said rules, cause particulars of the conviction to be endorsed on such permit instead of on the licence held by such person, under the Act, and may, in its discretion, cancel or suspend such permit or declare such person disqualified from obtaining a permit under the said rules for a period not exceeding one year from the date of such conviction.

(2) In any such event as is referred to in sub-section (1) the provisions of sub-sections (3) to (7) of section 18 shall, so far as may be, apply to such permits and the holders thereof as if such permits were licences under this Act and the holders of such permits were holders of such licences, and as if

(a) in sub-section (3) for the words, figure and brackets ‘licence under this Act is accused of any offence mentioned in sub-section (2); may suspend such licence’ the words ‘permit issued under rules regulating the use of motor-vehicles let or plied for hire in public places is accused of any offence against the said rules may suspend such permit’ were substituted, and

(b) in sub-sections (4), (5), (6) and (7) for the word ‘licence’ wherever it occurs the word ‘permit’ were substituted.”

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1931, Part V, p. 38, and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1931, Vol. XXX.

<sup>2</sup> Central Acts.

## BOMBAY ACT No. I OF 1932.<sup>1</sup>

[THE TOBACCO DUTY (TOWN OF BOMBAY) AMENDMENT ACT, 1932.]

[30th March, 1932]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

### An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857.

1V of 1857. WHEREAS it is expedient to amend the Tobacco Duty (Town of Bombay) Act, 1857, for the purpose hereinafter appearing; And whereas the previous sanction of the Governor required by section 80C of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6  
Geo.V,  
c. 61.

1. This Act may be called the Tobacco Duty (Town of Bombay) Short title. Amendment Act, 1932.

2. This Act shall come into force on the 19th day of March 1932 and shall remain in force for 10 years in the first instance, but <sup>2</sup>Government may extend it for a further period not exceeding 10 years by a notification in the <sup>3</sup>[Official Gazette].

Commence-  
ment and  
duration.

1V of 1857. 3 and 4. [Amendments of sections 2, 8 and 9 of Act 4 of 1857—The amendments have been incorporated in the principal Act.]

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1932, Part V, p. 38; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1932, Vol. XXXIV.

<sup>2</sup> "Government" means so long as the Municipal duty is, by virtue of section 143 (2) of the Government of India Act, 1935, levied and collected by the Provincial Government, that Government and thereafter the Central Government.

<sup>3</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

# THE BOMBAY FINANCE ACT, 1932.

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BOMBAY ACT No. II OF 1932.<sup>1</sup>

[THE BOMBAY FINANCE ACT, 1932.]

[30th March, 1932]

Amended by Bom. Act 6 of 1932.

" " " 1 of 1933.

" " " 1 of 1934.

" " " 1 of 1935.

" " " 3 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the levy of a duty on consumption of electrical energy for the purpose of lights and fans in the Presidency of Bombay and to amend the Court-fees Act, 1870, and the Indian Stamp Act, 1899, in their application to the said Presidency.

WHEREAS it is expedient to provide for the levy of a duty on consumption of electrical energy for the purpose of lights and fans in the Presidency of Bombay and to amend the Court-fees Act, 1870, and the Indian Stamp Act, 1899, in their application to the said Presidency for the purposes hereinafter appearing; and whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

## PART I.

*Preliminary.*

1. This Act may be called the Bombay Finance Act, 1932. Short title.
2. (1) Except where it is otherwise provided in this Act, this Act extends to the whole of the Presidency of Bombay. Extent and commencement and duration.
- (2) It shall come into force on the 1st day of April 1932.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1932, Pt. V, pp. 30-34; for Report of the Select Committee, see *ibid.*, 1932, Part V, pp. 40-47; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1932, Vol. XXXIV.

<sup>2</sup> Central Acts.

(3) This section and sections 3 to 15 containing Parts II, III and IV shall remain in operation for <sup>1</sup>[six] years from the date on which this Act comes into force.

## PART II.

*Electricity Duty.*

**Extent of Part II.** 3. This Part extends to the whole of the Presidency of Bombay  
\* \* \*

**Definitions.** 4. In this Part, unless there is anything repugnant in the subject or context—

(a) “consumer” means any person who is supplied with energy by a licence;

(b) “energy” means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message;

(c) “licensee” means any person licensed under Part II of the Indian Electricity Act, 1910, to supply energy and includes any person who has obtained the sanction of the [Provincial Government] under section 28 of that Act;

(d) “prescribed” means prescribed by rules made under this Part.

**Duty on units of energy consumed.**

5. There shall be levied and paid to the Government of Bombay, on the units of energy consumed for the purpose of lights and fans excluding losses of energy in transmission and transformation, a duty (hereinafter referred to as “electricity duty”) at the rates specified in the first schedule to this Part:

Provided that electricity duty shall not be leviable on the units of energy consumed <sup>1</sup>[by any Government or the Crown Representative] or by or in respect of any local authority, railway administration, tramway company, industrial undertaking, institution or class of persons specified in the second schedule to this Part, except to the extent specified therein.

**Payment of electricity duty.**

6. (1) Every licensee shall collect and pay to the Government, at the time and in the manner prescribed, the proper electricity duty payable under this Part on the units of energy supplied by him to consumers. The duty so payable shall be a first charge on the amount recoverable by the licensee for the energy supplied by him and shall be a debt due by him to the Government:

<sup>1</sup> The word “six” was substituted for the word “four” by Bom. 3 of 1936, s. 2.

<sup>2</sup> The words “except Aden” were omitted by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> Central Acts.

<sup>4</sup> The words “Provincial Government” were substituted for the words “Local Government” by the Adaptation of Indian Laws Order in Council.

<sup>5</sup> The words “by any Government or the Crown Representative” were substituted for the words “by Government” by *ibid.*

Provided that where the licensee has been unable to recover his dues or the energy supplied by him, he shall not be liable to pay the duty in respect of the energy so supplied.

(2) Where any person fails or neglects to pay, at the time and in the manner prescribed, the amount of electricity duty due from him, the licensee may, without prejudice to the right of Government to recover the amount under section 9, and after giving not less than seven clear days' notice in writing to such person, cut off the supply of energy to such person; and he may, for that purpose, exercise the power conferred on a licensee by sub-section (1) of section 24 of the <sup>1</sup>Indian Electricity Act, 1910, for recovery of any charge or sum due in respect of energy supplied by him.

(3) The licensee shall be entitled, for his cost of collection of the duty, to a rebate of such percentage as may be determined by the Government on the amount of the duty collected and paid by him under sub-section (1).

7. Every licensee shall, unless he is exempt from payment of electricity duty under the proviso to section 5, keep books of account in the prescribed form and submit to the Government or to the prescribed officer returns in such form and at such times as may be prescribed, showing the units of energy supplied by him to each consumer or consumed by him as the case may be, and the amount of the duty payable thereon and recovered or paid by him under section 6.

8. The Government may, by notification in the <sup>2</sup>[Official Gazette], appoint inspecting officers to inspect the prescribed books of accounts of licensees. Such officers shall perform such duties and exercise such powers as may be prescribed for the purpose of carrying into effect the provisions of this Part and the rules made thereunder.

9. Any sum due on account of electricity duty, if not paid at the time and in the manner prescribed, shall be recoverable, at the <sup>3</sup>[option] of Government, either from the consumer, or, subject to the proviso to section 6 (1), from the licensee, and either through a civil court or as an arrear of land revenue.

10. If any person liable under section 7 to keep books of account or to submit returns fails to keep or submit the same in the manner prescribed or obstructs an inspector in the exercise of his powers and duties under this Part and the rules thereunder or contravenes any rule made under section 11, he shall, on conviction, be punishable with fine which may extend to fifty rupees.

<sup>1</sup> Central Acts.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The word "option" was substituted for the word "discretion" by *ibid.*

Power to  
make rules.

11. (1) The Government may make <sup>1</sup>rules not inconsistent with the provisions of this Part, for the purpose of carrying into effect the provisions of this Part.

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

(a) prescribe the time and manner of payment of the electricity duty under section 6 ;

(b) prescribe the form of the books of account to be kept and the times at which, the form in which and the officers to whom the returns required by section 7 shall be submitted ;

(c) prescribe the powers and duties of inspecting officers ; and

(d) provide for any other matter for which there is no provision or insufficient provision in this Part and for which provision is, in the opinion of the Government, necessary for giving effect to the provisions of this Part.

(3) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid <sup>2</sup>[before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified <sup>3</sup>[by a Resolution in which both Chambers concur]. If any rule is modified, the Government may accept the modification and re-issue the rule accordingly or may rescind the rule.

## FIRST SCHEDULE.

(See section 5.)

### *For lights and fans.*

- (a) In respect of all premises not falling under clause (b) and not exempted under the proviso to section 5 and the Second Schedule. Six pies for each unit of energy consumed.
- (b) In respect of all premises not exempted under the proviso to section 5 and the

<sup>1</sup> For Rules made under this section, see Government Notification in the R. D., No. 8336-23, dated 14th September 1932, published in the *Bombay Government Gazette*, 1932, Pt. I, pp. 2154-57. See also Bombay Local Rules and Orders, Vol. IV.

<sup>2</sup> The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "by a Resolution in which both Chambers concur" were inserted by *ibid.*



Second Schedule, when flat rates are charged by the licensee, for—	Annas per mensem.
every lamp of less than 30 watts ..	2
every lamp of 30 watts or more but less than 40 .. .. .	3
every lamp of 40 watts or more but less than 60 .. .. .	4
every lamp of 60 watts or more but not exceeding 100 .. .. .	6
and for every additional 15 watts or fraction thereof in excess of 100 in any lamp .. .. .	1

*Explanation.*—In calculating the rate of duty under clause (b) every 10 watts shall be presumed to have consumed one and half units during a month.

## SECOND SCHEDULE.

see section 5, proviso.)

### *Exemptions.*

(1) [The Crown], save in respect of premises used for residential purposes ;

X of §10. (2) a railway administration as defined in clause (6) of section 3 of the Indian Railways Act, 1890, save in respect of premises used for residential purposes ;

(3) a local authority, save in respect of premises used for residential purposes ;

(4) a tramway company, save in respect of premises used for residential and office purposes ;

(5) an industrial undertaking, save in respect of premises used for residential and office purposes ;

(6) a hospital or dispensary which is not maintained for private gain ;

(7) any consumer using not more than twelve units in any one month.

LXV f 1934. ¶*Explanation (1).*—For the purposes of exemption (5), premises which are used wholly or principally for carrying on a manufacturing process within the meaning of section 2 of the Factories Act, 1934, shall be deemed to be used for an “ industrial undertaking ”.]

<sup>1</sup> The words “ The Crown ” were substituted for the word “ Government ” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> Central Acts.

<sup>3</sup> This Explanation was substituted for the original Explanation by Bom. 3 of 1936, s. 3.

*Explanation (2).*—For the purpose of exemption (7)—

(a) “Consumer” shall be deemed to include a landlord or a person who shall supply electrical energy to one or two roomed tenements in any one building in respect of any one of which tenements not more than twelve units of energy shall have been consumed during any one month ; and

(b) whether more than twelve units shall have been used by or in respect of any one tenement during any one month shall be determined by dividing the number of units used by the number of tenements in that building.

### PART III.

#### *Court-fees.*

Amendment of section 7 of VII of 1870. **12.** In section 7 of the <sup>1</sup>Court-fees Act, 1870, in its application to <sup>VII of 1870.</sup> the Presidency of Bombay, in this Part referred to as the said Act,—

(a) to clause (d) of paragraph (iv) the words “or other consequential relief” shall be added ;

(b) after the word “appeal” in paragraph (iv) the words “with a minimum fee of rupees five in the case of suits falling under clause (c)” shall be inserted ; and

(c) in clauses (1), (2) and (3) of the proviso to paragraph (v) for the words “five”, “ten” and “ten” the words “seven and half”, “fifteen” and “fifteen” shall, respectively, be substituted.

Amendment of Schedule I to VII of 1870. **13.** For articles 1, 8, 11, 12 and 12-A of, and the Table of rates of *ad valorem* fees in Schedule I to the said Act the following shall be substituted, namely :—

### SCHEDULE I.

#### *Ad Valorem Fees.*

Number.	—	Proper fee.
1. Plaint, written statement pleading a set off or counter claim or memorandum of appeal (not otherwise provided for in this Act) or of cross-objection presented to any Civil or Revenue Court except those mentioned in section 3.	When the amount or value of the subject-matter in dispute does not exceed five rupees.	Six annas.
	When such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees.	Six annas.

<sup>1</sup> Central Acts.

Number.	—	Proper fee.
	When such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees.	Twelve annas.
	When such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees.	Five rupees.
	When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees.	Fifteen rupees.
	When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees.	Twenty-two rupees and eight annas.
	When such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees.	Thirty rupees.
	When such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees.	Thirty rupees.
	When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees :	Thirty rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be ten thousand rupees.	

Number.	—	Proper fee.
8. Copy of any document liable to stamp-duty under the <sup>1</sup> Indian Stamp Act, 1899, when left by any party to a suit or proceeding in place of the original withdrawn.	(a) When the stamp-duty chargeable on the original does not exceed one rupee. (b) In any other case ..	The amount of the duty chargeable on the original. One rupee. <span style="float: right;">II of 1899.</span>
11. Probate of a will or letters of administration with or without will annexed.	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees, on the part of the amount or value in excess of one thousand rupees, up to ten thousand rupees.	Two per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds ten thousand rupees, on the part of the amount or value in excess of ten thousand rupees, up to fifty thousand rupees.	Three per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds fifty thousand rupees, on the part of the amount or value in excess of fifty thousand rupees, up to one lakh of rupees.	Four per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one lakh of rupees, on the part of the amount or value in excess of one lakh of rupees, up to two lakhs of rupees.	Four and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two lakhs of rupees, on the part of the amount or value in excess of two lakhs of rupees, up to two lakhs and fifty thousand rupees.	Five per centum.

<sup>1</sup> Central Act.

Number.	—	Proper fee.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two lakhs and fifty thousand rupees, on the part of the amount or value in excess of two lakhs and fifty thousand rupees, up to three lakhs of rupees.	Five and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds three lakhs of rupees, on the part of the amount or value in excess of three lakhs of rupees, up to four lakhs of rupees.	Six per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds four lakhs of rupees, on the part of the amount or value in excess of four lakhs of rupees, up to five lakhs of rupees.	Six and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds five lakhs of rupees, on the part of the amount or value in excess of five lakhs of rupees :	Seven per centum.
	Provided that when, after the grant of a certificate under Part X of the <sup>1</sup> Indian Succession Act, 1925, or under Bombay Regulation VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.	

<sup>1</sup>Central Acts.

Number.	—	Proper fee.
12 Certificate under Part X of the Indian Succession Act, 1925.	....	<p>The fee leviable in the case of a probate (article 11) XXX on the amount or value of 10<sup>2</sup> of any debt or security specified in the certificate under section 374 of the Act, and one and a half times this fee on the amount or value of any debt or security to which the certificate is extended under section 376 of the Act.</p> <p><i>Note.</i>—(1) The amount of a debt is its amount, including interest on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.</p> <p>(2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act; and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.</p>
12.A. Certificate under Bombay Regulation VIII of 1927.	....	<p>The fee leviable in the case of a probate (article 11) on the amount or value of the property in respect of which the certificate is granted.</p>

Table of rates of ad valorem fees leviable on the institution of suits.

When the amount or value of the subject-matter exceeds—			But does not exceed—	Proper fee.	When the amount or value of the subject-matter exceeds—			But does not exceed—	Proper fee.
Rs.	Rs.	Rs. a.	Rs.	Rs.	Rs.	Rs.	Rs. a.	Rs.	Rs. a.
....	5	0 6	420	430	32 4				
5	10	0 12	430	440	33 0				
10	15	1 2	440	450	33 12				
15	20	1 8	450	460	34 8				
20	25	1 14	460	470	35 4				
25	30	2 4	470	480	36 0				
30	35	2 10	480	490	36 12				
35	40	3 0	490	500	37 8				
40	45	3 6	500	510	38 4				
45	50	3 12	510	520	39 0				
50	55	4 2	520	530	39 12				
55	60	4 8	530	540	40 8				
60	65	4 14	540	550	41 4				
65	70	5 4	550	560	42 0				
70	75	5 10	560	570	42 12				
75	80	6 0	570	580	43 8				
80	85	6 6	580	590	44 4				
85	90	6 12	590	600	45 0				
90	95	7 2	600	610	45 12				
95	100	7 8	610	620	46 8				
100	110	8 4	620	630	47 4				
110	120	9 0	630	640	48 0				
120	130	9 12	640	650	48 12				
130	140	10 8	650	660	49 8				
140	150	11 4	660	670	50 4				
150	160	12 0	670	680	51 0				
160	170	12 12	680	690	51 12				
170	180	13 8	690	700	52 8				
180	190	14 4	700	710	53 4				
190	200	15 0	710	720	54 0				
200	210	15 12	720	730	54 12				
210	220	16 8	730	740	55 8				
220	230	17 4	740	750	56 4				
230	240	18 0	750	760	57 0				
240	250	18 12	760	770	57 12				
250	260	19 8	770	780	58 8				
260	270	20 4	780	790	59 4				
270	280	21 0	790	800	60 0				
280	290	21 12	800	810	60 12				
290	300	22 8	810	820	61 8				
300	310	23 4	820	830	62 4				
310	320	24 0	830	840	63 0				
320	330	24 12	840	850	63 12				
330	340	25 8	850	860	64 8				
340	350	26 4	860	870	65 4				
350	360	27 0	870	880	66 0				
360	370	27 12	880	890	66 12				
370	380	28 8	890	900	67 8				
380	390	29 4	900	910	68 4				
390	400	30 0	910	920	69 0				
400	410	30 12	920	930	69 12				
410	420	31 8	930	940	70 8				

When the amount or value of the subject-matter exceeds—			When the amount or value of the subject-matter exceeds—		
Rs.	But does not exceed—	Proper fee.	Rs.	But does not exceed—	Proper fee.
Rs.	Rs.	Rs. a.	Rs.	Rs.	Rs. a.
940	950	71 4	6,500	6,750	380 0
950	960	72 0	6,750	7,000	395 0
960	970	72 12	7,000	7,250	410 0
970	980	73 8	7,250	7,500	425 0
980	990	74 4	7,500	7,750	440 0
990	1,000	75 0	7,750	8,000	455 0
1,000	1,100	80 0	8,000	8,250	470 0
1,100	1,200	85 0	8,250	8,500	485 0
1,200	1,300	90 0	8,500	8,750	500 0
1,300	1,400	95 0	8,750	9,000	515 0
1,400	1,500	100 0	9,000	9,250	530 0
1,500	1,600	105 0	9,250	9,500	545 0
1,600	1,700	110 0	9,500	9,750	560 0
1,700	1,800	115 0	9,750	10,000	575 0
1,800	1,900	120 0	10,000	10,500	597 8
1,900	2,000	125 0	10,500	11,000	620 0
2,000	2,100	130 0	11,000	11,500	642 8
2,100	2,200	135 0	11,500	12,000	665 0
2,200	2,300	140 0	12,000	12,500	687 8
2,300	2,400	145 0	12,500	13,000	710 0
2,400	2,500	150 0	13,000	13,500	732 8
2,500	2,600	155 0	13,500	14,000	755 0
2,600	2,700	160 0	14,000	14,500	777 8
2,700	2,800	165 0	14,500	15,000	800 0
2,800	2,900	170 0	15,000	15,500	822 8
2,900	3,000	175 0	15,500	16,000	845 0
3,000	3,100	180 0	16,000	16,500	867 8
3,100	3,200	185 0	16,500	17,000	890 0
3,200	3,300	190 0	17,000	17,500	912 8
3,300	3,400	195 0	17,500	18,000	935 0
3,400	3,500	200 0	18,000	18,500	957 8
3,500	3,600	205 0	18,500	19,000	980 0
3,600	3,700	210 0	19,000	19,500	1,002 8
3,700	3,800	215 0	19,500	20,000	1,025 0
3,800	3,900	220 0	20,000	21,000	1,055 0
3,900	4,000	225 0	21,000	22,000	1,085 0
4,000	4,100	230 0	22,000	23,000	1,115 0
4,100	4,200	235 0	23,000	24,000	1,145 0
4,200	4,300	240 0	24,000	25,000	1,175 0
4,300	4,400	245 0	25,000	26,000	1,205 0
4,400	4,500	250 0	26,000	27,000	1,235 0
4,500	4,600	255 0	27,000	28,000	1,265 0
4,600	4,700	260 0	28,000	29,000	1,295 0
4,700	4,800	265 0	29,000	30,000	1,325 0
4,800	4,900	270 0	30,000	32,000	1,355 0
4,900	5,000	275 0	32,000	34,000	1,385 0
5,000	5,250	290 0	34,000	36,000	1,415 0
5,250	5,500	305 0	36,000	38,000	1,445 0
5,500	5,750	320 0	38,000	40,000	1,475 0
5,750	6,000	335 0	40,000	42,000	1,505 0
6,000	6,250	350 0	42,000	44,000	1,535 0
6,250	6,500	365 0	44,000	46,000	1,565 0
			46,000	48,000	1,595 0
			48,000	50,000	1,625 0



and the fee increases at the rate of thirty rupees for every five thousand rupees, or part thereof, up to a maximum of ten thousand rupees, for example—

Rs.	Rs. a.	Rs.	Rs. a.
1,00,000	1,925 0	9,00,000	6,725 0
2,00,000	2,525 0	10,00,000	7,325 0
3,00,000	3,125 0	11,00,000	7,925 0
4,00,000	3,725 0	12,00,000	8,525 0
5,00,000	4,325 0	13,00,000	9,125 0
6,00,000	4,925 0	14,00,000	9,725 0
7,00,000	5,525 0	15,00,000	10,000 0
8,00,000	6,125 0		

14. For Articles 1, 6, 7, 12, 14, 17, 18, 19, 20 and 21 of Schedule II Amendment of Schedule II to VII of 1870. to the said Act the following shall be substituted, namely :—

### SCHEDULE II.

#### *Fired Fees.*

Number.	---	Proper fee.
1. Application or petition.	(a) When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings: or when presented to any officer of land-revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject matter of the application or petition relates exclusively to such engagement: or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement: or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Court of Small Causes constituted under the Provincial Small Causes Courts Act, 1887, or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the	Two annas.

Number.		Proper fee.
	<p>subject-matter is less than fifty rupees, not being an application for assistance under section 86 of the Bombay Land Revenue Code, 1879 ;</p> <p>or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or office.</p>	<p>Bom. V of 1879.</p>
	<p>(aa) When presented to a Collector or other officer of revenue for assistance under section 86 of the Bombay Land Revenue Code, 1879.</p>	<p>Four annas.</p> <p>Bom. V of 1879.</p>
	<p>(b) When containing a complaint or charge of any offence other than an offence for which police officers may, under the Criminal Procedure Code, 1898, arrest without warrant, and presented to any Criminal Court :</p>	<p>Eight annas.</p> <p>V of 1898.</p>
	<p>or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any Revenue-officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity and not otherwise provided for by this Act ;</p> <p>or to deposit in Court revenue or rent :</p> <p>or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.</p>	
	<p>(c) When presented to a Chief Commissioner or other Chief Controlling Revenue or Executive Authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a division, and not otherwise provided for by this Act.</p>	<p>Two rupees.</p>
	<p>(d) When presented to a High Court.</p>	<p>Four rupees.</p>

	Number.	Proper fee.
V of 1898. V of 1908.	6. Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, and not otherwise provided for by this Act.	.... One rupee.
IV of 1869.	7. Undertaking under section 49 of the <sup>1</sup> Indian Divorce Act, 1869.	.... One rupee.
XXI of 1866.	12. Caveat ..  14. Petition in a suit under the <sup>1</sup> Native Converts' Marriage Dissolution Act, 1866.	When the amount or value of the property involved does not exceed two thousand rupees. Five rupees.  When the amount or value of the property involved exceeds two thousand rupees. Ten rupees.  .... Ten rupees.
	17. Plaint or memorandum of appeal in each of the following suits:—	
	(i) to alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court;	When the amount or value of the property involved does not exceed five hundred rupees. Ten rupees.
	(ii) to alter or cancel any entry in a register of the names of proprietors of revenue paying estates; and	When the amount or value of the property involved exceeds five hundred rupees. Fifteen rupees.
	(iii) to obtain a declaratory decree or order, where no consequential relief is prayed;	.... Fifteen rupees.
	(iv) to set aside alienation;	.... Fifteen rupees.
	(v) to set aside a decree or award;	When the amount or value of the property involved does not exceed five hundred rupees. Ten rupees.

Number.	—	Proper fee.	
	When the amount or value of the property involved exceeds five hundred rupees.	Fifteen rupees.	
(vi) to set aside an adoption; and	....	Fifteen rupees.	
(vii) any other suit where it is not possible to estimate at a money value the subject-matter in dispute, and which is not otherwise provided for by this Act.	....	Fifteen rupees.	
18. Application—			
(a) under paragraph 17 of the Second Schedule to the Code of Civil Procedure, 1908;	....	Ten rupees.	V of 1908.
(b) for probate or letters of administration or for revocation thereof under the <sup>1</sup> Indian Succession Act, 1925;	When the amount or value of the Estate does not exceed two thousand rupees. When it exceeds two thousand rupees, but does not exceed five thousand rupees. When it exceeds five thousand rupees.	Two rupees.	XXXIX of 1925.
(c) for a certificate under Part X of the <sup>1</sup> Indian Succession Act, 1925, or Bombay Regulation VIII of 1827;		Five rupees.	
		Ten rupees.	
(d) for opinion or advice or for discharge from a Trust, or for appointment of new Trustees, under section 34, 72, 73 or 74 of the <sup>1</sup> Indian Trusts Act, 1882;	....	Ten rupees.	II of 1882.
(e) for the winding up of a Company, under section 166 of the <sup>1</sup> Indian Companies Act, 1913;	....	Ten rupees.	VII of 1913.
(f) under rule 58 of Order XXI of the Code of Civil Procedure, 1908; regarding a claim to attached property.	When the amount or value of the property exceeds five hundred rupees.	Ten rupees.	V of 1908.

	Number.	—	Proper fee.
V of 1908.	19. Agreement in writing stating a question for the opinion of the Court under the <sup>1</sup> Code of Civil Procedure, 1908.	....	Twenty rupees.
IV of 1869.	20. Every petition under the <sup>1</sup> Indian Divorce Act, 1869, except petitions under section 44 of that Act and every memorandum of appeal under section 55 of that Act.	....	Thirty rupees.
XV of 1865.	21. Complaint or memorandum of appeal under the <sup>2</sup> Parsi Marriage and Divorce Act, 1865.	....	Thirty rupees.

## PART IV.

*Stamp Duties.*

15. In the <sup>1</sup>Indian Stamp Act, 1899, in its application to the Presidency of Bombay, the following amendments shall be made, namely:—

(1) In sub-section (1) of section 4, and in the proviso to section 6, for the words "one rupee" the words "two rupees" shall be substituted.

(2) In clause (a) of section 11, proviso (c) to section 32, proviso (a) to section 35, sub-section (1) of section 40, section 41, clause (b) of section 69 and the proviso to section 74 before the words "one anna" the words "two annas" shall be inserted.

(3) After section 19, the following section shall be inserted, namely:—

"19A. Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Presidency of Bombay is executed out of the said Presidency and subsequently received in the said Presidency—

(a) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in the Presidency of Bombay less the amount of duty, if any, already paid on such instrument in British India,

(b) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under

<sup>1</sup> Central Acts.

<sup>2</sup> See now the Parsi Marriage and Divorce Act, 1936, General Acts.

clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty, and

(c) the provisions contained in clause (b) of the proviso to sub-section (3) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of British India and first received in British India when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (a) of the said proviso shall not apply thereto."

Amendment  
of section 28  
of II of  
1899.

(4) For the proviso to sub-section (4) of section 28 the following shall be substituted, namely :—

" Provided that notwithstanding anything contained in article 23 of Schedule I the duty on such last mentioned conveyance shall in no case be less than two rupees."

Amendment  
of Schedule I  
of II of  
1899.

(5) In Schedule I—

(a) in column 1 of article 12 clauses (a) and (b) shall be repealed ;

(b) for the entries in column 2 of the said Schedule relating to Articles 2 (b), 3, 4, 8 (b), 9, 12, 14, 15, 18, 20, 22, 23, 24, 25 (b), 26 (b), 29, 30 (b), 39, 40 (c), 41, 42, 44, 46, 48, 50, 51, 54 (a), 55 (b), 57 (b), [62 (a), (b) and (c)] and 65 and shown in column 2 of the Schedule to this Part the entries shown in column 3 of the latter Schedule shall be substituted ;

(c) for articles 5 and 43, the following shall, respectively, be substituted, namely :—

" 5. Agreement or Memorandum of an Agreement—

- |   |   |
|---|---|
| (a) if relating to the sale of a bill of exchange ;   | Four annas.   |
| (aa) if relating to the sale of a Government security ;                                     | Subject to a maximum of twenty rupees, two annas for every Rs. 10,000 or part thereof of the value of the security. |
| (b) if relating to the sale of a share in an incorporated company or other body corporate ; | Two annas for every Rs. 5,000 or part thereof of the value of the share.  |
| (c) if not otherwise provided for ..  | One rupee.  |

*Exemptions.*

Agreement or Memorandum of agreement,—

- (a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under No. 43 ;
- (b) made in the form of tenders to the <sup>2</sup>[Central Government] for or relating to any loan ;
- (c) made under the <sup>2</sup>European Vagrancy Act, 1874, section 17.

IX of  
1874.

<sup>1</sup> The word, figures, letters and brackets " 62 (a), (b) and (c) " were substituted for the figures, letter and brackets " 62 (c) (ii) ", by Bom. I of 1935.

<sup>2</sup> The words " Central Government " were substituted for the words " Government of India " by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> Central Acts.

" 43. Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal,—

- (a) of any goods exceeding in value Four annas.  
twenty rupees;
- (b) of any stock or marketable security exceeding in value twenty rupees, not being a Government security; .. Two annas for every Rs. 5,000 or part thereof of the value of the stock or security.
- (b) of a Government security; .. Subject to a maximum of twenty rupees, two annas for every 10,000 rupees or part thereof of the value of the security.

and

(d) for Articles 7 and 10 the following shall, respectively, be substituted, namely:—

" 7. Appointment in execution of a power, where made by any writing not being a will—

- (a) of trustees .. .. Fifteen rupees.  
(b) of property, moveable or immovable. Thirty rupees.

" 10. Articles of Association of a Company—

- (a) where the company has no share capital or the nominal share capital does not exceed Rs. 2,500; Twenty-five rupees.  
(b) where the nominal share capital exceeds Rs. 2,500 but does not exceed Rs. 1,00,000. Fifty rupees.  
(c) where the nominal share capital exceeds Rs. 1,00,000. One hundred rupees.

*Exemption.*

Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act, 1913.

VII of  
1913.

See also Memorandum of Association of a Company (No. 39).

(e) in clause (a) in column (1) of Article 25 for the words "one rupee" the words "two rupees" shall be substituted; and

(f) in provisoes (a) and (c) in column 2 of Article 45, for the words "eight annas" the words "one rupee" shall be substituted.

SCHEDULE.

[See section 15 (5).]

	1	2	3
2. Administration Bond—			
(b) in any other case	.. Five rupees		.. Ten rupees.
3. Adoption Deed	.. Ten rupees		.. Twenty rupees.
4. Affidavit	.. One rupee		.. Two rupees.
8. Appraisalment, etc.—			
(b) in any other case	.. Five rupees		.. Ten rupees.

1	2	3
9. Apprenticeship-Deed	.. Five rupees	.. Ten rupees.
12. Award ..	.. The same duty as a Bond (No. 15) for such amount.	} The same duty as a Bond (No. 15) for the amount or value of the property to which the award relates as set forth in such award subject to a maximum of twenty rupees.
	Five rupees	
14. Bill of Lading ..	.. Four annas	.. Eight annas.
	<i>N.B.</i> —If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.	
15. Bond—		
where it exceeds Rs. 200 and does not exceed Rs. 300.	One rupee eight annas.	Two rupees four annas.
where it exceeds Rs. 300 and does not exceed Rs. 400.	Two rupees	.. Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500.	Two rupees eight annas.	Three rupees twelve annas.
where it exceeds Rs. 500 and does not exceed Rs. 600.	Three rupees	.. Four rupees eight annas.
where it exceeds Rs. 600 and does not exceed Rs. 700.	Three rupees eight annas.	Five rupees four annas.
where it exceeds Rs. 700 and does not exceed Rs. 800.	Four rupees	.. Six rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900.	Four rupees eight annas.	Six rupees twelve annas.
where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Five rupees	.. Seven rupees eight annas.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Two rupees eight annas.	Three rupees twelve annas.
18. Certificate of Sale—		
(a) where the purchase-money does not exceed Rs. 10.	Two annas	.. Four annas.
(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25.	Four annas	.. Eight annas.
(c) in any other case	.. The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.	The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
20. Charter-Party	.. One rupee	.. Two rupees.
22. Composition-Deed	.. Ten rupees	.. Twenty-rupees.
23. Conveyance—		
where the amount or value of the consideration for such conveyance as set forth therein.		
exceeds Rs. 200 but does not exceed Rs. 300.	Three rupees	.. Four rupees eight annas.
where it exceeds Rs. 300 but does not exceed Rs. 400.	Four rupees	.. Six rupees.



	where it exceeds Rs. 400 but does not exceed Rs. 500.	Five rupees	.. Seven rupees eight annas.
	where it exceeds Rs. 500 but does not exceed Rs. 600.	Six rupees	.. Nine rupees.
	where it exceeds Rs. 600 but does not exceed Rs. 700.	Seven rupees	.. Ten rupees eight annas.
	where it exceeds Rs. 700 but does not exceed Rs. 800.	Eight rupees	.. Twelve rupees.
	where it exceeds Rs. 800 but does not exceed Rs. 900.	Nine rupees	.. Thirteen rupees eight annas.
	where it exceeds Rs. 900 but does not exceed Rs. 1,000.	Ten rupees	.. Fifteen rupees.
	and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees	.. Seven rupees eight annas.
24.	Copy or Extract—		
	(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee.	Eight annas	.. One rupee.
	(ii) in any other case	.. One rupee	.. Two rupees.
25.	Counterpart or Duplicate—		
	(b) in any other case	.. One rupee	.. Two rupees.
26.	Customs Bond—		
	(b) in any other case	.. Five rupees	.. Ten rupees.
29.	Divorce ..	.. One rupee	.. Five rupees.
30.	Entry as an Advocate, Vakil or Attorney on the roll of any High Court—		
	(b) in the case of an Attorney	.. Two hundred and fifty rupees.	Five hundred rupees.
39.	Memorandum of Association of a Company—		
	(a) if accompanied by articles of association under section 17 of the Indian Companies Act, 1913.	Fifteen rupees	.. Thirty rupees.
	(b) if not so accompanied	.. Forty rupees	.. Eighty rupees.
40.	Mortgage-Deed—		
	(c) when a collateral or auxiliary or additional or substituted security or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—		
	for every sum secured not exceeding Rs. 1,000;	Eight annas	.. One rupee.
	and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Eight annas	.. One rupee.
41.	Mortgage of a crop—		
	(a) when the loan is repayable not more than three months from the date of the instrument for every sum secured not exceeding Rs. 200,	One anna	.. Two annas.
	and for every Rs. 200 or part thereof secured in excess of Rs. 200;	One anna	.. Two annas.

VII of 1913.

(b) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument—			
for every sum secured not exceeding Rs. 100,	Two annas	..	Four annas.
and for every Rs. 100 or part thereof secured in excess of Rs. 100 ;	Two annas	..	Four annas.
42. Notarial Act .. ..	One rupee	..	Two rupees.
44. Note of protest by the Master of a Ship.	Eight annas	..	One rupee.
6. Partnership—			
(A) Instrument of—			
(a) where the capital of the partnership does not exceed Rs. 500.	Two rupees annas.	eight	Five rupees.
(b) in other cases ..	Ten rupees	..	Twenty rupees.
(B) Dissolution of ..	Five rupees	..	Ten rupees.
48. Power of Attorney—			
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents.	Eight annas	..	One rupee.
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882.	Eight annas	..	One rupee.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a).	One rupee	..	Two rupees.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally.	Five rupees	..	Ten rupees.
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally.	Ten rupees	..	Twenty rupees.
(f) when given for consideration and authorising the attorney to sell any immoveable property.	The same duty as a Conveyance (No. 23) for the amount of the consideration.	The same duty as a Conveyance (No. 23) for the amount of the consideration.	
(g) in any other case ..	One rupee for each person authorised.	Two rupees for each person authorised.	
N.B.—The term "registration" includes every operation incidental to registration under the Indian Registration Act, of 1908.			
50. Protest of Bill or Note ..	One rupee	no	rupees.
51. Protest by the Master of a Ship..	One rupee	no	rupees.
54. Reconveyance of Mortgaged Property—			
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000 ;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.	The same duty as a Bond (No. 15) for the amount of such consideration as set forth in the Reconveyance.	

XV of 1882.

XVI of 1908.

55. Release—			
(b) in any other case	..	Five rupees	.. Ten rupees.
57. Security Bond or Mortgage Deed—			
(b) in any other case	..	Five rupees	.. Ten rupees.
†62. Transfer (whether with or without consideration)—			
(a) of shares in an incorporated company or other body corporate;		One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.	12 annas for every Rs. 100 or part thereof of the value of the share.
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;		One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.	12 annas for every Rs. 100 or part thereof of the face amount of the debenture.
(c) of any interest secured by a bond, mortgage-deed or policy of insurance—			
(i) if the duty on such bond, mortgage deed or policy does not exceed five rupees.		The duty with which such bond, mortgage-deed or policy of insurance is chargeable.	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(ii) in any other case	..	Five rupees	.. Ten rupees.]
65. Warrant for Goods	..	Four annas	.. Eight annas.

## PART V.

*Stamp-duties on certain instruments in certain cities.*

16. This Part extends to the cities of Bombay, Ahmedabad, Poona and Karachi only. Extent of Part V.

17. In this Part, unless there is anything repugnant in the subject or context.

(a) "City of Ahmedabad" means the municipal district of Ahmedabad, the cantonment of Ahmedabad, and the notified areas of Kankaria Asarva, Ellis Bridge and Sabarmati,

(b) "City of Poona" means the municipal district of Poona, the suburban municipal district of Poona, and the cantonment of Poona, and

(c) "City of Karachi" means the municipal district of Karachi, the cantonments of Karachi and Manora and the limits of the Karachi Port Trust.

†18. Notwithstanding anything contained in Part IV, in Schedule I to the Indian Stamp Act, 1899, in its application to the Cities of Bombay, Ahmedabad, Poona and Karachi, in respect of any instrument relating to immovable property situate within the said cities and of the

<sup>1</sup> The entries relating to Article 62 were substituted for the original by Bom. 1 of 1935, s. 3 (2).

<sup>2</sup> This section was substituted by Bom. 6 of 1932, s. 2.

<sup>3</sup> Central Acts.

nature described in the articles hereinafter specified; for the entries against the said articles in columns 1 and 2 the following entries shall respectively be substituted, namely:—

18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer—

(c) in any other case

.. The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the amount of the purchase-money only.

		The City of Bombay			The Cities of Ahmedabad Poona and Karachi.			
		Rs. a. p.			Rs. a. p.			
23. CONVEYANCE [as defined by section 2 (10)] so far as it relates to immoveable property.	where the amount or value of the consideration for such conveyance as set forth therein exceeds Rs. 200 but does not exceed Rs. 300 ..	8	8	0	where the amount or value of the consideration for such conveyance as set forth therein exceeds Rs. 200 but does not exceed Rs. 300..	6	8	0
	where it exceeds Rs. 300 but does not exceed Rs. 400.	12	0	0	exceeds Rs. 300 but does not exceed Rs. 400 ..	9	0	0
	where it exceeds Rs. 400 but does not exceed Rs. 500	15	8	0	exceeds Rs. 400 but does not exceed Rs. 500 ..	11	8	0
	where it exceeds Rs. 500 but does not exceed Rs. 600	19	0	0	exceeds Rs. 500 but does not exceed Rs. 600 ..	14	0	0
	where it exceeds Rs. 600 but does not exceed Rs. 700	22	8	0	exceeds Rs. 600 but does not exceed Rs. 700 ..	16	8	0
	where it exceeds Rs. 700 but does not exceed Rs. 800	26	0	0	exceeds Rs. 700 but does not exceed Rs. 800 ..	19	0	0
	where it exceeds Rs. 800 but does not exceed Rs. 900 ..	29	8	0	exceeds Rs. 800 but does not exceed Rs. 900 ..	21	8	0
	where it exceeds Rs. 900 but does not exceed Rs. 1,000 ..	33	0	0	exceeds Rs. 900 but does not exceed Rs. 1,000..	24	0	0
	and for every Rs 500 or part thereof in excess of Rs. 1,000 ..	17	8	0	and for every Rs. 500 or part thereof in excess of Rs. 1,000 ..	12	8	0

31. EXCHANGE OF PROPERTY—  
Instrument of. The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the value of the property of greatest value as set forth in such instrument.
32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—  
(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession); The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the amount of the further charge secured by such instrument.  
(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—  
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument; The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the total amount of the charge (including the original mortgage and any further charges already made) less the duty already paid on such original mortgage and further charge.
33. GIFT—Instrument of, not being a Settlement (No. 58) or Will or Transfer (No. 62). The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the value of the property as set forth in such instrument.
40. MORTGAGE-DEED, not being an Agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57)—  
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given. The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the amount secured by such deed.
58. SETTLEMENT—  
A.—Instrument of (including a deed of dower).  
(i) where the settlement is made for a religious or charitable purpose—The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement;  
(ii) in any other case—The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the amount or value of the property settled as set forth in such settlement.  
Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee.

*Exemptions.*

- (a) Deed of dower executed on the occasion of a marriage between Muhammadans.
- (b) Hladassa, that is to say, any settlement of immoveable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified and on which a duty of Rs. 10 has been paid.

**B.—Revocation of—**

The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the amount or value of the property concerned as set forth in the instrument of revocation but not exceeding ten rupees.

63. TRANSFER OF LEASE by way of assignment and not by way of under-lease.

The same duty as is leviable on a Conveyance (No. 23) under the Bombay Finance (Amendment) Act, 1932, for a consideration equal to the amount of the consideration for the transfer.

*Exemption.*

Transfer of any lease exempt from duty.

Repeal of  
Bom. II of  
1926

19. The Indian Stamp (Bombay Amendment) Act, 1926, is hereby repealed.

Bom.  
II of  
1926.

**THE BOMBAY COTTON CONTRACTS ACT, 1932.****CONTENTS.****PREAMBLE.****Sections.**

1. Short title.
2. Extent and operation.
3. Definitions.
4. Recognition.
5. Recognised association to have Board of Directors : power to make by-laws.
6. Power of Board of Directors to make by-laws.
7. Publication of by-laws.
8. Void contracts.
9. Supersession of Board of Directors and appointment of Board of Control, its powers and duties.
10. Prohibition of certain contracts after the appointment of the Board of Control.
11. Bar of suits and proceedings against officers, etc.
12. Savings.

BOMBAY ACT No. IV OF 1932.<sup>1</sup>

[THE BOMBAY COTTON CONTRACTS ACT, 1932.]

[28th October, 1932]

Adapted and modified by the Adaptation of Indian Laws  
Order in Council.

**An Act to provide for the better regulation and control of  
transactions in Cotton in Bombay.**

WHEREAS it is expedient to provide for the better regulation and control of transactions in cotton and whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; and Geo. V, 61. It is hereby enacted as follows :—

1. This Act may be called the Bombay Cotton Contracts Act, 1932. Short title.

2. (1) This Act shall apply to the City of Bombay and the Island of Salsette. Extent and operation.

(2) It shall come into operation on such date as the <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[*Official Gazette*], direct.

(3) Sections 9 and 10 of this Act shall remain in force for a period of five years from the date on which this Act shall have come into operation under sub-section (2).

3. In this Act, unless there is anything repugnant in the subject or context, Definitions.

(a) "Bombay" means the City of Bombay and the Island of Salsette;

(b) "Board of Control" means a board appointed for the time being by the <sup>2</sup>[Provincial Government] as provided in section 9;

(c) "Board of Directors" means a board of directors of a recognised cotton association constituted under section 5 and acting through at least a quorum of their members at a meeting of that board duly called and constituted;

(d) "Certified godown" means a godown maintained by a cotton association for storing cotton certified under the by-laws of the association;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1932, Pt. V, pp. 139-140; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1932, Vol. XXXV.

<sup>2</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*



(e) "Contract" means a contract made or to be performed in whole or in part in Bombay relating to the sale or purchase of cotton and includes options in cotton, but does not include such contracts as the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], declare to be excluded from the provisions of this Act;

(f) "Cotton Association" means any association, organisation or a body of individuals, whether incorporated or not, established or formed for the purpose of regulating and controlling business in the sale, purchase or other transactions in cotton;

(g) "Forward contract" means a contract for the delivery of cotton at some future date;

(h) "Option in cotton" means a contract made or to be performed in whole or in part in Bombay for the purchase or sale of a right to buy, or a right to sell, or a right to buy or sell cotton in future, and includes a *teji*, a *mandi* or a *teji-mandi* in cotton;

(i) "Ready contract" means a contract in which immediate delivery of cotton is contemplated;

(j) "Recognised cotton association" means a cotton association which is for the time being recognised by the <sup>1</sup>[Provincial Government], as provided in section 4.

Recognition. 4. (1) A cotton association, desirous of being recognised for the purposes of this Act, shall make an application in writing to the <sup>1</sup>[Provincial Government] for such recognition and shall submit by-laws for the regulation and control of transactions in cotton and furnish such information in regard to such recognition as the <sup>1</sup>[Provincial Government] may from time to time require.

(2) The <sup>1</sup>[Provincial Government] may give or refuse such recognition.

(3) The <sup>1</sup>[Provincial Government] shall refuse recognition unless—

(a) it is provided in the by-laws submitted by the cotton association under sub-section (1) that not less than one-fourth of the total number of the Board of Directors of the cotton association applying for recognition shall be growers of cotton to be appointed in the manner prescribed in the said by-laws and approved by the <sup>1</sup>[Provincial Government]; and

(b) the <sup>1</sup>[Provincial Government] is satisfied that the sole possession and effective management, control and regulation of the markets of the cotton association applying for recognition and of the market places of the said cotton association are vested in the said cotton association.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

(4) The <sup>1</sup>[Provincial Government] shall also refuse recognition unless the by-laws submitted by the cotton association under sub-section (1) shall have been published in the <sup>2</sup>[Official Gazette] at least one month before the date of such recognition :

Provided that when, in the opinion of the <sup>1</sup>[Provincial Government], the conditions precedent to recognition specified in sub-clauses (a) and (b) of sub-section (3) are satisfied in the case of a cotton association applying for recognition under sub-section (1) and the by-laws of the said cotton association are similar in all other material respects to the articles and by-laws of the East India Cotton Association, Limited, deemed or which have been deemed under the provisions of sub-section (7) to be by-laws of a recognised cotton association, the <sup>1</sup>[Provincial Government] may dispense with the publication, required under this sub-section, of the by-laws of the cotton association applying for recognition and may give recognition to such association and the by-laws of such association shall then be deemed to be by-laws published under the provisions of this sub-section.

(5) When the <sup>1</sup>[Provincial Government] has dispensed with the publication of the by-laws of a cotton association and has given recognition to such association under the provisions of the proviso to sub-section (4), such by-laws shall be published in the <sup>2</sup>[Official Gazette] next following the giving of recognition to such association.

(6) The <sup>1</sup>[Provincial Government] may, at any time after having given to a cotton association an opportunity to explain why recognition should not be withdrawn, withdraw the recognition given to the said cotton association and such cotton association shall thereupon cease to be a recognised cotton association.

(7) It is hereby declared that the East India Cotton Association, Limited, is a recognised cotton association for the purposes and subject to the provisions of this Act and the articles and by-laws of the said Association shall, so far as they relate to matters for which by-laws may be made under the provisions of sections 5 and 6, be deemed to be by-laws of a recognised cotton association :

Provided that, if, within such time after the coming into operation of this Act as the <sup>1</sup>[Provincial Government] shall by order in writing specify, the said Association shall not have complied with the conditions precedent to recognition specified in clauses (a) and (b) of sub-section (3), the said association shall cease to be a recognised cotton association and the said articles and by-laws of the said association shall cease to be by-laws of a recognised cotton association.

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<sup>1</sup> The words " Provincial Government " were substituted for the words " Governor-in-Council " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by *ibid.*

*Explanation.*—A grower of cotton shall not include a person who deals in forward contracts.

Recognised association to have Board of Directors : power to make by-laws.

5. (1) Subject to the provisions of section 9, in every recognised cotton association there shall be a Board of Directors. Subject to the sanction of the <sup>1</sup>[Provincial Government], a recognised cotton association may make and may from time to time add to, vary or rescind by-laws providing for—

- (a) the constitution of the Board of Directors,
- (b) the powers and duties of the Board of Directors and the manner in which its business shall be conducted,
- (c) the number and constitution of electoral panels and the representation upon such panels, and
- (d) the method of appointment of members to the Board of Directors.

(2) By-laws made, added to, varied or rescinded under sub-section (1) shall be laid <sup>2</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>3</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>4</sup>[in which both Chambers concur]. If any by-law is so modified or rescinded, the <sup>1</sup>[Provincial Government] may sanction such modified by-law and re-publish the same accordingly or may sanction such rescission.

Power of Board of Directors to make by-laws.

6. (1) The Board of Directors may, subject to the sanction of the <sup>1</sup>[Provincial Government], make and, from time to time, add to, vary or rescind by-laws for the regulation and control of transactions in cotton.

(2) In particular and without prejudice to the generality of the foregoing provision such by-laws may provide for—

- (a) the admission of various classes of members of a recognised cotton association and the exclusion, suspension, expulsion and re-admission of such members ;
- (b) the opening and closing of markets in cotton and the times during which such markets shall be opened or closed and regulating the hours of trade ;
- (c) a clearing house for the periodical settlement of contracts or differences thereunder and for the passing on of delivery orders and for any purpose in connection with options in cotton, and the regulation and maintenance of such clearing house ;
- (d) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house ;

<sup>1</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> These words were substituted for the words " upon the table of the Bombay Legislative Council " by *ibid.*

<sup>3</sup> The word " thereof " was substituted for the words " of the said Council " by *ibid.*

<sup>4</sup> These words were substituted for the words " of the said Council " by *ibid.*

(e) fixing, altering or postponing settling days ;

(f) determining and declaring the market rates for cotton of any and every description ;

(g) the terms, conditions and incidents of contracts and the forms of such contracts as are in writing ;

(h) regulating the making, performance and cancellation of contracts, including contracts between a commission agent and his constituent, or between a broker and his constituent, or between a jethawala or muccadam and his constituent, or between a member and a non-member of a recognised cotton association, and the consequences of insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of commission agents, muccadams and brokers not parties to such contracts ;

(i) the prohibition of specified classes or types of dealings in cotton by a member of a recognised cotton association ;

(j) the settlement of claims and disputes by arbitration and appeals against awards ;

(k) the levy and recovery of subscriptions, fees, fines and penalties ;

(l) disciplinary measures against members of a recognised cotton association, including suspension, expulsion, fines and non-monetary penalties, for breach of any by-law made by the Board of Directors ;

(m) regulating the course of business between parties to contracts in any capacity ;

(n) the institution, maintenance and control of certified godowns ; and

(o) regulating the making, performance and cancellation of option in cotton.

(3) If any person committing a breach of any by-law of a recognised cotton association is a company, every director and officer of such company shall also be deemed to have committed such breach, unless he proves that the breach was committed without his knowledge and control.

7. By-laws made under section 5 or 6 shall be subject to the condition of previous publication and, when sanctioned by the <sup>1</sup>[Provincial Govern- of by-laws. ment], shall be published in the <sup>2</sup>[*Official Gazette*].

8. (1) Save as hereinafter provided in this Act, any contract (whether Void either party thereto is a member of a recognised cotton association or contracts. not) which is entered into after the date on which this Act comes into operation and which is not in accordance with the by-laws of any recognised cotton association shall be void.

<sup>1</sup>The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

(2) No claim shall be allowed in any court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

Supersession  
of Board of  
Directors and  
appointment  
of Board of  
Control, its  
powers and  
duties.

9. (1) When the <sup>1</sup>[Provincial Government] is of the opinion that it is necessary, in order to secure free trading in the market and to prevent obstruction thereto and interference therewith, to supersede any Board of Directors, the <sup>1</sup>[Provincial Government] may, after having given to the Board of Directors a reasonable opportunity to explain why the said Board should not be superseded, by notification in the <sup>2</sup>[Official Gazette], declare such Board to be superseded and may appoint in the place of such Board such persons as <sup>3</sup>[it] thinks fit to constitute a Board of Control and may appoint one of their number to be Chairman.

(2) When the <sup>1</sup>[Provincial Government] has appointed a Board of Control under the provisions of sub-section (1), the members of the Board of Directors which has been superseded shall, from the date of the notification, vacate their office as such members.

(3) The Board of Control appointed under sub-section (1) shall hold office for such period as the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], appoint.

(4) When a Board of Control has been appointed under sub-section (1), the <sup>1</sup>[Provincial Government] may make by-laws to be published in the <sup>1</sup>[Official Gazette] prescribing the powers and duties of a Board of Control and the manner in which its business shall be conducted.

(5) The Board of Control appointed under sub-section (1) may, subject to the provisions of sub-section (4), exercise all or any of the powers vested in or exercisable by the Board of Directors which it superseded.

(6) Notwithstanding anything contained in the by-laws of the recognised cotton association, a Board of Control may, subject to the previous sanction of the <sup>1</sup>[Provincial Government], rescind, add to or vary the by-laws of the said Association and may, subject to a like sanction, make all or any such by-laws as may be made by the Board of Directors under the provisions of section 6 and which, in the opinion of the Board of Control, may be necessary for carrying out the purposes of this Act; and all or any such by-laws shall be deemed by-laws of the recognised cotton association.

(7) When a Board of Control has been appointed under sub-section (1), all such property of the recognised cotton association as such Board may by order in writing declare to be necessary for carrying out the purposes of this Act shall vest in such Board. The property so vested in such Board or which such Board may have acquired shall, on the determination of the period of office of such Board, re-vest or vest, as the case may be, in the recognised cotton association.

<sup>1</sup>The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the "Bombay Government Gazette" by *ibid.*

<sup>3</sup>The word "it" was substituted for the word "he" by *ibid.*

(8) On the determination of the period of office of the Board of Control appointed under sub-section (1) the recognised cotton association shall forthwith constitute a Board of Directors in accordance with the by-laws of the association.

10. (1) When a Board of Control has been appointed under section 9, the <sup>1</sup>[Provincial Government] may, by notification published in the <sup>2</sup>[Official Gazette], declare that after the date appointed in the said notification any forward or ready contract entered into except by or through the agency of a member of a recognised cotton association shall be void.

Prohibition of certain contracts after the appointment of the Board of Control.

(2) No court shall entertain any suit or proceeding relating to any contract declared to be void under the provisions of sub-section (1) and no claim shall be allowed in any court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

(3) Any person entering into such contract shall, on conviction, be liable to a fine not exceeding Rs. 1,000 for such offence.

11. No suit, prosecution or other legal proceedings whatsoever shall be entertained in any court against any officer or servant of a recognised cotton association or Board of Control for anything in good faith done or intended to be done in pursuance or execution of this Act or by-laws made thereunder.

Bar of suits and proceedings against officers, etc.

12. (1) Contracts entered into under the provisions of the Bombay Cotton Contracts Act, 1922, shall be deemed to be valid, except in so far as they may be inconsistent with any of the provisions of this Act and by-laws made thereunder.

Bom. XIV of 1922.

Savings.

(2) Forward contracts entered into before the date when this Act comes into operation and which would not have been void under the provisions of the Bombay Cotton Contracts Act, 1922, shall not be deemed to be void merely because they contravene the provisions of this Act and by-laws made thereunder.

Bom. XIV of 1922.

<sup>1</sup>The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the words ["Bombay Government Gazette" by *ibid.*

**BOMBAY ACT No. IX OF 1932.<sup>1</sup>**

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT)  
ACT, 1932.]

[10th November, 1932]

**An Act further to amend the Provincial Small Cause Courts Act,  
1887, in its application to the Presidency of Bombay.**

**IX** of **WHEREAS** it is expedient further to amend the <sup>2</sup>Provincial Small  
<sup>1887.</sup> Cause Courts Act, 1887, in its application to the Presidency of Bombay ;  
It is hereby enacted as follows :—

1. This Act may be called the Provincial Small Cause Courts (Bombay Short title.  
Amendment) Act, 1932.

2. In sub-clause (a) of clause 4 in the Second Schedule to the said Amendment  
Act, between the words “ a written instrument ” and “ and ” the <sup>of the second</sup> following words shall be inserted, namely :—  
“ or orally ”. <sup>schedule to</sup>  
<sup>Act IX of</sup>  
<sup>1887.</sup>

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<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1931, Pt. V, pp. 243-244 ; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1931, Vol. XXXII, 1932, Vol. XXXV.

<sup>2</sup> Central Acts.

# THE BOMBAY WEIGHTS AND MEASURES ACT, 1932.

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BOMBAY ACT No. XV OF 1932.<sup>1</sup>

[THE BOMBAY WEIGHTS AND MEASURES ACT, 1932.]

[1st December, 1932]

Amended by Bom. Act 9 of 1935.

Amended by Bom. Act 33 of 1935.

Amended by Bom. Act 22 of 1936.

Amended by Bom. Act 5 of 1937.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act to fix a scale of standard weights and measures for the presidency of Bombay.**

WHEREAS it is expedient to fix a scale of standard weights and measures for the presidency of Bombay and to provide for the adoption of the same in specified areas in the said presidency; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

1. This Act may be called the Bombay Weights and Measures Act, Short title. 1932.

2. (1) This Act shall apply to the whole of the presidency of Bombay. Extent and commencement.

(2) Part I shall come into force at once. Government may, by notification in the <sup>2</sup>[*Official Gazette*], direct that Parts II, III, V and VI shall come into force in any district or municipal area on a date to be specified in such notification.

(3) When Government has directed that Parts II, III, V and VI shall come into force in any district or municipal area under sub-section (2), Part IV shall come into force in such district or municipal area three months after the dates specified in the notification.

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

(1) "Inspector" means an inspector of weights and measures and weighing or measuring instruments appointed under section 19;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1932, Pt. V, pp. 126-130; for Report of the Select Committee, see *ibid*, 1932, Pt. V, pp. 126-130 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1932, Vol. XXXV.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(2) "Measuring instrument" includes any instrument for the measurement of length, area, capacity or volume;

(3) "Mint" means His Majesty's Mint, Bombay;

(4) "Mint Master" means the officer appointed for the time being to be the Master of the Mint, Bombay;

(5) "Prescribed" with its grammatical variations means prescribed by rules or regulations made under this Act;

(6) "Primary standards" mean the weights and measures prepared and stamped under section 5;

(7) "Rules" and "regulations" mean the rules and regulations made under section 41 and section 42, respectively;

(8) "Secondary standards" mean the weights and measures prepared and stamped under section 7;

(9) The expression "verification" or "reverification" with its grammatical variations, used with reference to a weight or measure or weighing or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing or measuring instrument;

(10) "Weighing instrument" includes scales, with the weights belonging thereto, scale beams, balances, spring balances, steelyards, weighing machines, and other instruments for weighing; and

(11) "Working standards" mean the weights and measures provided under section 9;

<sup>1</sup>[(12) "Government" means, in relation to the establishment of standards of weight, the Central Government, and save as aforesaid means, the Provincial Government.]

## PART II.

### STANDARDS OF WEIGHTS AND MEASURES.

Standard weights and measures.

4. <sup>2</sup>(1) The weights and measures including the multiples and sub-multiples thereof described in the first schedule shall be the weights and measures authorised to be used in every place in which this Part has come into force. These weights and measures are called standard weights and measures for the purposes of this Act.

<sup>3</sup>(2) Notwithstanding anything contained in sub-section (1), Government may, after previous publication by notification in the <sup>4</sup>[*Official Gazette*], declare, either generally or for any trade or class of trades—

(a) any other multiple or sub-multiple of a weight or measure specified in the First Schedule, or

<sup>1</sup> Sub-section (12) was inserted by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> Section 4 was renumbered as sub-section (1) of that section by Bom. 33 of 1935, s. 2.

<sup>3</sup> Sub-section (2) was added by *ibid.*

<sup>4</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(b) any other weight or measure, or any multiple or submultiple thereof,

to be a weight or measure authorised to be used in any place in which this Part has come into force.

The weight, measure, multiple or sub-multiple shall, to the extent so declared, be deemed to be a standard weight or measure for the purposes of this Act.]

5. For the purpose of verifying the secondary standards, such Primary standard weights and measures as Government may direct shall be prepared <sup>standards.</sup> 1\* \* \* by the Mint Master <sup>standards.</sup> 2[or by such other person as may be approved by Government]. They shall be made of such material, weight, length, form and specifications and in such manner as may be determined by Government by notification in the <sup>standards.</sup> 3[Official Gazette]. They shall be stamped with the stamp of the Mint <sup>standards.</sup> 4[or in such other manner as Government may approve]. The standard weights and measures so prepared and stamped shall be called primary standards.

6. The primary standards shall be kept in the custody of such officer Custody of primary standards. in the City of Bombay as Government may direct. They shall, once at least in every period of five years, be verified, and if necessary, adjusted or renewed, at the Mint in such manner and by such officer as Government may direct.

7. For the purpose of verifying the working standards and weights Secondary and measures in use in any area, such standard weights and measures as Government may direct, shall be prepared <sup>standards.</sup> 5\* \* \* by the Mint Master <sup>standards.</sup> 6[or by such other person as may be approved by Government]. They shall be made of such material, weight, length, form and specifications and in such manner as may be prescribed and shall be stamped with the stamp of the Mint <sup>standards.</sup> 7[or in such other manner as Government may approve]. The standard weights and measures so prepared and stamped shall be called secondary standards.

8. (1) The secondary standards shall be kept—

(i) in the City of Bombay by such officer and at such place as Government may direct ; Custody and verification of secondary standards.

(ii) elsewhere by the Collectors in the Government treasuries at the headquarter towns of their respective districts and at such other town or place within their respective districts as Government may direct.

(2) Government may direct any municipality or district local board to keep the secondary standards at such places, in such custody and in such manner as may be prescribed.

<sup>1</sup> The words " at the Mint " were omitted by Bom. 9 of 1935, s. 2 (1).

<sup>2</sup> These words were inserted by *ibid.*

<sup>3</sup> The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> These words were inserted by Bom. 9 of 1935, s. 2 (2).

<sup>5</sup> The words " at the Mint " were omitted by *ibid.*, s. 3 (1).

<sup>6</sup> These words were inserted by *ibid.*

<sup>7</sup> These words were inserted by *ibid.*, s. 3 (2).

(3) Once at least in every period of five years such secondary standards shall be verified with the primary standards and shall be adjusted or renewed, if necessary, and shall be marked with the date of verification, in the prescribed manner by such officer as Government may direct.

(4) A secondary standard which is not so verified, adjusted or renewed and marked within the aforesaid period shall not be deemed legal and shall not be used for the purposes of this Act.

Working standards.

9. (1) For the purpose of verifying weights and measures in use in any area, Government may provide such standard weights and measures as it thinks fit, to be working standards. They shall be made of such material, weight, length, form and according to such specifications and shall be prepared by such agency and shall be stamped by such person and in such manner as may be prescribed. When they are not prepared at the Mint, they shall be verified with the secondary standards before being stamped.

(2) The working standards shall be kept by such officers and such municipalities and local boards as Government may direct, at such places, in such custody and in such manner as may be prescribed.

(3) A working standard shall be verified or re-verified and marked by such person, at such place and in such manner, as may be prescribed.

(4) A working standard shall not be deemed legal, or be used for the purposes of this Act, unless it has been verified or re-verified and marked in the prescribed manner within such period as may be prescribed before the time at which it is used.

A working standard which has become defective shall not be legal, or be used for the purposes of this Act, until it has been re-verified and marked in the prescribed manner.

Weighing and measuring instruments.

10. Weighing and measuring instruments stamped in the manner prescribed by such officer as Government may direct shall be kept at all places where secondary standards or working standards are kept. Such instruments shall be of such kind, kept in such number and shall be verified, adjusted or renewed in such manner as may be prescribed.

Duty of certain municipalities and local boards to provide and maintain secondary standards, etc.

11. Where Government has directed a municipality or local board to keep the secondary standards under sub-section (2) of section 8, the working standards under sub-section (2) of section 9 and weighing or measuring instruments under section 10, the municipality or local board so directed, as the case may be, shall provide and maintain the said secondary standards, working standards or weighing or measuring instruments.

Prohibition of weights and measures other than standard weights and measures.

12. (1) Subject to the provisions of section 46, and notwithstanding anything contained in any law for the time being in force, all dealings or contracts, had or made in any area after this Part shall have come into force in the said area for any work to be done or goods to be sold or delivered by weight or measure, shall be deemed to be had or made

according to one of the standard weights or measures or to multiples [or sub-multiples] thereof and it shall not be lawful to use any other weight or measure in relation to any such dealing or contract.

(2) Any dealing or contract had or made in contravention of the provisions of sub-section (1) so far as it contravenes the said provisions shall be void unless it is proved that such dealing or contract was had or made without intention to contravene the said provisions.

Explanation.—Unless there is anything repugnant in the subject or context, a dealing or contract is hereinafter called "trade".

PART III.

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES.

13. Every weight which conforms to the provisions of this Act and the rules and regulations except where the small size of the weight renders it impracticable, shall have the denomination thereof stamped on the top or side thereof in legible figures and letters. Every measure of length, area, capacity or volume, which conforms to the provisions of this Act and the rules and regulations shall have the denomination thereof stamped on the outside of such measure in legible figures and letters. A weight or measure which does not conform to the provisions of this section shall not be stamped in accordance with the provisions of this Act and the rules and regulations.

14. (1) No weight or measure shall be used for trade unless it has been verified or re-verified in the prescribed manner and stamped by an inspector with a stamp of verification under this Act.

Stamping an verification of weights and measures.

(2) Government may prescribe the amount of error to be tolerated in weights or measures or weighing or measuring instruments used for trade.

15. No weighing or measuring instrument shall be used for trade unless it has been verified or re-verified within the period fixed and stamped in the prescribed manner by an inspector with a stamp of verification.

Use of weighing or measuring instrument not verified and stamped prohibited.

16. No weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified or re-verified and stamped in the prescribed manner by an inspector with a stamp of verification.

Sale or delivery of weight, measure, weighing or measuring instrument not verified and stamped prohibited.

<sup>1</sup> The words " or sub-multiples " were inserted by Bom. 33 of 1935, s. 3.

**Empowering municipalities and district local boards to stamp weights, etc.** 17. Government may empower any municipality or district local board authorised under this Act to keep <sup>1</sup>[secondary or working standards or both] to stamp weights and measures and weighing or measuring instruments.

**Provision of means of verification and stamping.** 18. Government shall provide proper and sufficient means for verifying, adjusting and stamping weights and measures and weighing or measuring instruments in the City of Bombay, in all headquarter towns in the districts and at such other places as Government may determine :

Provided that municipalities and district local boards authorised to keep secondary and working standards under this Act shall also provide proper and sufficient means for verifying, adjusting, marking and, if empowered under section 17, for stamping weights and measures and weighing or measuring instruments at such places within their respective limits, as Government may determine.

**Appointment of inspectors of weights and measures.** 19. (1) Government shall appoint a sufficient number of persons with prescribed qualifications as inspectors for keeping the secondary and working standards in safe and proper custody and for the discharge of the other duties of inspectors under this Act and the rules and regulations.

(2) A Municipality or a district local board authorised under this Act to keep <sup>2</sup>[secondary or working standards or both] shall also appoint a sufficient number of persons with prescribed qualifications as inspectors for the purpose of performing the duties of inspectors specified in sub-section (1).

(3) The number and scale of pay of inspectors appointed under sub-section (2) shall, except in the case of inspectors appointed by the Municipal Corporation of the City of Bombay, be subject to the approval of Government.

**Inspectors to enter into recognizance.** 20. Every inspector shall forthwith on his appointment enter into a recognizance with Government or the municipality or district local board, as the case may be, in such sum as may be prescribed for the due performance of the duties of his office, for the due payment, at the time and in the manner required by the authority appointing him, of all moneys received by him under this Act and for the safety of the secondary and working standards and the stamps and appliances for verification committed to his charge and for their due surrender immediately on ceasing to hold office.

<sup>1</sup> The words "secondary or working standards or both" were substituted for the words "secondary and working standards" by Bom. 33 of 1935, s. 4.

<sup>2</sup> The words "secondary or working standards or both" were substituted for the words "secondary and working standards" by *ibid.*, s. 5.



21. (1) Every inspector shall, for the purposes of the verification of weights and measures and weighing or measuring instruments, attend at such time and place within his jurisdiction as may be appointed in this behalf by the authority appointing him.

Verification and stamping by inspectors.

(2) He shall verify every weight or measure or weighing or measuring instrument which is brought to him for the purpose of verification or re-verification. If he finds such weight or measure or weighing or measuring instrument correct, he shall, if he is an inspector appointed by Government or by a municipality or district local board, empowered under section 17, stamp the same with a stamp of verification in the prescribed manner. If such inspector is one appointed by a municipality or district local board, not empowered to stamp under section 17, he shall, after such verification, refer the matter to the nearest inspector appointed by Government for such action as he deems fit.

(3) It shall be competent to Government to empower an officer to inspect the work of stamping done by an inspector appointed by a municipality or district local board within the area under his charge.

22. (1) Every inspector authorised in writing in this behalf by the authority appointing him may, at all reasonable times, inspect all weights and measures and weighing or measuring instruments, within the area under his charge, which are used or are in the possession of any person or are on any premises for use for trade and may verify every such weight or measure or weighing or measuring instrument with a secondary or working standard or a weighing or measuring instrument prescribed for this purpose.

Power to inspect weights, etc., and to enter shops, etc., for that purpose.

(2) Such inspector may seize and detain any weight or measure or weighing or measuring instrument regarding which an offence under this Act appears to have been committed or which appears to have been or which may be used for the commission of such offence.

(3) For the purpose of such inspection, the inspector may at all reasonable times enter into any place where weights and measures and weighing or measuring instruments are used or kept for purpose of trade and inspect such weights and measures and weighing or measuring instruments.

23. An inspector shall not, during the time he holds office, derive any profit from or be employed in the making, adjusting, or selling of weights or measures or weighing or measuring instruments :

Inspector not to be maker, seller or adjuster of weights and measures or weighing or measuring instruments.

Provided that in any area in which it appears to Government desirable that an inspector should be allowed to adjust weights or measures or weighing or measuring instruments, Government may, if it thinks fit, authorise such inspector to adjust weights, measures or such instruments accordingly.

Inspectors  
to be public  
servants.

24. Every inspector appointed by a municipality or district local board under the provisions of this Act shall be deemed to be <sup>XLV</sup> a public servant within the meaning of section 21 of the Indian Penal <sup>of</sup> 1860. Code.

Government  
or municipi-  
pality or  
district local  
board may  
determine  
difference.

25. (1) If any difference arises between an inspector and any person interested as to the meaning or construction of any rule or regulation or as to the method of verifying, adjusting or stamping any weight or measure or weighing or measuring instrument, such difference may, at the request of the party interested or by the inspector of his own accord be referred to such officer as Government may direct or to the municipality or district local board, as the case may be, and the decision of such officer or the municipality or district local board shall subject to the provisions of sub-section (2) be final.

(2) An appeal shall lie within the time prescribed from the decision under sub-section (1) to Government or such officer as Government may appoint in this behalf. The decision of Government or such officer under this sub-section shall be final.

Expenses of  
municipality  
and district  
local board.

26. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or district local board under and for the purposes of this Act and the rules and regulations may be paid out of the municipal or local fund.

Levy of fees.

27. (1) Government and with the previous sanction of Government a municipality or district local board <sup>1</sup>[directed under sub-section (2) of section 8 or section 9 to keep secondary or working standards], shall charge such fees for the verification, re-verification, marking, adjustment and stamping of weights or measures or weighing or measuring instruments as may be prescribed.

(2) There shall be credited annually to Government—

<sup>2</sup>[the balance of the fees levied by the municipalities and district local boards under this section after deducting—]

(a) in such number of equal annual instalments as may be directed by Government, the expenses incurred by the said municipalities or local boards as the case may be in providing and maintaining secondary standards, working standards or weighing or measuring instruments under section 11, and

(b) all necessary recurring expenditure of the said municipalities or local boards as the case may be under this Act.

<sup>1</sup> These words, figures and brackets which had effect from 1st December 1932 were substituted for the words and figures "authorised under section 17 or 18" by Bom. 22 of 1936, s. 2.

<sup>2</sup> These words were substituted for the original words, figures and brackets by Bom. 5 of 1937, s. 2 (1).

(3) The municipalities<sup>1</sup> and local boards [levying fees under this section] shall forward to Government a quarterly statement of expenditure incurred by them under this Act.

28. (1) With the sanction of Government any two or more municipalities or district local boards may combine, as regards either the whole or any part of the area within their jurisdiction for all or any of the purposes of this Act upon such terms and in such manner as may be mutually agreed upon.

Power of municipalities and district local boards to combine for the purposes of the Act.

(2) An inspector appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction and duties, as if he had been appointed by each of the municipalities and district local boards which is a party to such agreement.

29. A weight or measure duly stamped by an inspector under this Act shall be a legal weight or measure in all places in which this part has come into force, unless false or defective, and shall not be liable to be re-stamped because used in any place other than that in which it was originally stamped.

Validity of weights and measures, etc., duly stamped.

30. A weight or measure or weighing or measuring instrument duly stamped under the provisions of this Act or the rules or regulations shall be deemed to be correct until its inaccuracy is proved, if it is produced in any court by any public servant having charge thereof under the direction of Government or the municipality or district local board, as the case may be, or by any person acting under the general or special authority of such public servant.

Stamped weights, etc., to be *prima facie* deemed correct in any court.

#### PART IV.

##### PENALTIES.

31. Whoever fraudulently uses any weight or measure or weighing or measuring instrument, shall, on conviction, be punished with imprisonment of either description which may extend to three months or with fine extending up to rupees five hundred or with both.

Penalty for fraudulent use of weight, measure, etc.

32. Whoever wilfully or knowingly makes, sells or disposes of or causes to be made, sold or disposed of any weight or measure or weighing or measuring instrument which is false or defective shall, on conviction, be punished with rigorous imprisonment for a period which may extend to three months or with fine which may extend to rupees five hundred or with both.

Penalty for making, selling, disposing of false or defective weight, measure, etc.

33. Whoever sells any article by any denomination of weight or measure other than one of the standard weights or measures shall, on conviction, be punishable with fine which may extend to rupees five hundred.

Penalty for sale by weight or measure other than standard weight or measure.

<sup>1</sup> These words were substituted for the words, figure and brackets "mentioned in clause (ii) of sub-section (2)" by Bom. 5 of 1937, s. (2).

Penalty for use and possession of weight, measure, etc., not authorised.

34. Whoever uses or has in his possession for use for trade any weight or measure or weighing or measuring instrument which is not authorised, verified or stamped under or in accordance with the provisions of this Act and the rules and regulations shall, on conviction, be punishable with fine which may extend to rupees five hundred and any trade had or made by such weight or measure or weighing or measuring instrument shall be void.

Penalty for giving short weight or measure.

35. Whoever in selling any article by weight or measure delivers or causes to be delivered to the purchaser a <sup>1</sup>[weight or measure less than what is purported to be sold shall, if the less weight or measure exceeds the amount of error prescribed under section 46A], on conviction, be punishable with fine which may extend to rupees three hundred.

Penalty for possessing for use weight, etc., not verified or stamped.

36. Whoever uses or has in his possession for use for trade any weighing or measuring instrument not verified or re-verified and stamped under this Act, shall, on conviction, be punishable with fine which may extend to rupees two hundred.

Penalty for sale or delivery of weight or measure, etc., not verified or stamped.

37. Whoever sells or delivers any weight or measure or weighing or measuring instrument not verified or re-verified and stamped under this Act shall, on conviction, be punishable with fine which may extend to rupees one thousand.

Penalty for forging, etc., of weights, measures, etc.

38. (1) Whoever forges or counterfeits any stamp used under this Act for the stamping of any weight or measure or weighing or measuring instrument or removes a stamp from any weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument or wilfully increases or diminishes a weight or measure so stamped shall, on conviction, be punished with rigorous imprisonment for a period which may extend to six months or with fine or with both.

(2) Whoever knowingly uses, sells, utters, disposes of or exposes for sale any weight or measure or weighing or measuring instrument with such forged or counterfeit stamp thereon, or a weight or measure so increased or diminished shall, on conviction, be punished with rigorous imprisonment for a period which may extend to six months or with fine or with both.

Penalty for neglect or refusal to produce weight for inspection.

39. Whoever neglects or refuses to produce for inspection all weights or measures or weighing or measuring instruments in his possession or on his premises or refuses to permit an inspector authorised to examine the same or any of them or obstructs the entry of the inspector under section 22 or otherwise obstructs or hinders him in the performance of his duties shall, on conviction, be punishable with fine which may extend to rupees five hundred.

Penalty for breach of duty by inspector.

40. If an inspector knowingly stamps a weight or measure or weighing or measuring instrument in contravention of the provisions of this Act or of the rules or regulations or is guilty of a breach of any duty imposed

<sup>1</sup> These words were substituted for the words "less weight or measure than is purported to be sold shall" by Bom. 22 of 1936, s. 3.

on him by this Act or by the rules or regulations, he shall, on conviction, be punished with imprisonment of either description for a period which may extend to one year or with fine or with both.

## PART V.

### RULES AND REGULATIONS.

41. (1) Government may make rules<sup>1</sup> for carrying into effect the purposes of this Act. Power of Government to make rules.

(2) Without prejudice to the generality of the foregoing provision, such rules may prescribe—

(a) the composition, weight, length, form and specifications of secondary standards and the manner in which they shall be made ;

(b) the places at which, the custody and manner in which secondary standards shall be kept by municipalities and district local boards ;

(c) the procedure for the verification, re-verification, adjustment or renewal of primary and secondary standards and marking of secondary standards ;

(d) the composition, weight, length, form and specifications and use of working standards, the authority by whom and the manner in which such standards shall be provided, the agency by whom such standards shall be made, the person by whom and the manner in which such standards shall be stamped, and the places at which and the custody and manner in which such standards shall be kept ;

(e) the procedure for the verification or re-verification and marking of working standards and the person by whom and the place where they shall be verified or re-verified ;

(f) the number of weighing and measuring instruments to be kept and necessary particulars regarding the same ;

(g) the authority by whom certified scales shall be provided for the purposes of this Act and the rules and regulations and the manner in which they shall be verified or re-verified ;

(h) the composition, weight, length, form, specifications and manufacture of weights and measures in use in any area ;

(i) the inspection, verification, re-verification, adjustment and stamping of weights and measures and weighing or measuring instruments in use in any area, including the prohibition of stamping in cases where the nature, denomination, material or mode of construction of the weight or measure or weighing or measuring instrument appears likely to facilitate the commission of fraud and the period within which such weights and measures and weighing or measuring instruments shall be verified or re-verified ;

<sup>1</sup>For Rules under this section, see G. N., G. D., No. 9492, dated 5th June 1934, published in the B. G. G., Pt. I of 1934, pp. 1323-56. See also Bombay Local Rules and Orders, Vol. IV.

(j) the circumstances and conditions under which and the manner in which stamps may be obliterated or defaced ;

(k) the tests to be applied for the purpose of ascertaining the accuracy and efficiency of weights and measures and weighing or measuring instruments ;

(l) the limits of error to be allowed on verification and to be tolerated on inspection either generally or as regards any trade ;

(m) the amount of error to be tolerated in weights and measures and weighing or measuring instruments used or intended to be used for trade ;

<sup>1</sup>[(mm) the amount of error to be tolerated in selling articles by weight or measure generally or as regards any trade or class of trades ;]

(n) the fees to be charged for the verification, re-verification, adjustment and stamping of weights and measures and weighing or measuring instruments and the collection and levy of the same ;

(o) the seizure, detention and destruction of weights and measures and weighing or measuring instruments which are not authorised by this Act and in regard to which no regulations have been made under section 42 ;

(p) the matters other than those specified in section 42 in respect of which regulations may be made by municipalities or district local boards ;

(q) the qualifications, functions and duties generally of inspectors under this Act and the rules and regulations ;

(r) any other matters for which no provision or insufficient provision is made in this Act and for which provision is, in the opinion of Government, necessary.

(3) The power to make rules under this section shall be subject to the condition of previous publication in the <sup>2</sup>[*Official Gazette*].

<sup>3</sup>[Any rules made by the Provincial Government] under this section shall be laid <sup>4</sup>[before each Chamber of the Provincial Legislature] for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution <sup>5</sup>[in which both Chambers concur]. If any rule is modified, the <sup>6</sup>[Provincial Government] may accept the modification and republish the rule accordingly, or may rescind the rule.

<sup>1</sup> Clause (mm) was inserted by Bom. 22 of 1936, s. 4.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "Any rules made by the Provincial Government" were substituted for the words "The rules made" by *ibid.*

<sup>4</sup> These words were substituted for the words "on the table of the Bombay Legislative Council" by *ibid.*

<sup>5</sup> These words were substituted for the words "of the said Council" by *ibid.*

<sup>6</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

42. (1) Every municipality and district local board, authorised to keep secondary or working standards under this Act, shall, with the previous sanction of Government, make regulations not inconsistent with this Act and the rules for the area subject to its jurisdiction, providing for—

Power of municipality and district local board to make regulations.

(a) the verification, adjusting and stamping of weights and measures and weighing or measuring instruments in use within the area subject to its jurisdiction and for the stamping thereof, when such municipality or district local board is empowered under section 17;

(b) the seizure, detention and destruction of weights and measures and weighing or measuring instruments which are not authorised by this Act;

(c) the inspection of weights and measures and weighing or measuring instruments;

(d) the duties generally under this Act of the inspectors appointed by such municipality or district local board; and

(e) any other matters in respect of which it is authorised by rules to make regulations.

(2) The regulations for the time being in force shall be kept open for public inspection at the municipal and district local board offices at all reasonable times and printed copies thereof in the vernacular language of the area subject to the jurisdiction of the municipality or district local board, and in the case of city and borough municipalities in English as well as in the vernacular shall be kept on sale at cost price.

## PART VI.

### MISCELLANEOUS.

43. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules or regulations.

Protection to persons acting in good faith.

44. No prosecution under this Act shall be instituted except by or with the previous sanction of the Collector or any officer specially empowered by him or by Government in this behalf.

Cognizance of offences.

45. Any of the powers and duties conferred and imposed upon Government by this Act may be exercised and performed, subject to such conditions as Government may think fit, by any person whom Government may, by general or special order, empower in this behalf.

Delegation of powers by Government.

46. Government may, after previous publication by notification in the <sup>1</sup>[Official Gazette], and subject to such conditions and restrictions as it may think fit to impose, exempt any class of persons, any commodity, trade, <sup>2</sup>\*any class of trades <sup>3</sup>[or any class of weights or measures or of

Power to exempt specified persons, articles or trades from provisions of the Act.

<sup>1</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The word "or" was omitted by Bom. 33 of 1935, s. 4 (i).

<sup>3</sup> These words were inserted by *ibid.*, s. 4 (ii).

weighing or measuring instruments used or intended to be used for any purpose other than trade] specified in the notification from all or any of the provisions of this Act.

Power to prescribe the amount of error to be tolerated in selling articles by weight or measure.

Repeal and amendments.

<sup>1</sup>[46A. Government may prescribe the amount of error to be tolerated in selling articles by weight or measure generally or as regards any trade or class of trades.]

47. On the coming into force of this Part in any area—

(a) the enactments specified in Part I of the second schedule shall be deemed to have been amended to the extent and in the manner specified in the third column thereof;

(b) the enactments specified in Part II of the said schedule shall be deemed to have been repealed, so far as they apply to the presidency of Bombay, to the extent specified in the third column thereof :

Provided that—

(i) the said repeal shall not affect the validity or invalidity of anything already done under the enactments repealed by this Act;

(ii) all appointments made, notifications and notices issued, rules, by-laws and orders made, contracts entered into and suits and other proceedings instituted under any Act or enactment repealed by this Act shall, so far as they are not inconsistent with the provisions of this Act and the rules and regulations, continue in force and be deemed to have been made, issued, entered into and instituted under this Act.

#### THE FIRST SCHEDULE.

(See section 4.)

#### *Standard Weights and Measures.*

Weights—

The Bombay Tola of 180 grains.

The Bombay Seer of 80 tolas.

The Bombay Maund of 40 seers.

The sub-multiples  $\frac{1}{2}$ ,  $\frac{1}{4}$ ,  $\frac{1}{8}$ ,  $\frac{1}{16}$  and  $\frac{1}{32}$  and the multiples 2, 4 and 8 of the tola, seer and maund.

The pound avoirdupois equal to 7,000 grains and the sub-multiples  $\frac{1}{8}$ ,  $\frac{1}{4}$ ,  $\frac{1}{2}$ , 1, 2, 4 and 8 ounces, the multiples 1, 2, 4, 7, 14, 28 lbs. (a quarter), 56 lbs., 112 lbs. (1 cwt.) and 2,240 lbs. (1 ton).

<sup>1</sup>Section 46A was inserted by Bom. 22 of 1936, s. 5



The grain is that unit of weight in vacuo which when multiplied by 1799·84585 is the weight of the iridio-platinum cylinder in the custody of the Mint Master, Bombay, the value of which is certified by the Standard Department of the British Board of Trade as 1799·84585 grains in vacuo.

*Explanation 1.*—The equivalent value of the abovementioned iridio-platinum cylinder when weighed in Standard Indian Air against Brass Weights having a specific gravity of 8·143 is 1800·00394 grains, i.e., a brass weight whose value in vacuo is 1800·00394 grains will exactly equilibrate the abovementioned iridio-platinum cylinder in Standard Indian Air.

*Explanation 2.*—Since the Bombay tola equals 180 grains in vacuo, its absolute value is equivalent to ·10000856 of the absolute value of the abovementioned iridio-platinum cylinder. But in practice, all verifications against the abovementioned iridio-platinum cylinder are carried out by weightments in air, and therefore the value 1800·00394 grains is always used for verifying weights.

*Explanation 3.*—Standard Indian Air is defined as follows:—

Temperature: 85 deg. Fahr.—29·44 deg. Cent. Pressure: A column of mercury at 0 deg. C. 29·8 inches or 756·919 mm. in height. Carbon diox. gas: 0·0006 of the volume of air. Vapour tension: 0·75 inches=19·05 mm. Latitude at Calcutta 22° 35' 6·6". Height above M. S. L.=22·6 feet. 1 litre of Standard Indian Air at Calcutta weighs 1·14917 grm.

Dry measures—

The Bombay seer.

The sub-multiples  $\frac{1}{2}$ ,  $\frac{1}{4}$  and  $\frac{1}{8}$  seer.

The Bombay Chatak= $\frac{1}{4}$  seer.

The Adpao= $\frac{1}{8}$  seer.

The Adholi=2 seers.

The Bombay payali of 4 seers.

The Bombay Maund of 16 payalis.

The Bombay Map of 2 maunds.

Liquid measure—

The Bombay seer.

The sub-multiples  $\frac{1}{2}$ ,  $\frac{1}{4}$ ,  $\frac{1}{8}$  and  $\frac{1}{16}$  seer.

The multiples 2, 4 and 8 seers.

The Imperial gallon.

The Pint= $\frac{1}{8}$  gallon.

Dry and Liquid measures—Explanations—

*Explanation 1.*—The unit of capacity called the Bombay seer is equivalent to the volume occupied by 80 tolas of air-free distilled water weighed in Standard Indian Air against brass weights having a specific gravity of 8·143.

*Explanation 2.*—The unit of capacity called the Imperial gallon contains ten British Standard pounds of water at 62° F. being in volume 277·274 cub. in., which contains each 252·724 grains of water in a vacuum at 62° or 252·453 grains of water weighed with the brass weights in air of 62° with the barometer at 30 in.

Length—

The Yard—

The Inch= $\frac{1}{36}$ th yard, and

The Foot= $\frac{1}{3}$ rd yard.

The Furlong of 220 yards.

The Mile of 1,760 yards.

The yard is that unit of length which is exactly equal to the certified yard kept in the custody of the Mint Master, Bombay.

Area and volume—

The Square Yard, Square Foot and Square Inch.

The Cubic Yard, Cubic Foot and Cubic Inch and sub-multiples of a Cubic Inch.

The anna of  $\frac{1}{16}$  of the guntha.

The Guntha of 121 square yards and the acre of 4,840 square yards for land measurement.

The Square of 100 square feet.

The Brass of 100 cubic feet.

## THE SECOND SCHEDULE.

(See section 47.)

### PART I.

*Enactments amended.*

No. and year of Act.	Title.	Amendments.
III of 1901	The Bombay District Municipal Act, 1901.	<p style="text-align: center;"><i>Acts of the Governor of Bombay in Council.</i></p> <p>For section 143 the following section shall be substituted, namely:—</p> <p>“143. The president, vice-president, or any councillor or officer authorised Powers of inspection by the municipality in this of weights and measures, etc. behalf may at all reasonable times enter into any place <sup>1</sup>[(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments.”</p>

<sup>1</sup>These words, figures and brackets were inserted by D. m. 9 of 1935, s. 6 (1).

No. and year of Act.	Title.	Amendments.
VI of 1923 ..	The Bombay Local Boards Act, 1923.	After section 61A the following section shall be inserted, namely :— [See section 61B of Bom. 6 of 1923, Vol. V]
XVIII of 1925.	The Bombay Municipal Boroughs Act, 1925.	For section 177 the following section shall be substituted, namely :— [See section 177 of Bom. 18 of 1925, Vol. V]
<sup>1</sup> XVII of 1933.	The City of Karachi Municipal Act, 1933.	In section 165 after the word "place" the words, figures and brackets "(other than a place prescribed by Government by rules made under the Bombay Weights and Measures Act, 1932)" shall be inserted.

## PART II.

*Enactments repealed.*

No. and year of Act.	Title.	Extent of repeal.
		<i>Acts of the Governor General in Council.</i>
XXXI of 1871.	The <sup>1</sup> Indian Weights and Measures of Capacity Act, 1871.	The whole.
II of 1889 ..	The <sup>2</sup> Measures of Length Act, 1889.	The whole.
		<i>Acts of the Governor of Bombay in Council.</i>
<sup>3</sup> Regulation XII of 1827.	A regulation for the establishment of a system of police throughout the zilas subordinate to Bombay for providing rules for its administration, and for defining the duties and powers of all police authorities and servants.	Section 20.
III of 1886 ..	The Bombay General Clauses Act, 1886.	In Schedule B the entry relating to section 20 of Bombay Regulation XII of 1827.

<sup>1</sup> This entry was added by Bom. 9 of 1935, s. 6 (2).<sup>2</sup> Central Act.<sup>3</sup> See Vol. I of this Code.

No. and year of Act.	Title.	Amendments.
III of 1888 ..	The City of Bombay Municipal Act, 1888.	Sections 418, 419, and 420. Section 461, clause (o), sub-clause (i). In section 471, the entries relating to section 420, sub-section (2), clauses (a), (b), (c) and (d) and sub-section (3), clauses (a) and (b).
III of 1901 ..	The Bombay District Municipal Act, 1901.	Clauses (e) and (ee) of sub-section (1) of section 48.
IV of 1904 ..	The Bombay District Municipal (Amendment) Act, 1904.	Section 3.
IV of 1921 ..	The City of Bombay Municipal (Amendment) Act, 1921.	Sections 2, 3 so far as it relates to sub-clause (i) of clause (o) of section 461 and section 4.
XVIII of 1925.	The Bombay Municipal Boroughs Act, 1925.	Clauses (h) and (i) of section 61.

## THE BOMBAY SPECIAL (EMERGENCY) POWERS ACT, 1932.

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BOMBAY ACT No. XVI OF 1932.<sup>1</sup>

[THE BOMBAY SPECIAL (EMERGENCY) POWERS ACT, 1932.]

[16th December, 1932]

Supplemented by Act 9 of 1933.

Amended by Bom. Act 27 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act to confer special powers on Government and its officers for the maintenance of the public security in case of emergency.**

WHEREAS it is expedient to confer special powers upon Government and its officers for the maintenance of the public security in case of emergency <sup>2</sup>[especially such as is likely to arise from movements such as are commonly known as communism, terrorism and civil disobedience movement]; and whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6  
Geo.V,  
c. 61;

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Bombay Special (Emergency) Powers Act, 1932. Short title, commencement, extent and operation.

<sup>2</sup>(2) It shall remain in force up to the 31st December 1938.

<sup>3</sup>(3) This Chapter extends to the whole of the Presidency of Bombay and the <sup>4</sup>[Provincial Government] may by notification in the <sup>5</sup>[Official Gazette] extend all or any of the remaining provisions of this Act to such district or area as may be specified in the notification.

<sup>1</sup> For statement of objects and reasons, see *Bombay Government Gazette*, 1932, Pt. V, pp. 282-285 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1932, Vol. XXXVI.

<sup>2</sup> These words were inserted by Bom. 27 of 1935, s. 2.

<sup>3</sup> This sub-section was substituted for the original sub-section (2) by *ibid.*, s. 3.

<sup>4</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>5</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

<sup>6</sup> For Notification extending the provisions of Chapters II and IV of the Act to Bombay Presidency and of Chapter III to Kanara District, *vide* H. D. (Poll) Notification No. S.D. 7665, dated 20th December 1932, published in the *Bombay Government Gazette Extraordinary*, Part I, of 21st December 1932, p. 2864.

\*<sup>(4)</sup> This Chapter shall come into operation at once and the <sup>1</sup>[Provincial Government] may by notification in the <sup>2</sup>[*Official Gazette*] direct that all or any of the remaining provisions of this Act shall come into operation in any district or area to which they have been extended on such date as may be appointed in the notification.

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

(1) "The Code" means the Code of Criminal Procedure, 1898, and <sup>V of</sup> 1893.

(2) "District Magistrate" means, in the case of the City of Bombay, the Commissioner of Police.

## CHAPTER II.

### SPECIAL POWERS.

Power to  
arrest and  
detain  
suspected  
persons.

3. (1) Any <sup>3</sup>[servant of the Crown] authorised in this behalf by general or special order of the <sup>1</sup>[Provincial Government] may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant, or may direct the arrest without warrant of such person, and in making such arrest any powers and means which may be exercised or used in making an arrest, with or without warrant, under the Code, may be exercised and used.

(2) An arrest made by or on the direction of any officer under this section shall be reported forthwith to the <sup>1</sup>[Provincial Government] by the officer so making or so directing the arrest, as the case may be, who shall forward with his report a written record of the statement, if any, made by the person so arrested, and such officer may, by order in writing, commit any person so arrested to such custody as the <sup>1</sup>[Provincial Government] may, by general or special order, specify in this behalf :

Provided that no person shall, unless the <sup>1</sup>[Provincial Government] by special order otherwise directs, be so detained in custody for a period exceeding fifteen days :

Provided further that no person shall be so detained in custody for a period exceeding two months.

Power to  
control  
suspected  
persons.

4. (1) The <sup>1</sup>[Provincial Government], if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is

<sup>1</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

<sup>3</sup> The words "servant of the Crown" were substituted for the words "officer of Government" by *ibid.*

\*For Notification bringing into operation the provisions of Chapters II, III and IV of the Act, *vide* H. D. (Poll.) Notification No. S.D. 7666, dated 20th December 1932, published in the *Bombay Government Gazette* Extraordinary, Part I, of 21st December 1932, p. 2864. \*



about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace, and after having taken into consideration the record in writing made or caused to be made by the District Magistrate of the statement, if any, made by such person, may, by order in writing, give any one or more of the following directions, namely, that such person—

(a) shall not enter, reside or remain in any area specified in the order;

(b) shall reside or remain in any area specified in the order;

(c) shall remove himself from, and shall not return to, any area specified in the order;

(d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

(2) An order made under sub-section (1) shall not, unless the <sup>1</sup>[Provincial Government] by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

(4) The <sup>1</sup>[Provincial Government] shall, subject to the provisions of section 21 of the Bombay General Clauses Act, 1904, so far as conveniently may be, at intervals of six months take into consideration and review any orders in force made or deemed to have been made under sub-section (1) and when in the opinion of the <sup>1</sup>[Provincial Government] it is compatible with the public safety or peace to cancel or modify any of such orders, the <sup>1</sup>[Provincial Government] shall cancel or modify any such orders accordingly. Any decision of the <sup>1</sup>[Provincial Government] that any such order can or cannot be cancelled or modified or as to the manner in or the extent to which any such order can be modified shall be final and conclusive.

5. The District Magistrate may, by order in writing, prohibit or limit, in such way as he may think necessary in the interests of the public safety or peace, access to any building or place in the possession or under the control of Government or of any railway administration or local authority, or to any building or place in the occupation, whether permanent or otherwise, of His Majesty's Naval, Military or Air Forces or of any police force, or to any place in the vicinity of any such building or place.

6. The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think necessary in the interests of the public safety or peace, traffic over any road, pathway, bridge, waterway or ferry.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Power to regulate means of transport.

7. (1) The District Magistrate may, by order in writing, require any person to make, in such form and within such time and to such authority as may be specified in the order, a return of any vehicles or means of transport owned by him or in his possession or under his control.

(2) The District Magistrate, if in his opinion, it is necessary in the interests of the public safety or peace, may, by order in writing, require any person owning or having in his possession or under his control any vehicle or means of transport to take such order therewith for such period as may be specified in the order.

Power to control posts and telegraphs.

8. The District Magistrate, if, in his opinion, it is necessary in the interests of the public safety or peace, may, in consultation with the chief postal authority in the district, control the operation of any post, telegraph, telephone or wireless office or station, and, in particular, may intercept any postal article or telegraphic, telephonic or wireless message in the course of transmission, may ascertain its contents and may prohibit its further transmission.

Power to regulate the use of railways and vessels.

9. The District Magistrate, if, in his opinion, it is necessary in the interests of the public safety or peace, may—

(a) require accommodation to be provided on any railway train or any vessel for any passengers or goods, and, for this purpose, exclude from such train or vessel any passengers or goods which it is already carrying or about to carry;

(b) require that any specified persons or classes of specified goods proposing to travel to specified destinations, or any specified persons or classes of goods or goods consigned to specified destinations, shall not be carried on any railway or vessel;

(c) exclude or eject any passenger from any train or vessel;

(d) stop, or prohibit the stopping of, trains or vessels at any station; or

(e) in consultation with the local railway authorities, require special trains to be provided for the conveyance of troops, police or other persons.

Power to secure reports of public meetings.

10. The District Magistrate, if, in his opinion, it is necessary in the interests of the public safety or peace, may, by order in writing, depute one or more police officers not below the rank of head constable, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings and may, by such order, authorise the persons so deputed to take with them an escort of police officers.

*Explanation.*—For the purposes of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.

11. The power to issue search-warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising— Power to issue search-warrants.

(a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Act or any act prejudicial to the public safety or peace has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made;

(b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause;

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant issued, and to the disposal of any property seized, under this section.

12. Any authority on which any power is conferred by or under this Chapter may, by general or special order, authorise any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of— General power of search.

(a) ascertaining whether it is necessary or expedient to exercise such power; or

(b) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with; or

(c) generally, giving effect to such power or securing compliance with, or giving effect to, any order given, direction made or condition prescribed in the exercise of such power.

13. (1) If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction or prescribed the condition may take or cause to be taken such action as it thinks necessary to give effect thereto. Power to give effect to orders if disobeyed.

(2) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under sub-section (1).

14. Whoever intentionally disobeys or neglects to comply with any order made or direction given in accordance with the provisions of section 4 shall be punishable with imprisonment which may extend to two years, or with fine, or with both. Penalty for disobeying order under section 4.

15. Subject to the provisions of section 14, whoever intentionally disobeys or neglects to comply with any order made, direction given, or condition prescribed in accordance with the provisions of this Chapter or impedes the lawful exercise of any power referred to in this Chapter shall be punishable with imprisonment which may extend to six months, or with fine, or with both. Penalty for disobeying other orders under this Chapter.

Delegation of powers. 16. (1) The <sup>1</sup>[Provincial Government] may invest the District Magistrate with the powers of the <sup>1</sup>[Provincial Government] under subsection (1) of section 4.

(2) The <sup>1</sup>[Provincial Government] may invest any Sub-divisional Magistrate, or any police officer not below the rank of Deputy Superintendent, with any of the powers of a District Magistrate under this Chapter.

### CHAPTER III.

#### SPECIAL PROVISIONS AGAINST <sup>2</sup>[UNLAWFUL INSTIGATION OF NON-PAYMENT] OF CERTAIN LIABILITIES.

Power to declare notified areas and notified liabilities. 17. (1) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], declare that any district or area shall be a notified area for the purposes of this Chapter.

(2) The <sup>1</sup>[Provincial Government] may further, by the same or by subsequent notification, declare that in such notified area land-revenue or any sum recoverable as arrears of land-revenue, or any tax, rate, cess or other due or amount payable to <sup>4</sup>[the Crown] or to any local authority, or rent of agricultural land, or anything recoverable as arrears of or along with such rent, shall be a notified liability.

Punishment for unlawful instigation to the non-payment of notified liability. 18. Whoever, by words either spoken or written, or by signs or by visible representations, or otherwise, instigates, expressly or by implication, any person or class of persons not to pay or to defer payment of any notified liability,

and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever,

shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

<sup>5</sup>[Explanation.—Any words or acts intended to assist by lawful means the redress of any grievance relating to a notified liability shall not be an offence under this section merely because they result in or may lead to the non-payment or deferring payment of such notified liability.]

Special rule of procedure. 19. No Court shall take cognizance of any offence punishable under section 18 except upon a complaint in writing made either by the Collector or by an Assistant or Deputy Collector authorised by general or special order in writing by the Collector in this behalf.

<sup>1</sup> The word "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> These words were substituted for the words "illegal refusal of the payment" by Bom. 27 of 1935, s. 4.

<sup>3</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> The words "the Crown" were substituted for the word "Government" by *ibid.*

<sup>5</sup> This Explanation was added by Bom. 27 of 1935, s. 5.

20. (1) Any local authority to which an arrear of a notified liability is due may apply in writing to the Collector to realise it, and the Collector may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land-revenue, in accordance with the law applicable to the recovery of arrears of land-revenue in the area concerned.

Power to collect an arrear of a notified liability as an arrear of land-revenue.

(2) Nothing in this section shall prevent any local authority to which an arrear of a notified liability is due from recovering it in accordance with the law applicable to the recovery of such arrear.

(3) Any person from whom an amount has been recovered under this section in excess of the amount due from him may recover such excess in accordance with law from the local authority on whose behalf the Collector has realised it.

#### CHAPTER IV.

##### SUPPLEMENTAL.

21. No Court other than a court of a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

22. Notwithstanding anything contained in the Code, any offence punishable under this Act [except an offence punishable under section 18] shall be cognizable and any offence punishable under section 14<sup>2</sup> \* \* \* shall be non-bailable.

Offences under the Act to be cognizable and non-bailable.

23. Notwithstanding anything contained in the Code, a Presidency Magistrate or a Magistrate of the First Class, in the trial of an offence under this Act, may, in his discretion, follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

Procedure for trial of offences.

24. In the trial of an offence under this Act, a court shall not be bound to adjourn the trial for any purpose unless such adjournment is, in the opinion of the Court, necessary in the interests of justice.

Power of court to disallow adjournments.

25. [Power of magistrate to pass a sentence of fine.] Omitted by Bom. 27 of 1935, s. 7.

26. (1) Where any accused, in a trial of an offence under this Act, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

Powers of courts to deal with refractory accused.

<sup>1</sup> These words and figures were added by Bom. 27 of 1935, s. 6.

<sup>2</sup> The word and figures " or 18 " were omitted by *ibid.*

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing, or appears in court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial of an offence under this Act shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

Special rule  
of evidence.

27. Notwithstanding anything contained in the <sup>1</sup>Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial of an offence under this Act if such person is dead or cannot be found or is incapable of giving evidence, and the court is <sup>2</sup>[for reasons to be recorded in writing] of opinion that such death, disappearance or incapacity has been caused in the interest of the accused.

I c  
18'

Application  
of ordinary  
law.

28. The provisions of the Code or of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial of any offence under this Act.

Jurisdiction  
barred.

<sup>3</sup>29. Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act.

Operation of  
other penal  
laws not  
barred.

30. Nothing contained in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Act.

Validity of  
things done  
under  
Ordinance.

31. Anything done or deemed to have been done in pursuance of any provision of the <sup>4</sup>Special Powers Ordinance, 1932, shall, where the corresponding provisions of this Act have come into operation before

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<sup>1</sup> Central Acts.

<sup>2</sup> These words were inserted by Bom. 27 of 1935, s. 8.

<sup>3</sup> This section shall have effect as if it has been enacted by the Indian Legislature (vide Act 9 of 1933, s. 3).

<sup>4</sup> For the Special Powers Ordinance, 1932, see Government Notification in the Home Department (Political), No. S. D. 4573, dated the 30th June 1932, published in the *Bombay Government Gazette*, 1932, Part I, pp. 1554-1566.

the expiry of the said Ordinance, be deemed to have been done in pursuance of the corresponding provision of this Act and shall have effect, and the provisions of this Act shall have effect accordingly.

**32.** [*Right to appeal and pending appeals in cases relating to offences under Ordinance.*] Omitted by Bom. 27 of 1935, s. 9.

**33.** [*Continuation of pending trials for offences under Ordinance.*] Omitted by Bom. 27 of 1935, s. 9.

## THE BOMBAY (DISTRICT) TOBACCO ACT, 1933.

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#### SCHEDULE.



## BOMBAY ACT No. II OF 1933.<sup>1</sup>

[THE BOMBAY (DISTRICT) TOBACCO ACT, 1933]

[27th March, 1933]

Amended by Bom. Act 2 of 1935.

Amended by Bom. Act 26 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act for the imposition and levy of fees on the sale of Tobacco in the Presidency of Bombay excluding the City of Bombay.**

WHEREAS it is expedient to impose and levy licence fees on the sale of tobacco in the Presidency of Bombay excluding the City of Bombay ; And whereas the previous sanction of the Governor General required by section 80A (3) of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay (District) Tobacco Act, 1933. Short title and extent.

(2) It extends to the whole of the Presidency of Bombay except the City of Bombay and such area as <sup>2</sup>[the Provincial Government] may, by notification published in the <sup>3</sup>*Official Gazette*, exclude.

(3) It shall come into force from the 1st day of April 1933 and shall remain in force for a period of <sup>4</sup>[four] years.

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

<sup>5</sup>[(1A) “ Broker ” means an agent whose ordinary course of business is to negotiate and make contracts for the sale and purchase of tobacco ;]

(1) “ Collector ” includes any officer appointed under section 5 to exercise the powers and perform the duties of a Collector under this Act ;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Part V, pp. 474-477 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vol. XXXVII.

<sup>2</sup> The words “ the Provincial Government ” were substituted for the word “ Government ” by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words “ *Official Gazette* ” were substituted for the words “ *Bombay Government Gazette* ” by *ibid.*

<sup>4</sup> The word “ four ” was substituted for the word “ two ” by Bom. 2 of 1935, s. 2, vide section 3 of Bom. 6 of 1938 for the deletion of the words “ and shall remain in force for a period of four years ”.

<sup>5</sup> This clause was inserted by Bom. 2 of 1935, s. 3.

(2) "Commissioner" means an officer appointed under section 3 to be a Commissioner for the purposes of this Act ;

(3) "Grower" means a person who by himself or by members of his household or by his servants, agents or tenants grows tobacco ;

(4) "Hawker" means a person who goes from place to place or from house to house carrying or exposing for sale tobacco or exposing samples of tobacco to be afterwards delivered ;

(5) "Holder" means a holder of a licence ;

(6) "Licence" means a licence for the sale of tobacco granted under section 7 ;

(7) "Magistrate" means a magistrate of the first or second class or a magistrate of the third class specially authorised in this behalf by the District Magistrate ;

(8) "Prescribed" means prescribed by rules ;

(9) "Retail sale" means a sale other than a wholesale sale ;

(10) "Rule" means a rule made under section 27 ;

(11) "Tobacco" includes bidis, cigarettes and cigars, the leaf, stalks and stem of the tobacco plant and any preparation or mixture of tobacco ;

(12) "Tobacco Officer" means the Commissioner, a Collector or any other officer or person lawfully appointed or invested with powers under section 5 ;

(13) "Tobacco revenue" means revenue derived or derivable from any fee, fine (other than a fine imposed by a court of law) or confiscation imposed or ordered and all sums accruing to <sup>1</sup>[the Provincial Government], under the provisions of this Act ; and

(14) "Wholesale sale" means a sale of tobacco to traders in that commodity for the purpose of trade.

Appointment  
and duties of  
Commissioner.

3. (1) <sup>1</sup>[The Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], appoint for the whole or for any part of the Presidency of Bombay in which this Act shall be in force, an officer to be the Commissioner ;

(2) The Commissioner shall, subject to the control of <sup>1</sup>[the Provincial Government], superintend the administration of the Tobacco Department and the collection of tobacco revenue.

Collectors  
charged with  
carrying out  
the Act.

4. Subject to the control and direction of the Commissioner and the orders of <sup>1</sup>[the Provincial Government], the Collectors are charged with the collection of tobacco revenue and with the carrying out of the provisions of this Act.

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

5. (1) <sup>1</sup>[The Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], appoint any person other than the Collector of Land-revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of <sup>1</sup>[the Provincial Government], as <sup>1</sup>[the Provincial Government] may from time to time direct. Appointment of special Collectors and other tobacco officers.

(2) The Commissioner may, subject to the general or special orders of <sup>1</sup>[the Provincial Government], <sup>3</sup>[assign to any Tobacco Officer] such powers and duties under this Act, as he may deem fit.

(3) <sup>1</sup>[The Provincial Government], or subject to such orders as aforesaid, the Commissioner may invest any officer or person with such powers and impose upon him such duties under this Act, as <sup>1</sup>[the Provincial Government] or the Commissioner, as the case may be, may deem fit and any such officer shall thereupon exercise the said powers and discharge the said duties in addition to the powers and duties incident to his principal office.

6. No person shall sell or expose for sale any tobacco <sup>4</sup>[or carry on business as a broker] except under and in accordance with the terms and conditions of a licence granted under section 7: Prohibition of sale of tobacco without licence.

Provided that a grower of tobacco may, without licence, sell tobacco (other than bidis, cigarettes, cigars and any preparation or mixture of tobacco) grown by him.

<sup>5</sup>[Provided further that subject to the prescribed conditions <sup>1</sup>[the Provincial Government] or the prescribed authority may exempt any person from taking out such a licence.]

*Explanation.*—The supply of tobacco by clubs to their members on payment of any price, fee or subscription is a sale within the meaning of this section.

7. <sup>6</sup>(1) Every licence for the sale of tobacco whether wholesale, retail or by a hawker <sup>7</sup>[or for carrying on business as a broker] shall be granted annually or for any less period by the Collector in the manner prescribed by <sup>1</sup>[the Provincial Government] on payment of fees <sup>8</sup>\* \* specified, in the schedule hereto annexed. Grant of licences.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

<sup>3</sup>These words were substituted for the words "appoint any person to be a Tobacco Officer and assign to him" by *ibid.*

<sup>4</sup>These words were inserted by Bom. 2 of 1935, s. 4.

<sup>5</sup>This proviso was added by Bom. 26 of 1935, s. 2.

<sup>6</sup>Nothing in the Bombay (District) Tobacco (Amendment) Act, 1935, shall be deemed in any way to affect the validity, conditions or restrictions of a licence granted before the 31st day of March 1935, or any rights or liabilities acquired or incurred thereunder (see section 11 of Bom. 2 of 1935).

<sup>7</sup>These words were inserted by Bom. 2 of 1935, s. 5 (1).

<sup>8</sup>The words "subject to the maxima" were deleted by *ibid.*, s. 5 (2).

(2) Such licences shall be in such form and subject to such conditions and restrictions as [the Provincial Government] may prescribe.

Suspension or  
revocation  
of licences.

8. (1) Subject to such conditions as may be prescribed by [the Provincial Government], the authority granting any licence may suspend or cancel the licence,

(a) if any fee payable under the licence is not duly paid ; or

(b) if there be any breach of any of the conditions of the licence or of any other licence previously granted to the holder either by the holder or his servant or any one acting on behalf of the holder with his express or implied permission.

(2) The holder shall not be entitled to any compensation for the cancellation or suspension of a licence under sub-section (1) nor to refund of any fees paid or deposit made in respect thereof.

(3) Where a licence is cancelled or suspended under sub-section (1) the balance of the fee payable under the licence may be recovered from the holder or his surety in the same manner as tobacco revenue.

Issue of  
warrants.

9. (1) The Commissioner or Collector or any other Tobacco Officer duly empowered in this behalf or a Magistrate may issue a warrant,—

(a) for the arrest of any person whom he has reason to believe to have committed an offence punishable under this Act, or

(b) for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that any tobacco is sold or is exposed for sale contrary to the provisions of this Act.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a V. C. Police Officer or by a Tobacco Officer duly empowered in this behalf or 186 if the officer issuing the warrant deems fit by any other person.

Power of  
entry, search,  
seizure and  
detention.

10. The Collector or any other Tobacco Officer duly empowered in this behalf may—

(a) enter and search, at any time, by day or by night, any building, vessel, vehicle or any place in which he has reason to believe that any tobacco liable to confiscation under this Act is kept or concealed ;

(b) seize any tobacco or any other article which he has reason to believe is liable to confiscation under this Act ; and

(c) detain and arrest any person whom he has reason to believe to be guilty of any offence punishable under this Act.

Searches how  
made.

11. All searches made under section 10 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. V. C. 187

Procedure for  
arrest without  
warrant.

12. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests without warrant made under V. C. section 10. 188

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

13. All village officers, all village servants, useful to <sup>1</sup>[the Provincial Government], and all officers of the departments of Excise, Police and Revenue shall be bound—

Officers bound to assist.

(a) to give immediate information to a Tobacco Officer of the commission of any offence, or of the intention or preparation to commit any offence punishable under this Act which may come to their knowledge ;

(b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed ; and

(c) to assist any Tobacco Officer in carrying out the provisions of this Act.

14. (1) Every Tobacco Officer not below such rank as <sup>1</sup>[the Provincial Government] may determine, shall within the area for which he is appointed, have power to investigate all offences punishable under this Act.

Tobacco Officer to have powers of investigation.

(2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence :

Provided that—

(a) If such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report ;

(b) the powers of a Tobacco Officer empowered under this section shall be subject to such further modifications or restrictions as <sup>1</sup>[the Provincial Government] may determine.

15. (1) All offences punishable under this Act shall be bailable.

Offences under the Act to be bailable.

(2) Any Tobacco Officer empowered under section 14 to investigate an offence punishable under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without warrant for an offence punishable under this Act.

16. When anything has been seized by a Tobacco Officer exercising powers under section 14 such officer, after such inquiry as may be necessary—

Articles seized.

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken ;

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order, in Council.

(b) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to his superior officer, if any ;

(c) if no offence appears to have been committed shall return the thing to the person from whose possession it was taken and shall report to his superior officer, if any, accordingly.

Penalty for  
contraven-  
tion of  
this Act.

17. Whoever in contravention of this Act or of any rule or order made under this Act or of any terms or conditions of a licence sells or exposes for sale tobacco<sup>1</sup>[or carries on business as a broker] shall be punishable on conviction with a fine not exceeding two hundred rupees.

Penalty for  
vexatious  
search or  
arrest.

18. Any Tobacco Officer or other person who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or place, or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person, shall, on conviction, be punishable for every such offence, with fine which may extend to two hundred rupees.

Penalty for  
vexatious  
delay in  
forwarding  
an arrested  
person to a  
Magistrate.

19. Any Tobacco Officer or other person who vexatiously and unnecessarily delays forwarding to a Magistrate any person arrested under this Act and not released by him on bail shall on conviction be punishable with fine which may extend to fifty rupees.

Confiscation.

20. Whenever an offence under this Act has been committed, all tobacco in respect of which the offence has been committed and every box, receptacle, package or covering in which such tobacco is contained shall be liable to confiscation.

Procedure in  
confiscation.

21. (1) When in any case tried by a Magistrate the Magistrate decides that anything is liable to confiscation under the foregoing section, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner option to pay such fine as the Magistrate deems fit in lieu of confiscation.

(2) When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector, who may order confiscation :

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

<sup>1</sup>These words were inserted by Bom. 2 of 1935, s. 6.

22. (1) The Commissioner or any Collector or any other Tobacco Officer specially empowered by <sup>1</sup>[the Provincial Government] in this behalf may accept from any person whose licence is liable to be cancelled or suspended under section 8 or who is reasonably suspected of having committed an offence under section 17 a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be, and in all cases whatsoever in which any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer. Compound-  
ing offences.

(2) On the payment by such person of such money or value or both, as the case may be, to such officer, such person if in custody shall be set at liberty and the property seized shall be released and if criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

23. (1) No Magistrate shall take cognizance of any offence punishable under this Act,— Cognizance of  
offences.

(i) except upon the complaint or report of the Commissioner, or a Collector or any other Tobacco Officer empowered in this behalf or of an Excise or Police Officer, or

(ii) except upon his own knowledge or suspicion.

(2) Except with the sanction of <sup>1</sup>[the Provincial Government] no Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.

24. (1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules. Protection of  
persons  
acting in good  
faith and  
limitation of  
suits and  
prosecutions.

(2) No suit shall be instituted against <sup>2</sup>[the Crown] and no prosecution or suit shall lie against any Tobacco Officer in respect of anything done or alleged to have been done, in pursuance of this Act, unless the suit or prosecution has been instituted within four months from the date of the act complained of.

25. The following moneys, namely :—

(a) all tobacco revenue,

(b) any loss that may accrue in consequence of the suspension or cancellation of a licence,

may be recovered from the person primarily liable to pay the same or from his surety (if any) as arrears of land revenue. Recovery of  
tobacco  
revenue, etc.

26. (1) Any person aggrieved by any order under this Act may appeal— Appeals and  
revision.

(a) to the Collector, if such order was passed by a Tobacco Officer other than the Collector or Commissioner,

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "the Crown" were substituted for the word "Government" by *ibid.*

(b) to the Commissioner, if such order was passed by the Collector, and

(c) to <sup>1</sup>[the Provincial Government], if such order was passed by the Commissioner except on an appeal under clause (b).

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (3), be final.

(3) <sup>1</sup>[The Provincial Government]. <sup>2</sup>[the Commissioner or the Collector] may call for and examine the record of any order or the proceedings of any <sup>3</sup>[subordinate] Tobacco Officer for the purpose of satisfying themselves <sup>4</sup>[or himself, as the case may be] as to the legality and propriety of any order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to <sup>1</sup>[the Provincial Government,], <sup>5</sup>[the Commissioner or the Collector, as the case may be,] that any order or proceedings so called for should be modified, annulled or reversed, they <sup>6</sup>[or he] may pass such order as they <sup>6</sup>[or he] may deem fit.

Power of the  
Provincial  
Government  
to make rules.

27. (1) <sup>1</sup>[The Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(a) under section 5, regulating the powers and duties to be exercised and performed by Tobacco Officers and the assignment of such powers and duties ;

<sup>7</sup>[(aa) under section 6, prescribing the conditions subject to which, and the authority by which, exemptions may be granted ;]

(b) under section 7, prescribing the manner in which the fees are to be charged, the form of and the conditions and restrictions on which, licences shall be granted ;

(c) under section 8, prescribing the conditions on which licences may be suspended or cancelled ;

\* \* \* \* \*

(3) Rules made under this section shall be subject to previous publication.

<sup>1</sup> The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> These words were inserted by Bom. 2 of 1935, s. 7 (1).

<sup>3</sup> This word was inserted by *ibid.*, s. 7 (2).

<sup>4</sup> These words were inserted by *ibid.*, s. 7 (3).

<sup>5</sup> These words were inserted by *ibid.*, s. 7 (4).

<sup>6</sup> The words " or he " were inserted by *ibid.*, s. 7 (5).

<sup>7</sup> Clause (aa) was inserted by Bom. 26 of 1935, s. 3.

<sup>8</sup> Clause (d) was deleted by Bom. 2 of 1935, s. 8.



(4) Rules made under this section shall be laid <sup>1</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>2</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>3</sup>[in which both Chambers concur] and such rule shall, after notification in the <sup>4</sup>[Official Gazette], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of <sup>5</sup>[the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, <sup>5</sup>[the Provincial Government] may, by notification in the <sup>4</sup>[Official Gazette], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

28. The powers conferred on the Commissioner under this Act may, <sup>6</sup>[with the exception of the powers under sub-section (3) of section 26] <sup>Delegation of powers.</sup> subject to the general or special orders of <sup>5</sup>[the Provincial Government], be delegated by the Commissioner in whole or in part, to the Collectors or to any subordinate officer.

## SCHEDULE.

### (SECTION 7.)

#### *Licence Fees.*

<sup>7</sup>[Wholesale <sup>8</sup>[Maximum] Rate .. Rs. 15.

Retail or Hawker—

(1) In any case where the aggregate price realised from sales in any year does not exceed Rs. 200. Rs. 2.

(2) In any other case .. A fee calculated at the rate of Re. 1 per cent. on the aggregate price realised from sales in any year.]

Broker .. .. Rs. 2.

<sup>1</sup> These words were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The word "thereof" was substituted for the words "of the said Council" by *ibid.*

<sup>3</sup> These words were substituted for the words "of the said Council" by *ibid.*

<sup>4</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

<sup>5</sup> The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

<sup>6</sup> These words, figures and brackets were inserted by Bom. 2 of 1935, s. 9.

<sup>7</sup> These entries were substituted for the original entries relating to "Wholesale", "Retail" and "Hawker" by *ibid.* s. 10.

<sup>8</sup> The word "Maximum" was substituted for the word "Fixed" by Bom. 26 of 1935, s. 4.

**BOMBAY ACT No. III OF 1933.<sup>1</sup>**

[THE PREVENTION OF CRUELTY TO ANIMALS (BOMBAY AMENDMENT)  
ACT, 1933]

[6th April, 1933]

**An Act further to amend the Prevention of Cruelty to Animals Act,  
1890, in its application to the Presidency of Bombay.**

XI of 1890. WHEREAS it is expedient further to amend the 'Prevention of Cruelty to Animals Act, 1890, in its application to the Presidency of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Prevention of Cruelty to Animals Short title. (Bombay Amendment) Act, 1933.

XI of 1890. 2. For sub-section (6) of section 6 of the <sup>2</sup>Prevention of Cruelty Amendment of section 6 of XI of 1890. to Animals Act, 1890, in its application to the Presidency of Bombay, the following sub-section shall be substituted, namely :—

“(6) (a) If, in the case of an animal directed to be destroyed or sent to a pinjrapole under sub-section (4), the owner refuses or neglects to pay the costs incurred in respect of the animal under sub-section (5), such cost shall be recoverable from the owner as a fine on the order of a magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause, before the Magistrate, why such cost should not be recovered ;

(b) if, in the case of an animal certified under sub-section (4) to be fit for work or labour, the owner refuses or neglects to remove the animal within such time as a magistrate may prescribe and to pay the cost incurred in respect of the animal under sub-section (5), the Magistrate may direct the animal to be sold and the proceeds of the sale to be applied to the payment of such cost.”

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<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V, p. 463; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vol. XXXVII.

<sup>2</sup> Central Acts.

**BOMBAY ACT No. V OF 1933.<sup>1</sup>**

[THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT)  
ACT, 1933]

[17th May, 1933]

**An Act further to amend the Presidency Small Cause Courts Act, 1882, in its application to the Presidency-town of Bombay.**

WHEREAS it is expedient further to amend the <sup>2</sup>Presidency Small Cause Courts Act, 1882, in its application to the Presidency-town of Bombay; It is hereby enacted as follows:—

1. This Act may be called the Presidency Small Cause Courts Short title. (Bombay Amendment) Act, 1933.

2. In the footnote to part E of the third schedule to the <sup>2</sup>Presidency Amendment of Small Cause Courts Act, 1882, for the words "four annas per day" of the third schedule to 1882. the words "such fee not exceeding twelve annas per day as may be Act XV of fixed by the Registrar of the Small Cause Court" shall be substituted. 1882.

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<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V, p. 484; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vol. XXXVII.

<sup>2</sup> Central Acts.

**BOMBAY ACT No. V OF 1933.<sup>1</sup>**

[THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT)  
ACT, 1933]

[17th May, 1933]

**An Act further to amend the Presidency Small Cause Courts Act,  
1882, in its application to the Presidency-town of Bombay.**

WHEREAS it is expedient further to amend the <sup>2</sup>Presidency Small  
XV of Cause Courts Act, 1882, in its application to the Presidency-town of  
1882. Bombay; It is hereby enacted as follows:—

1. This Act may be called the Presidency Small Cause Courts Short title.  
(Bombay Amendment) Act, 1933.

2. In the footnote to part E of the third schedule to the <sup>2</sup>Presidency Amendment  
of Small Cause Courts Act, 1882, for the words "four annas per day" of the third  
882. the words "such fee not exceeding twelve annas per day as may be Act XV of  
fixed by the Registrar of the Small Cause Court" shall be substituted. 1882.

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<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V, p. 484; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vol. XXXVII.

<sup>2</sup> Central Act.

# THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.

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**BOMBAY ACT No. VI of 1933.<sup>1</sup>**

[THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.]

[12th June, 1933]

Amended by Bom. Act 34 of 1935.

Amended by Bom. Act 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act to amend and consolidate the law relating to the constitution of Village Panchayats.**

WHEREAS it is expedient to amend and consolidate the law relating to the constitution of village panchayats, with a view to fostering their growth and of increasing their utility in the further development of local self-government in rural areas and in the administration of civil and criminal justice ; and whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act and of the Governor required under section 80C of the said Act have been obtained for the passing of this Act ; It is hereby enacted as follows :—

5 & 6,  
Sec V,  
s. 61.

**CHAPTER I.****PRELIMINARY.**

1. This Act may be called the Bombay Village Panchayats Act, Short title 1933.

2. It extends to the whole of the Presidency of Bombay, except the Extent. City of Bombay.

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

(1) "by-laws" means by-laws made by the district local board under section 109 ;

(2) "case" means, with reference to any judicial proceeding, a criminal proceeding in respect of any offence triable by a village bench ;

(3) "Chairman" means the chairman of a village bench, appointed under sub-section (4) of section 37 ;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1932, P. V, pp. 200-211 ; for Report of the Select Committee, see *ibid*, 1933, Pt. V, pp. 1-4 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1932, Vol. XXXV, 1933, Vol. XXXVII.

(4) "district local board", used with reference to any local area, means a district local board established under the Bombay Local Boards Act, 1923, for the district in which such local area is situated; Bom. VI of 1923.

(5) "holder" means a holder of an alienated revenue village and includes a Khot, a talukdar, a sharakatdar and in Sindh a jagirdar or a zamindar;

(6) "offence" means any act or omission made punishable by any law for the time being in force;

(7) "panchayat" means a panchayat established under this Act;

(8) "prescribed" means prescribed by rules;

(9) "revenue village" means any local area which is recognised as a village in the revenue accounts;

(10) "rules" means rules made by <sup>1</sup>[the Provincial Government] under section 108;

(11) "sarpanch" means a sarpanch elected under section 14;

(12) "school-board" means a school-board constituted under section 3 of the Bombay Primary Education Act, 1923; Bom. IV of 1923.

(13) "suit" means a civil suit triable by a village bench under this Act;

(14) "tax" means a tax, cess, rate, or other impost leviable under this Act;

(15) the expression "the term of a panchayat" means the period for which the elected members thereof shall hold office under section 11;

(16) "village" means any local area declared to be a village under section 4;

(17) "village bench" means a bench constituted under sub-section (1) of section 37 for the purpose of the trial of suits and cases.

## CHAPTER II.

### ESTABLISHMENT AND CONSTITUTION OF PANCHAYATS.

Declaration  
of village.

#### 4. On a written application made—

(i) by the district local board with previous notice to the Collector,  
(ii) by the Collector with previous notice to the district local board, or

(iii) by not less than twenty adult residents of any local area, the Commissioner may, after making such inquiry as may be prescribed, by notification in the <sup>2</sup>[*Official Gazette*], declare the local area in respect

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

of which the application has been made to be a village, or to cease to be a village or declare that any area is included in or excluded from a village :

Provided that if there be a holder of any revenue village in any such area and if any such holder objects to a declaration being made including any such revenue village in any such area, the Commissioner shall not make a declaration with respect to such revenue village, but shall refer the objection of such holder to <sup>1</sup>[the Provincial Government] and thereupon <sup>1</sup>[the Provincial Government] after taking the objection into consideration shall, by notification in the <sup>2</sup>[*Official Gazette*], declare that such revenue village shall or shall not be included in the village.

5. In every village declared to be such under section 4, there shall be a panchayat. Establishment of panchayats.

6. (1) A panchayat shall consist of the following members, namely :— Constitution of panchayats.

(a) such elected members, not being less than five or more than eleven in number, as the Collector after consultation with the district local board may determine :

Provided that when among such elected members there is not a member of any class of persons residing in the village, which in the opinion of the Collector, by reason of its numbers or for any other reason, should in the public interest be represented on the panchayat, the Collector shall nominate a member of such class qualified and willing to be so nominated a member of the panchayat :

Provided further that the number of members nominated by the Collector under the first proviso shall not exceed two.

(b) an officiating patel in the following order of preference :—

(i) the senior officiating revenue patel if there be more than one officiating revenue patel in the village, or

(ii) the officiating revenue patel, if there be not more than one officiating revenue patel in the village, or

(iii) the officiating patel, if there be no separate officiating revenue patel in the village.

For the purposes of clause (b), an officiating patel includes a village officer appointed under section 3 of the Sindh Village Officers Act, 1881.

(c) The holder of any revenue village and when there are more than one revenue villages in the village as defined under the Act the holder of any such revenue village and when there are more than one holder of any such revenue village, the principal among such holders, nominated by the Collector. If any such holder is unable or unwilling to serve, the Collector shall nominate a representative of such holder whom the Collector may approve.

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(2) The decision of the Collector as to who is the senior officiating revenue patel or the principal holder or the representative of the holder shall be final.

(3) Where the Collector in consultation with the district local board determines that the number of elected members of a panchayat shall exceed five, failure to elect more than five such members shall not affect the constitution of a panchayat.

Election.

7. (1) The election of elected members to a panchayat shall be held on such date as the Collector may appoint in this behalf.

(2) All adult persons who ordinarily reside in the village and all adult persons who own in the village a house assessed to house tax or land assessed to cess under section 93 of the Bombay Local Boards Act, Bom. VI of 1923, shall be entitled to vote at the election.

Such election shall be conducted in the prescribed manner.

(3) The Collector shall, after such enquiry as he considers necessary, decide in any case of dispute or doubt, who is qualified to vote at such election.

Disqualifications.

8. No person may be elected or nominated a member of a panchayat or continue as such, who—

(a) is under 21 years of age, or

(b) does not ordinarily reside in the village, or

(c) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, or has been ordered to furnish security for good behaviour under the Code of Criminal Procedure, 1898, such sentence or order not having been subsequently reversed or remitted, so long as such sentence has not expired or so long as such order is in force, unless he shall have by an order which [the Provincial Government] is hereby empowered to make, been relieved from the disqualification arising on account of such sentence or order, or

(d) has been adjudged by a competent court to be of unsound mind, or

(e) has been adjudicated an insolvent and has not obtained his discharge, or

(f) has been removed from office under section 21 and five years have not elapsed from the date of such removal, unless he shall have, by an order which the district local board after the expiry of one year from the date of such removal is hereby empowered to make, been relieved from the disqualification arising on account of such removal from office, or

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(g) holds any salaried office or place of profit in the gift or disposal of the panchayat, while holding such office or place, or

(h) has directly or indirectly any share or interest in any contract with, by or on behalf of the panchayat while owning such share or interest :

Provided that in cases (g) and (h) the disqualification may be removed by an order of the Commissioner in this behalf.

*Explanation.*—A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company or a co-operative society registered under the Co-operative Societies Act, 1912, or the Bombay Co-operative Societies Act, 1925, be held to be interested in any contract entered into between the company or co-operative society and the panchayat.

9. (1) If the Collector, after such enquiry as he considers necessary, is satisfied that any member has been elected in contravention of the provisions of section 8, or that any corrupt practice or irregularity has been committed in connection with such election, and that such illegality, corrupt practice or irregularity has materially affected the result of the election, the Collector may declare the election of such member to be invalid, and such declaration shall be final :

Collector to declare election invalid.

Provided that when the Collector is satisfied that a corrupt practice has been committed by a member, the Collector shall, whether such corrupt practice has or has not materially affected the result of the election, declare the election of such member to be invalid and such declaration shall be final.

(2) A person shall be deemed to have committed a corrupt practice—

(a) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(b) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

*Explanation 1.*—A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

*Explanation 2.*—“A promise of individual profit”—

(i) does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but

(ii) subject thereto includes a promise for the benefit of the person himself or any person in whom he is interested.

Fresh election, if election invalid.

10. If the Collector declares the election of any member invalid under section 9, a fresh election for the vacancy so caused shall be held in accordance with the provisions of this Act.

Term of office of elected members.

11. (1) The elected members of a panchayat shall, save as otherwise provided in this Act, hold office for a term of three years.

(2) The Collector may, by order in writing, for reasons recorded therein, extend the said term for a period not exceeding one year. Any such order shall be notified in such manner as the Collector may approve.

Commencement of term of office.

12. (1) The term of office of the elected or nominated members shall be deemed to commence on the date of the first meeting after the election or nomination of such members, as the case may be.

(2) The term of office of the outgoing members shall be deemed to extend to and expire with the day before such meeting.

(3) The term of office of an *ex-officio* member of a panchayat shall continue so long as he holds office in virtue of which he is such a member.

(4) The term of office of a member nominated under clause (c) of subsection (1) of section 6 shall be co-extensive with the term of office of an elected member.

Resignation of members.

13. Any elected or nominated member may resign his office by giving notice in writing to that effect to the sarpanch and such resignation shall take effect from the date of its receipt by the sarpanch.

Election of sarpanch and deputy sarpanch.

14. (1) Every panchayat shall be presided over by a sarpanch who shall be elected by the members from among their own number. The panchayat shall also elect one of its members to be deputy sarpanch.

(2) A sarpanch and members holding office in a panchayat established under the Bombay Village Panchayats Act, 1920, and continued under section 115 shall be deemed to have been elected under this section and shall continue to hold their respective offices until a new panchayat is constituted under the provisions of this Act.

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Term of office of sarpanch and deputy sarpanch.

15. Save as otherwise provided in this Act, a sarpanch or deputy sarpanch shall hold office for a period of one year, but shall be eligible for re-election :

Provided that the term of office of such sarpanch and deputy sarpanch shall be deemed to extend to and expire with the day previous to that on which their successors respectively are elected or on the date on which the term of the panchayat expires, whichever is earlier :

Provided further that if the term of the panchayat is due to expire within six months after the expiry of the term of office of sarpanch or deputy sarpanch, the sarpanch or deputy sarpanch, as the case may be, shall continue to hold office until the date on which the term of the panchayat expires.

16. After the expiry of his term of office, the sarpanch shall continue to carry on the current duties of his office until such time as a new sarpanch shall have been elected and shall have taken over charge.

Sarpanch to carry on current duties until his successor is appointed.

17. (1) On the establishment of a panchayat for the first time under this Act, or on its reconstitution or establishment under section 102 or 103, a meeting shall be called by the president of the district local board who shall himself preside or appoint a person who is not a member of the panchayat to preside over the meeting. The president of the district local board or the person so appointed shall preside at such meeting but shall have no right to vote and the meeting shall then proceed to elect the sarpanch. In the case of an equality of votes the result of the election of the sarpanch shall be decided by lot to be drawn by the person presiding at the meeting in such manner as he may determine.

Election of sarpanch on establishment of panchayat, etc.

(2) On the expiry of the term of a panchayat, or on the expiry of the period of one year for which a sarpanch ordinarily holds office as provided in section 15, the sarpanch shall convene a meeting of the panchayat for the election of a new sarpanch. He shall preside at such meeting, but shall not vote thereat unless he is a member of the panchayat at that time. In the case of an equality of votes, the result of the election shall be decided by lot to be drawn by the presiding sarpanch in such manner as he may determine :

Provided that when no meeting for the election of a sarpanch has been called by the retiring sarpanch within thirty days from the date of expiry of either of the aforesaid periods, the president of the district local board shall proceed to convene a meeting of the panchayat in the manners described in sub-section (1) and a new sarpanch shall be elected accordingly.

18. The deputy sarpanch may resign his office by giving notice in writing to the sarpanch.

Resignation by sarpanch or deputy sarpanch.

The sarpanch may resign his office by giving notice in writing to the president of the district local board.

Such resignations shall take effect from the date of their acceptance.

19. The time and place of sitting and the procedure at a meeting of the panchayat shall be in accordance with by-laws.

Time and place of sitting of panchayat and procedure at meetings.

20. The executive power for the purpose of carrying out the provisions of this Act and the resolutions passed by a panchayat vests in the sarpanch who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence

Executive of Panchayat.



of the sarpanch, the powers and duties of the sarpanch shall, save as may be otherwise prescribed by by-laws, be exercised and performed by the deputy sarpanch.

Removal  
from office.

21. The district local board may, after giving due notice to the panchayat and after such enquiry as it thinks fit, remove from office with the previous sanction of the Collector any member, or any sarpanch or deputy sarpanch who, in its opinion, is unfit to be a member or sarpanch or deputy sarpanch, as the case may be, or is persistently remiss in the discharge of his duties. A sarpanch or deputy sarpanch so removed may, at the discretion of the district local board, and subject to the like sanction also be removed from the panchayat unless he is an *ex-officio* member of the panchayat. The panchayat may, with the previous sanction of the president of the district local board, and after due notice and inquiry remove the secretary of a panchayat from office for similar reasons.

Leave of  
absence.

22. (1) Any elected or nominated member of a panchayat who, during his term of office,—

(a) is absent for more than four consecutive months from the village unless leave not exceeding six months, so to absent himself, has been granted by the panchayat; or

(b) absents himself for six consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall become vacant.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the Collector whose decision shall be final.

Filling up of  
vacancies.

23. (1) Any vacancy of which notice shall have been given to the Collector in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a sarpanch or a deputy sarpanch, or an elected or nominated member, shall be filled, by the election of a sarpanch or deputy sarpanch or the election or nomination of a member, who shall hold office so long only as the sarpanch, deputy sarpanch or member, in whose place he has been elected or nominated would have held office if the vacancy had not occurred.

(2) The meeting for the election of a sarpanch under sub-section (1) shall be convened by the president of the district local board in the manner described in sub-section (1) of section 17.

Vacancy not  
to affect  
proceedings  
of panchayat.

24. During any vacancy in the panchayat, the continuing members may act as if no vacancy had occurred.

25. Notwithstanding anything contained in this Act, the village fund shall, until such date as <sup>1</sup>[the Provincial Government] may notify in the <sup>2</sup>[*Official Gazette*], be administered, so far as may be, under the provisions of this Act by the panchayats constituted under the Bombay Village Panchayats Act, 1920, which panchayats shall be deemed to have been established under this Act.

Temporary provision pending establishment of panchayats under this Act.

Bom. IX of 1920.

### CHAPTER III.

#### ADMINISTRATIVE POWERS AND DUTIES.

26. (1) It shall be the duty of a panchayat, so far as the village funds at its disposal will allow subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely:—

Administrative powers and duties of panchayats.

(a) the supply of water for domestic use;

(b) the cleansing of the public roads, drains, bunds, tanks and wells (other than tanks and wells used for irrigation) and other public places or works;

(c) the construction, maintenance and repair of public roads, drains, bunds and bridges:

Provided that, if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of such authority;

(d) sanitation, conservancy, and the prevention and abatement of nuisances;

(e) the preservation and improvement of the public health;

(f) the maintenance and regulation of the use of public buildings, grazing lands, forest lands (including lands assigned under section 28 of the <sup>3</sup>Indian Forest Act, 1927), tanks and wells (other than tanks and wells used for irrigation), vesting in or under the control of the panchayat;

XVI of 1927.

(g) the lighting of the village;

(h) control of fairs, bazars, slaughter-houses and cart-stands; and

(i) provision and maintenance of burning and burial grounds.

(2) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "*Official Gazette*" were substituted for the words "*Monday Government Gazette*" by *ibid.*

<sup>3</sup>Central Acts.

(3) A panchayat may, with the previous sanction of the district local board, also make provision for carrying out outside the village any work of the nature specified in sub-sections (1) and (2).

Powers of district local board to transfer maintenance of institutions and execution of other works.

27. The district local board may, at any time, with the consent of the panchayat, transfer to such panchayat the management of any institution or the execution of any work not provided for in section 26, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution of such work :

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the district local board.

Other duties.

28. (1) The panchayat shall,—

(i) subject to the regulations made by the local authority under the Bombay Primary Education Act, 1923, supervise the village school and carry out such repairs as may be necessary for the maintenance and upkeep of the same ; and Bom. IV of 1923.

(ii) subject to by-laws to be made by the district local board in this behalf,—

(a) supervise the labour employed by local boards on works within the village ;

(b) supervise repairs to dharamshalas ;

(c) manage and maintain cattle-pounds ; and

(d) execute such works as are entrusted to it by the district local board ; and

(iii) subject to such conditions as <sup>1</sup>[the Provincial Government] may impose and with the consent of the panchayat concerned, perform such other administrative duties including the distribution of irrigation water as may be assigned to it by <sup>1</sup>[the Provincial Government] by notification in the <sup>2</sup>[Official Gazette], after consultation with the district local board.

(2) The regulations to be made by the local authority shall be made within six months from the passing of this Act. If no such regulations are made within the said period, <sup>1</sup>[the Provincial Government] may make rules for the purpose.

(3) A panchayat shall not be bound to carry out repairs to a village school under clause (i) of sub-section (1) unless sufficient funds have been placed at the disposal of the panchayat by the local authority or the School Board, as the case may be, or to perform the duties specified in clause (ii) of sub-section (1) unless sufficient funds have been placed at the disposal of the panchayat by the district local board.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

## CHAPTER IV.

## INCORPORATION OF VILLAGE PANCHAYAT ; ITS PROPERTY AND FUND.

29. Every panchayat shall be a body corporate by the name of Incorporation of  
 "the village panchayat of \_\_\_\_\_," and shall have perpetual succession of village  
 and a common seal, and may sue and be sued in its corporate name, panchayat.  
 and shall be competent to acquire and hold property, both moveable  
 and immoveable whether within or without the limits of the village  
 over which it has authority, to lease, sell or otherwise transfer moveable  
 or immoveable property which may become vested in or be acquired  
 by it, and to contract and do all other things necessary for the purposes  
 of this Act :

Provided that no lease of immoveable property (other than property referred to in sub-section (1) of section 30) for a term exceeding seven years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Collector.

30. (1) It shall be competent to a local board from time to time to Property of  
 direct that any property vesting in such local board shall vest in panchayat.  
 panchayat :

Provided that no lease, sale or other transfer of any such property shall be valid without the previous sanction of such local board.

(2) Every work constructed by a panchayat out of the village fund, shall vest in such panchayat.

31. (1) There shall be in each village a fund, which shall be called Village  
 the village fund. fund.

(2) The following shall form part of, or be paid into, the village fund, namely :—

(a) the amount which may be allotted to the village fund by  
 [the Provincial Government] under the provisions of section 191 of  
 the Bombay District Municipal Act, 1901 ;

||  
 Bom.  
 III of  
 1901.

(b) the proceeds of any tax or fee imposed under section 89 ;

(c) all \* \* \* sums ordered to be paid as compensation realised under sections 45 and 46 ;

(d) all other sums ordered by a court to be placed to the credit of the village fund ;

(e) the sale proceeds, except in so far as any person is entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the village servants ;

\* The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

\* The words "fines and" were omitted by *ibid.*

(f) sums contributed to the village fund by <sup>1</sup>[the Provincial Government] or a district local board ;

(g) all sums received by way of loans from the <sup>1</sup>[Provincial Government] or the district local board or by way of gift ;

(h) \* \* \* \* \*

(i) the income or proceeds of any property vesting in the panchayat ; and

(j) fees levied for the institution of suits and cases under section 59.

Application of village fund.

32. All property vested in the panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

## CHAPTER V.

### ESTABLISHMENT AND ACCOUNTS.

Appointment of secretary.

33. Every panchayat shall appoint a secretary. Such appointment shall be subject to the approval of the Standing Committee of the district local board.

Schedule of servants.

34. Subject to the provisions of section 98, a panchayat shall determine and submit for information to the district local board a schedule of the number and salaries of its servants required for carrying out the duties imposed upon the panchayat by or under this Act.

Appointment of servants.

35. (1) The sarpanch shall appoint the servants of the panchayat and pay their salaries from the village fund at his disposal. He may also, in cases of emergency, engage such temporary servants as he may deem necessary. The sarpanch may, from time to time, by a written order, fine, suspend or dismiss any servant appointed by him.

(2) An appeal shall lie against an order passed under sub-section (1) to the panchayat.

Budget and accounts. Panchayat to convene a meeting of residents of village.

36. (1) A panchayat shall determine annually and shall submit to the district local board, on or before such date and in such form as may be prescribed by <sup>1</sup>[the Provincial Government], a statement of—

(a) the opening balance and estimated income of the panchayat for the following year ;

(b) the expenditure proposed on establishment and the discharge of the duties specified in sub-section (1) of section 26 ;

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

\* Clause (h) was omitted by *ibid.*

(c) the expenditure proposed under sub-section (2) of section 26 and sub-section (1) of section 28.

(2) The district local board shall, within three months from the date of the receipt of such statement, either approve the same or direct that the proposed expenditure on any of the duties specified in sections 26 and 28 shall be increased or decreased :

Provided that the district local board shall not have power to direct that the total proposed expenditure shall exceed the estimated income of the village fund for the following year and the opening balance.

(3) A panchayat shall maintain its accounts in such form as may be prescribed by <sup>1</sup>[the Provincial Government] and submit to the district local board annual returns thereof on or before such date and in such form as may be prescribed by <sup>1</sup>[the Provincial Government].

(4) A panchayat shall convene in a manner and at a time prescribed a meeting of all adult residents of the village and shall place before the meeting the last statement of accounts together with a report on the administration of the preceding year and the programme of work proposed for the year following.

## CHAPTER VI.

### CONSTITUTION AND POWERS OF VILLAGE BENCHES.

37. (1) <sup>1</sup>[the Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette] from such date as may be appointed in this behalf declare that in any village where a panchayat has been established, a village bench shall be constituted to exercise in accordance with rules all or any of the judicial powers which may be conferred on a village bench under this Act. Power of Provincial Government to constitute village benches to try suits and cases.

(2) Such village bench shall consist of five or seven members as may be appointed by the Collector. When the village bench consists of five members, three members, and when the village bench consists of seven members, five members, shall be appointed by the Collector in the manner prescribed from among the members of the panchayat. The remaining members shall be appointed by the Collector in the manner prescribed from among persons not being persons in the <sup>3</sup>[service of the Crown] or of any local authority who may or may not be members of the panchayat :

Provided that if there be a holder of any revenue village within the limits of the village in which a village bench is to be constituted, the

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

<sup>3</sup>The words "service of the Crown" were substituted for the words "service of Government" by *ibid.*

Collector shall appoint the holder of such revenue village a member of such village bench. When there are more than one such holder in any such village, the Collector shall appoint the principal among such holders the member of the bench. If any such holder is unable or unwilling to serve on the bench, the Collector shall appoint a representative of such holder whom the Collector may approve.

The decision of the Collector as to who is the principal holder or a representative of the holder is final.

(2) In appointing the members of a village bench the Collector shall have due regard to a just and proper representation upon the village bench of all classes of persons residing in a village who are in a minority.

(4) The chairman of the village bench shall be appointed by the Collector from among the members of the bench.

Saving of  
pending  
proceedings.

33. Every suit or case of the nature specified in section 39 or 41, pending in any court and cognizable by a village bench empowered under section 37 and all proceedings arising from and incidental to any such suit or case shall be tried, heard and determined by such court or any other court having jurisdiction to try, hear and determine the same, as if this Act had not been passed.

Suits triable  
by village  
bench.

39. (1) Save as otherwise provided in section 40, the village bench shall have power to try the following suits, namely:—

(a) suits for money due on contracts, not affecting any interest in immoveable property;

(b) suits for the recovery of moveable property or for the value of such property;

(c) suits for compensation for wrongfully taking and injuring moveable property;

where the amount or value of the claim does not exceed twenty-five rupees.

(2) With the written consent of both the parties, recorded in the presence of the village bench, suits of the nature described in sub-section (1), but the value of which does not exceed one hundred rupees, shall be triable by such village bench.

(3) <sup>1</sup>[The Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], direct that any village bench may try any suit of the nature described in sub-section (1), up to such value as may be specified in the notification not exceeding one hundred rupees.

<sup>1</sup> The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The word "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

40. No suit shall be brought before any village bench—

Suits not triable by village bench.

(i) on a balance of partnership account ;

(ii) for a share or part of a share under any intestacy, or for a legacy or part of a legacy under a will ;

(iii) by or against <sup>1</sup>[the Crown] or any local authority or an officer or servant of <sup>2</sup>[the Crown] or a member, officer or servant of a local authority in his official capacity ;

(iv) by or against a minor or a person of unsound mind ; and

(v) on account of any dispute or matter in respect of which any suit or application would be cognizable by a revenue court.

41. (1) The following offences as well as abetments of or attempts to commit such offences shall be cognizable by village benches, namely :—

Offences cognizable by village benches.

XLV  
of  
860.

(a) Under the Indian Penal Code—				Section.
Voluntarily causing hurt	..	..	..	323
Assault or use of criminal force otherwise than on grave and sudden provocation	..	..	..	352
Assault or use of criminal force on grave and sudden provocation	..	..	..	358
Theft, where the value of the property stolen does not exceed Rs. 10	..	..	..	379
Mischief when the loss or damage caused does not exceed Rs. 10 in value	..	..	..	426
Intentional insult, with intent to provoke a breach of the peace	..	..	..	504

Provided that no offence of theft shall be cognizable by any village bench, unless an accused person has been either apprehended or recognised and named.

of  
371.

(b) Under the <sup>3</sup> Cattle Trespass Act, 1871—				Section.
Forcibly opposing the seizure of cattle or rescuing the same	..	..	..	24

(c) Breaches of by-laws made punishable under this Act.

<sup>1</sup> The words "the Crown" were substituted for the words "the Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "the Crown" were substituted for the word "Government" by *ibid.*

<sup>3</sup> Central Acts.



(2) <sup>1</sup>[The Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], empower any village bench to take cognizance of any or all of the following offences under the Indian Penal Code, as well as abetments of, or attempts to, commit (any) such offences, namely :—

	Section.
Negligently doing any act known to be likely to spread the infection of any disease dangerous to life ..	269
Fouling the water of a public spring or reservoir ..	277
Causing danger, obstruction or injury to any public way .. .. .	283
Theft, where the value of the property stolen does not exceed Rs. 20 .. .. .	379
Mischief, when the loss or damage caused does not exceed Rs. 20 in value .. .. .	426
Criminal trespass .. .. .	447
House trespass .. .. .	448
Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	461
Adultery.. .. .	497
Enticing, or taking away, or detaining with criminal intent a married woman .. .. .	498

Certain persons accused of theft not to be tried by village bench

**42.** No village bench shall take cognizance of any offence of theft punishable under section 379 of the Indian Penal Code, in which the accused—

(a) has been previously convicted of an offence punishable, under Chapter XII or Chapter XVII of the Indian Penal Code, with imprisonment of either description for a term of three years or upwards;

(b) has been previously fined for theft by any panchayat;

(c) is a registered member of a criminal tribe under section 4 of the Criminal Tribes Act, 1924; or

(d) has been bound over to be of good behaviour in proceedings instituted under section 109 or section 110 of the Code of Criminal Procedure, 1898.

Offences by or against public servant not cognizable by village bench.

**43.** No village bench shall take cognizance of any offence specified in section 41 in which either the complainant or the accused is a public servant serving in the district in which the village for which the panchayat is established is situated :

<sup>1</sup> The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

<sup>3</sup> Central Acts.

Provided, however, that a village bench shall not be debarred from taking cognizance of an offence for a breach of a by-law, notwithstanding that the complainant in the case is a public servant.

XLV of 1860. 44. A conviction by a village bench under this Act shall not be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code. Conviction by a village bench not a previous conviction.

45. (1) The following are the maximum penalties which may be inflicted by a village bench for the offences mentioned in section 41 :— Maximum penalties.

XLV of 1860. (a) Under the Indian Penal Code—  
Fine not exceeding Rs. 10 or double the amount of the loss or damage caused up to a limit of Rs. 20 ;

I of 1871. (b) Under section 24 of the <sup>1</sup>Cattle Trespass Act, 1871—  
Fine not exceeding Rs. 5 ; and

(c) for a breach of a by-law made punishable under this Act—  
Fine not exceeding Rs. 10 or Re. 1 a day for a continuing breach as provided in sub-section (3) of section 109.

(2) No sentence of imprisonment, whether substantive or in default of fine or of whipping, shall be inflicted by a village bench.

46. <sup>2</sup>[The Provincial Government] may empower, by a notification in the <sup>3</sup>[*Official Gazette*], a village bench to inflict the following maximum penalties :— Power of Provincial Government to empower particular village bench to inflict enhanced penalties.

XLV of 1860. (a) Under the sections of the Indian Penal Code mentioned in section 41—  
Fine not exceeding Rs. 20 or double the amount of the damage or loss caused, whichever is greater.

I of 1871. (b) Under section 24 of the <sup>1</sup>Cattle Trespass Act, 1871—  
Fine not exceeding Rs. 10.

47. In inflicting any fine under section 45 or section 46, the village bench may direct that the whole or any portion of the fine recovered shall be applied— Compensation to complainants.

(a) towards defraying the expenses properly incurred in the case by the complainant, or

(b) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

<sup>1</sup> Central Acts.

<sup>2</sup> The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

Compensation to accused for false or frivolous case.

48. If a village bench is satisfied, after enquiry, that a case brought before it is false, frivolous or vexatious, such village bench may order the complainant to pay the accused such compensation, not exceeding Rs. 5, as it thinks fit.

Youthful offenders.

49. Instead of passing any sentence, a village bench may discharge, after due admonition, a youthful offender who, in the opinion of such village bench, is, at the time of conviction of the offence, under the age of sixteen years.

Members interested not to sit on village bench.

50. No member of a village bench who is a party to, or has any interest in, any suit or case shall sit on the village bench while it is trying such suit or case.

Any dispute as to whether a member of a village bench is a party to or interested in a suit or case shall, on a written application of a party to such suit or case, be referred to the Collector or such officer as he may authorise in this behalf for decision. The decision of the Collector or such officer shall be final.

*Res judicata* and pending suits and cases.

51. (1) No village bench shall try any suit or issue in respect of any matter which is pending for decision in, or has been heard and decided by, a court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim.

(2) Where an accused person has been tried for any offence, no village bench shall take cognizance of such offence or, on the same facts, of any other offence of which the accused might have been charged or convicted.

Suits to include whole claim.

52. Every suit instituted before a village bench shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the village bench.

If a plaintiff omits to sue in respect of or intentionally relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Limitation for suits and cases.

53. (1) No suit shall be entertained by a village bench after the expiration of one year from the time when the right to sue first accrued.

(2) No case shall be cognizable by a village bench after the expiration of one month from the date on which the offence was committed.

Village bench before which suits to be instituted.

54. Every suit under this Act shall be instituted before the village bench of the village in which the defendant or each of the defendants, where there are more than one, resides at the time of the institution of the suit, irrespective of the place where the cause of action arose.

55. Every case under this Act shall be instituted before the village bench of the village in which the offence was committed.

Village bench before which cases to be instituted.

56. Any magistrate upon receiving a complaint of facts constituting an offence cognizable by a village bench shall, unless reason to the contrary be shown to the satisfaction of the magistrate, return the complaint for presentation to the village bench having jurisdiction to try the same.

Return of complaints.

57. Notwithstanding anything contained in any law for the time being in force, no court, subject to the provisions of section 56, shall entertain any suit specified in section 39 or take cognizance of any offence specified in section 41, unless and until the District Judge or the Collector has passed an order in writing under section 77 or 87.

Bar of jurisdiction of courts in suits and cases.

B.M. VIII of 1867. 58. Notwithstanding anything contained in the Police Act, 1867, the provisions of section 14 of the said Act shall not apply to any village in which a village bench shall have been constituted under sub-section (1) of section 37.

Bombay Village Bom. Act VIII of 1867, sec. 14 not to apply to village which has village bench.

## CHAPTER VII.

### PROCEDURE OF PANCHAYATS IN SUITS AND CASES.

59. Any person who wishes to institute a suit or case under this Act before a village bench shall make an application orally or in writing to the Chairman or during his absence from the village to such other member of the village bench as the Chairman may appoint in this behalf and shall at the same time pay the prescribed fees.

Suits and cases : how instituted.

60. The substance of the application shall be recorded without delay in the prescribed register and the signature or thumb-impression of the applicant shall be taken on the register and the register shall be signed by the Chairman or, in his absence, by any member authorised under section 59.

Substance of application to be recorded.

61. Every suit or case instituted in accordance with the provisions of section 59 shall be brought before the village bench at its next sitting and the plaintiff or complainant, as the case may be, shall, at the time of making the application, be informed of the time and place fixed for such sitting and directed to attend at that time and place.

Plaintiff or complainant to attend next sitting of village bench.

62. The village bench after hearing the application, shall cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place :

Summons to be issued to defendant or accused.

Provided that the village bench may, for reasons to be recorded, after hearing the application and examining the plaintiff or complainant, refuse to issue a summons and dismiss the suit or complaint.

Summons  
by whom  
served.

63. Such summons shall ordinarily be caused to be served by the patel or village head man. Where there are two patels in a village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit and by the police patel if it relates to a case :

Provided, however, that a village bench may cause the summons to be served through any other person.

Mode of  
service of  
summons.

64. The summons shall be in duplicate, signed by the presiding member of the village bench and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb-impression shall be taken in token of service. If the defendant or accused cannot be found and the village bench is satisfied that he is evading service or if he refuses to take the summons, the village bench may order service to be made on an adult male member of his family residing with him, or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of  
service  
outside  
village.

65. If a defendant or accused is, at the time of the issue of the summons, outside the village of the panchayat, the summons may be forwarded by the village bench to the Collector or to any officer not below the rank of a mamlatdar, who may be authorised by the Collector in this behalf, and the Collector or such officer shall cause the summons to be served as if it were a summons from his own court.

Exemption of  
certain  
persons from  
appearance  
in suits.

66. (1) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, shall be exempt from personal appearance before a village bench in any suit.

(2) Persons exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, shall also be exempt from personal appearance before a village bench in any suit. V of  
1908

Issue of  
summons to  
witnesses.

67. (1) A village bench may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

(2) A village bench may refuse to summon a witness or to enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances, would be unreasonable.

(3) No village bench shall enforce the attendance of any person living outside the village to give evidence, or to produce a document, unless such sum of money is deposited with the village bench as appears to the village bench to be sufficient to defray his reasonable expenses and if in the opinion of the Collector or officer empowered under section 65, as the case may be, the attendance of any such person is not necessary for the proper adjudication of the suit or case, such Collector or Officer shall return the summons to the village bench with his endorsement accordingly.

(4) No village bench shall compel any person to give evidence or to disclose any communication which such person cannot be permitted to give or compelled to disclose under the provisions of the <sup>I of</sup> Indian Evidence Act, 1872, or under any other law for the time being in <sup>1872.</sup> force.

68. No pleader, vakil, or mukhtyar, and no advocate or attorney <sup>Pleaders, etc.,</sup> of a High Court, shall be permitted to appear on behalf of any <sup>excluded</sup> party to any suit or case before a village bench or in any inquiry <sup>from</sup> under <sup>appearance.</sup> section 87 :

Provided that any party to any such suit or case may be permitted, on reasonable cause being shown to the satisfaction of the village bench, or the District Judge or Collector to employ any relation, servant, dependant, or friend who is not and who has not previously been a pleader, vakil, or mukhtyar or an advocate or attorney of a High Court, to appear either conjointly with or in lieu of such party.

When a relation, servant, dependant, or friend appears in lieu of a party, he shall be furnished by such party with a written authority defining the extent to which he is empowered to act.

69. (1) It shall be the duty of a village bench to ascertain the facts <sup>Decision of</sup> of a suit or case before it after holding an inquiry in accordance with <sup>suit or case</sup> the provisions of this Act and the rules. <sup>on facts</sup> <sup>ascertained.</sup>

(2) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a village bench to hold such inquiry.

(3) After holding such inquiry, a village bench may pass such decree or order, with or without prescribed fees subject to the provisions of this Act, as may in its opinion seem just and equitable.

70. The decision of the village bench shall be in accordance with <sup>Decision</sup> the opinion of the members of the village bench who are present <sup>of the</sup> at the sitting or of the majority of such members. <sup>village</sup> If the members <sup>bench,</sup> are equally divided, the person presiding shall have a second or casting vote.

Adjourn-  
ment.

71. The village bench may, from time to time, adjourn the hearing of any suit or case :

Provided that such adjournment is, in its opinion, unavoidable or necessary to a just and equitable decision of the suit or case.

Disposal of  
suits and  
cases in  
absence of  
party  
concerned.

72. (1) If the plaintiff or complainant fails to appear, after having been informed of the time and place fixed for the hearing, the village bench may hear and decide the suit or case in his absence.

(2) The village bench may hear and decide a suit or case in the absence of the defendant or the accused, if a summons has been served upon him in the manner hereinbefore prescribed, or if he has been informed of the time and place fixed for hearing :

Provided that no sentence shall be passed by a village bench on any accused, unless he has appeared, either in person or by a representative, before the village bench and the substance of his statement has been recorded in the prescribed register.

(3) If, after the service of summons upon him, an accused fails to appear, either in person or by a representative, the village bench may apply to the District Magistrate or to any officer not below the rank of a second class magistrate authorised by the District Magistrate in this behalf, and such District Magistrate or officer shall compel the accused to appear in person or by his representative before the village bench as if he were a court trying the case.

(4) Where an accused person has, under sub-section (3), been compelled to appear before the village bench, the village bench shall forthwith take his statement, and thereafter his attendance at the hearing of the case shall not be compulsory.

Compromise.

73. Notwithstanding anything contained in this Act or in any other law for the time being in force, a village bench may decide any suit or case within its jurisdiction in accordance with any settlement, compromise or oath agreed to by the parties.

Death of  
parties.

74. When any party to a suit dies before a decree has been passed, the suit shall abate, but a fresh suit may be brought on the same cause of action, and the period during which the suit was pending shall be excluded in computing the period of limitation prescribed under section 53 for the fresh suit.

Village bench  
not to revise  
or alter its  
decision.

75. (1) Except as provided in sub-section (2), a village bench shall not have power to cancel, revise or alter any decree or order passed by it.

(2) On application made within one month from the date of the decree or order of a village bench, the village bench may, for reasons to be recorded in writing, restore any suit which has been dismissed for default or in which an *ex-parte* decree has been passed against the defendant.

76. In suits for money, a village bench may, in its discretion, direct payment of interest on the sum decreed, at a rate not exceeding six per cent. per annum, from the date of the decree until the date of payment and of any fees which may be prescribed. Interest and instalments.

When a village bench decrees the payment of a sum of money in a suit, it may direct that it be paid by instalments, without interest, or with interest not exceeding the above rate.

77. (1) When any village bench is of opinion that any suit or case before it is of such a nature, or of such intricacy or importance that it ought to be tried by a court, it shall stay proceedings and refer the suit to the District Judge or any officer not below the rank of Subordinate Judge who may be authorised by the District Judge in that behalf or the case to the Collector or any officer not below the rank of mamlatdar who may be authorised by the Collector in this behalf, for his orders. Reference by village bench to Collector.

(2) If the District Judge or Collector or such authorised officer is of the opinion that the suit or case is of such nature, intricacy or importance that it ought not to be tried by the village bench, he shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such suit or case.

(3) If the District Judge or Collector or the authorised officer is of opinion that the suit or case is not of such nature, intricacy or importance that it ought to be tried by a Court, he shall return the suit or case to the village bench, which made the reference, for disposal.

78. Except as provided in section 87, no decree or order of a village bench shall be called in question in any court on the ground that it was passed without jurisdiction. Village bench's decrees and orders not to be questioned.

79. Every decree or order passed by a village bench in any suit or case under this Act shall be final, and, save as provided in section 87, shall not be subject to any appeal, revision or review. Finality of decrees and orders.

## CHAPTER VIII.

### EXECUTION.

80. If, on the application of a decree-holder or judgment-debtor, the village bench, after enquiry, finds that the decree has been satisfied or adjusted, wholly or in part, the village bench shall record the fact in the prescribed register. Satisfaction or adjustment of decree to be recorded.

81. (1) If, after a period of one month from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-holder may, within one year of the date of the decree, apply to the village bench for execution. Execution through collector.



(2) On such application for execution, the village bench shall certify to the Collector that the decree remains unsatisfied or unadjusted, in whole or in part and on receipt of such certification the Collector shall, provided that the village bench shall have certified to the Collector within one year from the date of the application for execution,—

(a) if the decree is for money, proceed to recover it as if it were an arrear of land revenue ; or

(b) if the decree is for any specific moveable property, cause the decree to be executed as if it were a decree of a civil court, and in so acting may exercise all the powers of a civil court.

Execution of instalment decree through Collector.

82. (1) If, after a period of one month from the date fixed for the payment of any instalment of a sum of money decreed by a village bench under section 76, an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the village bench.

(2) On such application for execution, the village bench shall certify to the Collector that the instalment or a portion thereof still remains unpaid, and on receipt of such certification the Collector shall, provided the village bench shall have certified to the Collector within one year from the date of the application for execution, proceed to recover the amount of the instalment so remaining unpaid as if it were an arrear of land revenue.

Satisfaction of decree or instalment after certificate.

83. If, after the issue of the certificate to the Collector under section 81 or 82, but before the decree has been executed through the Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 80, the village bench shall forthwith certify such satisfaction to the Collector who shall thereupon stay the execution proceedings. All sums of money realised by execution through the Collector shall, after satisfaction of the decree, be refunded to the judgment-debtor.

Fine and compensation when payable.

84. (1) Every sum ordered to be paid as compensation and every fine imposed under sections 45, 46, 47 and 48 by a village bench shall be payable at once :

Provided that the village bench may allow any person ordered by it to pay compensation or fine to pay the same within such time, not exceeding fifteen days, as it may think proper and on such terms as to security as it shall seem to the village bench necessary to impose.

Mode of recovery.

(2) If the amount of fine or compensation remains unpaid for fifteen days from the date of the order, the village bench shall recover the same by distraint and sale of the defaulter's moveable property.

(3) If the amount of fine or compensation is not fully recovered, the village bench shall certify accordingly to the Collector, and on receipt of such certification the Collector shall, provided the panchayat shall

have certified to the Collector within a period of one year from the date when the amount became recoverable by the village bench under sub-section (2), proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the village bench.

85. As soon as the amount of fine or compensation referred to in section 84 is realised by the village bench whether directly or through the Collector, the amount so realised shall be entered in the prescribed register, <sup>1\*</sup> \* \* \* \* \*

Fine or compensation, when realised, to be recorded.

86. Any money which has been ordered by the village bench, under section 47 or section 48, to be paid as expenses or compensation, shall be paid by it out of the amount realised under sections 45 and 46 <sup>2\*</sup> \* \* \* \*

Payment of compensation out of village fund.

87. (1) The District Judge in any suit and the Collector in any case may, at any time, either of his own motion or on the application of an aggrieved party or on a reference made by a village bench under section 77 by order in writing, cancel the jurisdiction of a village bench or quash any proceedings of a village bench at any stage, or cancel any decree or order passed by a village bench. <sup>District Judge or Collector may cancel jurisdiction or quash proceedings.</sup>

(2) When an order has been passed by the District Judge under sub-section (1) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a civil court, and the period from the date of the institution of the suit before the village bench to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(3) Where an order has been passed by the Collector under sub-section (1) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a magistrate having jurisdiction.

88. No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act. <sup>Bar to arrest and imprisonment in execution of decree.</sup>

## CHAPTER IX.

### TAXATION AND RECOVERY OF CLAIMS.

89. (1) Every panchayat shall levy in such manner and at such rates as may be prescribed, such of the taxes or fees specified in sub-section (2) as may be necessary for the proper discharge by the panchayat of its duties under this Act. <sup>Levy of taxes and fees by panchayat.</sup>

<sup>1</sup> The words "and shall be credited by the village bench to the village fund" were omitted by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "and the payment so made shall be debited to the village fund" were omitted by *ibid.*

(2) Taxes or fees which are leviable by a panchayat under sub-section (1) are :—

(i) a tax upon the owners or occupiers of houses and lands within the limits of the village ;

(ii) a pilgrim tax ;

(iii) a tax on fairs and festivals ;

(iv) a tax on sales of goods ;

(v) octroi ;

(vi) a tax on marriages, adoptions and feasts ;

<sup>1</sup>(vii) any other tax (not being a toll on motor vehicles or trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which the Provincial Legislature has, under the Government of India Act, 1935, power to impose in the Province and which <sup>Bom. XXXI of 1935</sup> has been approved by the district local board and sanctioned by the Provincial Government.

(3) Any person aggrieved by the assessment, levy or imposition of any such tax or fee may appeal to the district local board. The decision of the district local board in the matter shall be final.

(4) <sup>2</sup>[The Provincial Government] may suspend the levy or imposition of any tax or fee referred to in sub-section (1) and may at any time rescind such suspension.

<sup>3</sup>[(5) Until provision to the contrary is made by the Central Legislature, a panchayat which, immediately before the commencement of Part III of the Government of India Act, 1935, was lawfully levying under this section, as then in force, any tax other than the taxes mentioned in sub-section (2) may continue to levy that tax].

Power of district local board to increase taxation of panchayat.

90. (1) If in the opinion of the district local board the regular income of a panchayat falls below what is necessary for the proper discharge of the duties specified in sections 26 and 28, the district local board may require the panchayat to take steps, within six months, to increase its income to such extent as the district local board considers necessary. If the panchayat fails to take adequate steps to increase its income to the required extent, the district local board may require it to levy or increase any of the taxes or fees specified in section 89 :

Provided that the district local board shall not compel the panchayat to levy or increase any tax or fee beyond the maximum rate to be prescribed in this behalf.

(2) Any panchayat may appeal to the Commissioner against an order made under sub-section (1) and the Commissioner may stay the execution of such order until he has decided the appeal.

<sup>1</sup> Clause (vii) was substituted for the original clause by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "The Provincial Government" were substituted for the word "Government" by *ibid.*

<sup>3</sup> Sub-section (5) was inserted by *ibid.*

91. (1) When any tax or fee has become due, a panchayat shall with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid. Recovery of taxes and other dues.

(2) If any person fails to pay any tax or any other sum due from him to a panchayat under this Act or the rules or by-laws on or before the specified date of payment, the panchayat shall cause a writ of demand to be served on the defaulter.

(3) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the moveable property of the defaulter.

(4) For every writ of demand issued under sub-section (2) a fee shall be chargeable at such rate as may be prescribed by by-laws.

(5) If a panchayat is unable to recover a tax or other sum due to it as aforesaid, it may furnish to the mamlatdar or mahalkari a statement of the arrears due, with a request for the recovery of the same through the village officers, and on receipt of such statement of arrears, the mamlatdar or mahalkari may, provided such statement of arrears shall have been furnished by the panchayat to the mamlatdar or mahalkari within one year from the date specified in the bill presented under sub-section (1), proceed to recover the same as an arrear of land revenue through the village officers. For the recovery of such sums, the village officers shall be remunerated by the panchayat in such manner as may be prescribed \* \* \*.

(6) If a panchayat fails to recover any tax, fine or other sum due to it, or neglects to take action under sub-sections (2) and (3) of section 84 or (2) and (3) of this section, the district local board may apply to the Collector to recover the same as an arrear of land revenue :

Provided that no such application shall be made to the Collector after the expiry of one year from the date when the amount became certifiable under sub-section (3) of section 84 or from the date specified in the bill presented under sub-section (1) of this section, as the case may be.

On receipt of such application from the district local board, the Collector may, after holding such enquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue.

92. The Collector may direct—

(a) any sum certified by a panchayat and recoverable by him under sections 81, 82 and 84 and sub-section (6) of section 91 ;

(b) any arrear of a tax or any other sum due to a panchayat and recoverable, through a mamlatdar or mahalkari under sub-section (5) of section 91 ;

Collector's power to direct irrecoverable sums to be written off.

to be written off if, in the opinion of the Collector, such sum or arrears are irrecoverable.

<sup>1</sup> The words " by by-laws " were omitted by Bom. 24 of 1936, s. 2, Sch.

## CHAPTER X.

## FINANCIAL ASSISTANCE TO PANCHAYATS.

Contributions and loans by district local boards.

93. (1) Notwithstanding anything contained in the Bombay Local Boards Act, 1923, the district local board—

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(i) shall assign to every panchayat within the district not less than one-fifth of the local fund cess realised within the limits of the village, and

(ii) may, subject to rules, grant a loan to such panchayats, for the purposes of this Act.

(2) When estimating the balance of the local fund available for expenditure by a taluka local board under the provisions of section 76 (1) of the Bombay Local Boards Act, 1923, there may be deducted from any such balance any sum assigned under clause (i) of sub-section (1) by a district local board to a panchayat within the area of such taluka local board.

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## CHAPTER XI.

## CONTROL.

Power to call for proceedings, etc.

94. (1) The Collector or the district local board shall have power—

(a) to call for any extract from the proceedings of a panchayat, any book or document in the possession or under the control of a panchayat, and any return, statement, account or report which the Collector or the district local board may think fit to require such panchayat to furnish; and

(b) to require a panchayat to take into consideration—

(i) any objection which appears to the Collector or the district local board to exist to the doing of anything which is about to be done or is being done by such panchayat, or

(ii) any information which the Collector or the district local board is able to furnish, and which appears to the Collector or the district local board to necessitate the doing of a certain thing by the panchayat,

and to make a written reply to the Collector or the district local board, as the case may be, within a reasonable time, stating its reasons for not desisting from doing or for not doing such things.

(2) All or any of the powers given to the district local board under sub-section (1) may be delegated by it to its president, vice-president, chief officer, public health officer or executive engineer.

95. (1) The district local board may delegate to the President, Vice-President, the Chief Officer, Public Health Officer or any other officer specially appointed by the district local board in this behalf the duties of encouraging the establishment and fostering the growth of panchayats and of assisting panchayats in the proper exercise of their powers and performance of their duties under this Act.

(2) It shall be competent to the district local board to accept and utilise in an honorary capacity in the performance of any of the duties which may be delegated under sub-section (1) the services of any person who in the opinion of such Board is specially fitted to assist in this behalf.

(3) It shall be competent to <sup>1</sup>[the Provincial Government] to appoint an officer to exercise such of the powers and perform such of the duties of a Collector under this Act as <sup>1</sup>[the Provincial Government] may prescribe. Such officer shall also perform such other duties and exercise such other powers as <sup>1</sup>[the Provincial Government] may prescribe for the purpose of encouraging the establishment and fostering the growth of panchayats and village benches and of assisting and advising panchayats and village benches in the proper exercise of their powers and performance of their duties under this Act.

96. The district local board may authorise its president, vice-president, or any of its officers to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by any panchayat or any work in progress under its direction.

97. The audit of the accounts of a panchayat shall, unless provision is otherwise made by <sup>1</sup>[the Provincial Government] in that behalf, be carried out each year by the district local board, and such board shall, within one month of the completion of the audit, forward a copy of the audit note to the Collector.

98. (1) If, in the opinion of the Collector or the district local board, the number of persons maintained or proposed to be maintained by a panchayat as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat, shall, on the requirement of the Collector or the district local board, as the case may be, reduce such number or remuneration.

(2) If there is a difference between the requirement of the Collector or of the district local board under sub-section (1), the panchayat shall refer the matter in difference to the Commissioner whose decision shall be final.

(3) The panchayat may appeal to the Commissioner against any requirement made under sub-section (1), and the decision of the Commissioner in the matter shall be final.

99. (1) If in the opinion of the Collector, the execution of any order or resolution of a panchayat, or the doing of anything which is to be done or is being done by or on behalf of a panchayat, is causing

Delegation of duties, appointment of officers, utilisation of honorary agencies for encouraging the establishment and fostering the growth of panchayats.

Power of entry.

Audit of accounts.

Reduction of establishment.

Suspension of order.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof.

(2) When the Collector makes an order under sub-section (1), he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons for making it.

(3) The Collector shall forthwith submit to the Commissioner a report of every case occurring under this section, and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the Collector could have made.

Execution  
of work in  
case of  
emergency.

100. (1) In cases of emergency the Collector may provide for the execution of any work or the doing of any act which a panchayat is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

(2) If the expense is not so paid, the Collector may direct the officer in charge of the treasury in which the village fund is kept to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

(3) The Collector shall forthwith report to the Commissioner every case in which he exercises the powers under sub-section (1).

Default in  
performance  
of duty.

101. (1) If at any time it appears to the district local board that a panchayat has made default in the performance of any duty specified in section 26, it may order the duty to be performed within a specified period, and, if the duty is not performed within the period specified, the district local board may appoint some person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat, within such period as the district local board may fix.

(2) If the expense is not so paid, the district local board may direct the person in custody of the village fund to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

(3) The district local board shall forthwith report to the Commissioner every case occurring under this section and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the district local board could have made.

Dissolution  
or superses-  
sion of  
panchayat  
for default.

102. (1) If, in the opinion of <sup>1</sup>[the Provincial Government] a panchayat exceeds or abuses its powers, or makes persistent default in the performance of the duties imposed on it under section 26 or any other law for the time being in force, <sup>1</sup>[the Provincial Government] may, after consultation with the district local board by an order in the <sup>2</sup>[Official Gazette]—

(i) dissolve such panchayat, or

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

(ii) supersede such panchayat for the period specified in the order.

(2) When a panchayat is dissolved or superseded, all members of the panchayat shall, from the date specified in the order, vacate their offices as such members.

(3) When a panchayat is dissolved, it shall be reconstituted in the manner provided in this Act.

(4) If a panchayat is superseded—

(a) all the powers and duties of the panchayat shall, during the period of supersession, be exercised and performed by such person or persons as [the Provincial Government] may, from time to time, appoint in that behalf; and

(b) all property vested in the panchayat shall during the period of supersession, vest in [the Provincial Government]; and

(c) on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election or re-nomination.

103. (1) When, during the term of the panchayat the limits of a village are altered, the Commissioner may, by order in writing dissolve such panchayat and direct a panchayat—

Dissolution and reconstitution of panchayat on alteration of limits of village.

(i) to be reconstituted for the village of which the panchayat has been dissolved, or

(ii) to be established for a village which has been newly declared.

The members of the panchayat which has been dissolved shall vacate their office from the date specified in the order.

(2) The panchayat reconstituted or established under the provisions of sub-section (1) shall consist of such members, either elected, nominated or appointed in such manner as the Commissioner shall, by order in writing, direct.

The sarpanch and deputy sarpanch of the panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(3) The term of the panchayat so reconstituted or established shall be for such period, not exceeding one year, as the Commissioner shall, by order in writing, specify.

(4) On the expiry of the term of the panchayat in accordance with the provisions of sub-section (3), the panchayat shall be constituted in the manner provided by this Act.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.



Vesting of property, etc., of panchayat which has been dissolved in reconstituted or established panchayat.

104. (1) When a panchayat has been dissolved and reconstituted or established under section 103, so much of the village fund and other property vesting in the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, the reconstituted or established panchayat, as the Commissioner may, by order in writing, direct.

(2) The rights and liabilities of the panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established panchayat, shall vest in such panchayat.

(3) Any notice, tax, order, licence, permission, rule or by-law made, issued or imposed in respect of any part of the area subject to the authority of the reconstituted or established panchayat shall be deemed to have been made, issued or imposed by or in respect of such panchayat, unless and until it is superseded by any notice, tax, order, licence, permission, rule or by-law made, issued or imposed by or in respect of such panchayat.

Effect of area ceasing to be a village.

105. On any area ceasing to be a village, by virtue of any notification under section 4,—

(a) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification ;

(b) the unexpended balance of the village fund and the property vesting in the panchayat shall vest in the district local board, to be utilised for the benefit of the inhabitants of the area as the district local board may think fit.

Effect of dissolution or supersession of panchayats on village benches and proceedings pending before them.

106. (1) When a panchayat is dissolved or superseded under section 102, 103 or 105, the village bench constituted in the village for which the panchayat was established shall be deemed to have been dissolved and all members of the village bench shall vacate office as from the date of dissolution or supersession as the case may be.

(2) On the dissolution of the village bench under sub-section (1)

(i) the provisions of sub-sections (2) and (3) of section 87 shall be deemed to apply in respect of any suits or cases pending before the village bench as if the District Judge or the Collector, as the case may be, had passed an order under sub-section (1) of section 87 quashing such suits or cases ; and

(ii) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Court of the Subordinate Judge or the Magistrate, as the case may be, who would have had jurisdiction to try the suit or case if the village bench had not been constituted and such Subordinate Judge or Magistrate, as

the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard, and decided by such Subordinate Judge or Magistrate.

107. In all matters connected with this Act, <sup>1</sup>[the Provincial Government] shall have and exercise the same authority and control over the district local boards as it has and exercises over them under the Bombay Local Boards Act, 1923.

<sup>3</sup>om.  
<sup>1</sup>I of  
1923.

Authority  
of Provincial  
Government.

## CHAPTER XII.

### RULES AND BY-LAWS.

108. (1) <sup>1</sup>[The Provincial Government] may, by notification in the Rules, <sup>2</sup>[*Official Gazette*], make <sup>3</sup>rules—

(a) under section 4, regulating the manner in which the Commissioner may hold an inquiry ;

(b) under section 6, regulating the manner in which the Collector shall nominate the holder or his representative ;

(c) under section 7, prescribing the manner in which the election of members shall be held ;

(d) under section 23, regulating the manner in which notice of a vacancy in the office of a sarpanch, deputy sarpanch or members of a panchayat shall be given ;

(e) under section 32, prescribing the custody in which all funds received by and all sums accruing to a panchayat shall be kept ;

(f) under section 36, prescribing the date of submission and form of annual budgets, returns and accounts and the manner in and the time at which the meeting of the residents of the village shall be convened ;

(g) under section 37, prescribing the time and place of sitting of village benches, their constitution for the conduct of trials of suits or cases, the mode of settling differences of opinion which may arise amongst their members regulating the manner in which the Collector shall nominate the holder or his representative on the village bench and any other matter which <sup>1</sup>[the Provincial Government] may consider necessary for the proper conduct of proceedings before such benches ;

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

<sup>3</sup> For Rules under this section, see Bombay Local Rules and Orders, Vol. IV.

(h) under section 59, prescribing the fees payable on the institution of suits and cases;

(i) under sections 60, 72, 80 and 85 prescribing the particulars to be entered in registers for suits and cases;

(j) under section 62, prescribing the form of summons;

(k) under section 69, regulating the manner in which an inquiry shall be held by a village bench;

(l) under section 76, prescribing the scale of fees which a village bench may direct to be paid in a suit or case;

(m) under section 89, prescribing the rate and the manner in which taxes and fees specified in the section shall be leviable;

(n) under section 90, prescribing the maximum rate for the levy of taxes or fees specified in section 89;

(o) under sub-section (5) of section 91, prescribing the remuneration of village officers for the recovery of taxes and other sums due to a panchayat and the manner in which such remuneration shall be paid;

(p) under section 93, prescribing the terms on which loans may be granted to a panchayat by the district local board;

(q) under section 95, prescribing the powers and duties which may be delegated to or exercised or performed by an officer or person appointed; and

(r) under sub-sections (3) and (4) of section 112, regulating the delegation by the District Judge or the Collector of the powers therein referred to.

(2) The rules to be made under sub-section (1) shall be subject to the condition of previous publication.

(3) Rules made under sub-section (1) shall be laid <sup>1</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>2</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>3</sup>[in which both Chambers concur] and such rule shall, after notification in the <sup>4</sup>[*Official Gazette*], be deemed to have been modified or rescinded accordingly:

<sup>1</sup> The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The word "thereof" was substituted for the words "of the said Council" by *ibid.*

<sup>3</sup> The words "in which both Chambers concur" were substituted for the words "of the said Council" by *ibid.*

<sup>4</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

Provided that when, in the opinion of <sup>1</sup>[the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, <sup>1</sup>[the Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

109. (1) The district local board may, with the previous sanction <sup>By-laws.</sup> of the Commissioner, make by-laws generally for the carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, the district local board may make by-laws—

(a) under section 19, prescribing the time and place of the sittings and regulating the procedure at meetings of a panchayat, and fixing a quorum;

(b) under section 20, prescribing the powers and duties of a sarpanch which may be exercised and performed by a deputy sarpanch;

(c) under section 26—

(i) for the purification and protection from pollution of all sources of water used for drinking purposes;

(ii) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over of such tank or well, or by any other method which may be considered advisable;

(iii) for the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience;

(iv) for the regulation of offensive callings or trades;

(v) for the disposal of corpses by burning or burial;

(vi) for the excavation of earth and the filling up of excavations and depressions injurious to health or offensive to the neighbourhood;

(vii) for the removal of noxious vegetation;

(viii) for the repair and removal of dangerous or ruinous buildings;

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(ix) for the prevention of the erection of buildings without adequate provisions for ventilation, or the laying out and location of streets;

(x) for the control of fairs and bazars, and the regulation of markets, slaughter-houses and cart-stands;

(xi) for the inspection and destruction of unfit food and drink exposed for sale; and

(xii) for the general regulation of sanitation and conservancy;

(d) under section 28, for the supervision of labourers employed by local boards, and of repairs to dharamsalas, the management and maintenance of cattle-pounds, execution of works entrusted by the district local board, distribution of irrigation water and performance of other duties assigned by <sup>1</sup>[the Provincial Government].

(3) Any by-law made under the foregoing sub-sections may provide that a contravention thereof shall be punishable—

(a) with a fine, which may extend to Rs. 10, or

(b) in the case of a continuing contravention, with a fine, which may extend to Re. 1 per day after conviction for the first contravention during the period within which such contravention continues.

## CHAPTER XIII.

### MISCELLANEOUS.

Liability of members for loss, waste or misapplication.

110. (1) Every member of a panchayat shall be personally liable for the loss, waste or misapplication of any money or other property of the panchayat, to which he has been a party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.

(2) If, after giving the member concerned a sufficient opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross neglect on his part, the Collector may, by order in writing, direct such member to pay to the panchayat, before a fixed date, the amount required to reimburse it for such loss, waste or misapplication.

(3) If the amount is not so paid, the Collector shall recover it as an arrear of land revenue and credit it to the village fund.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(4) The decision of the Collector shall be final as to the liability of a member under sub-section (2) and as to the amount to be recovered from him.

111. (1) No action shall lie against any member, officer, servant or agent of a panchayat or a village bench acting under its direction, in respect of anything done in good faith under this Act or any rule or by-law.

Bar of action against panchayats, Village Benches, etc., and previous notice before institution.

(2) No action shall be brought against any panchayat or village bench, or any member, officer, servant or agent of such panchayat or village bench acting under its direction for anything done or purporting to have been done under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office of the panchayat or village bench, and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of the cause of action and not afterwards.

(4) If any panchayat or village bench or person, to whom a notice under sub-section (2) is given shall, before an action is brought, tender sufficient amends to the plaintiff and pay into court the amount so tendered, the plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

112. (1) <sup>1</sup>[The Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], authorise the Commissioner or any officer specially empowered under sub-section (3) of section 95 to exercise in respect of panchayats and village benches any of the powers which may be exercised by <sup>1</sup>[the Provincial Government] under this Act.

Delegation of powers.

(2) <sup>1</sup>[The Provincial Government] may also, by notification in the <sup>2</sup>[Official Gazette] authorise any person to exercise in respect of panchayats any of the powers conferred on a district local board under the provisions of this Act, when such district local board shall have been dissolved or superseded.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

(ix) for the prevention of the erection of buildings without adequate provisions for ventilation, or the laying out and location of streets;

(x) for the control of fairs and bazars, and the regulation of markets, slaughter-houses and cart-stands;

(xi) for the inspection and destruction of unfit food and drink exposed for sale; and

(xii) for the general regulation of sanitation and conservancy;

(d) under section 28, for the supervision of labourers employed by local boards, and of repairs to dharamsalas, the management and maintenance of cattle-pounds, execution of works entrusted by the district local board, distribution of irrigation water and performance of other duties assigned by <sup>1</sup>[the Provincial Government].

(3) Any by-law made under the foregoing sub-sections may provide that a contravention thereof shall be punishable—

(a) with a fine, which may extend to Rs. 10, or

(b) in the case of a continuing contravention, with a fine, which may extend to Re. 1 per day after conviction for the first contravention during the period within which such contravention continues.

## CHAPTER XIII.

### MISCELLANEOUS.

Liability of members for loss, waste or misapplication.

110. (1) Every member of a panchayat shall be personally liable for the loss, waste or misapplication of any money or other property of the panchayat, to which he has been a party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.

(2) If, after giving the member concerned a sufficient opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross neglect on his part, the Collector may, by order in writing, direct such member to pay to the panchayat, before a fixed date, the amount required to reimburse it for such loss, waste or misapplication.

(3) If the amount is not so paid, the Collector shall recover it as an arrear of land revenue and credit it to the village fund.

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<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(4) The decision of the Collector shall be final as to the liability of a member under sub-section (2) and as to the amount to be recovered from him.

111. (1) No action shall lie against any member, officer, servant or agent of a panchayat or a village bench acting under its direction, in respect of anything done in good faith under this Act or any rule or by-law.

Bar of action against panchayats, Village Benches, etc., and previous notice before institution.

(2) No action shall be brought against any panchayat or village bench, or any member, officer, servant or agent of such panchayat or village bench acting under its direction for anything done or purporting to have been done under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office of the panchayat or village bench, and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of the cause of action and not afterwards.

(4) If any panchayat or village bench or person, to whom a notice under sub-section (2) is given shall, before an action is brought, tender sufficient amends to the plaintiff and pay into court the amount so tendered, the plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

112. (1) <sup>1</sup>[The Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], authorise the Commissioner or any officer specially empowered under sub-section (3) of section 95 to exercise in respect of panchayats and village benches any of the powers which may be exercised by <sup>1</sup>[the Provincial Government] under this Act.

Delegation of powers.

(2) <sup>1</sup>[The Provincial Government] may also, by notification in the <sup>2</sup>[Official Gazette] authorise any person to exercise in respect of panchayats any of the powers conferred on a district local board under the provisions of this Act, when such district local board shall have been dissolved or superseded.

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*



(3) Subject to rules made in this behalf, the District Judge may delegate to a Subordinate Judge the powers exercisable by the District Judge in regard to suits under sub-section (I) of section 87 in respect of a village bench in a village within the jurisdiction of the said Subordinate Judge.

(4) Subject to rules made in this behalf, the Collector may delegate to—

(a) a Magistrate of the First Class exercising appellate jurisdiction under section 407 of the Criminal Procedure Code the powers V of exercisable by the Collector in regard to cases under sub-section (I) 1898. of section 87 in respect of a village bench in a village within the said jurisdiction of the said Magistrate ;

(b) an officer not below the rank of a Deputy Collector, powers other than the powers under sub-section (I) of section 87 exercisable by the Collector in regard to cases under the provisions of this Act.

Local  
inquiry and  
reports by  
panchayat.

113. It shall be the duty of every panchayat to inquire and report in any of the following cases :—

(a) any case where a magistrate has directed that a previous local investigation be made by a panchayat under section 202 of the Code V of of Criminal Procedure, 1898, and the words "such other person" 1898. in sub-section (I) of the said section shall be deemed to include a panchayat ;

(b) any case in which a magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, may require from V of the panchayat in whose village either the wife or child for whose 1898. maintenance the application is made or the husband or parent respectively of such wife or child resides, a report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable, and such report shall be evidence in such inquiry :

Provided that no member of the panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the magistrate may, in his discretion, call for a further report.

Members,  
etc., of  
panchayats  
or village  
benches to  
be public  
servants.

114. Every member of a panchayat or village bench and every officer and servant maintained by or employed under a panchayat or village bench shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Bom. IX of 1920. 115. (1) The Bombay Village Panchayats Act, 1920, is hereby repealed: Repeal and Savings.

Provided that—

(a) such repeal shall not affect the liability of any person to pay any sum due from him under the said Act or the validity or invalidity of anything already done thereunder ;

Bom. IX of 1920. (b) all panchayats established under the Bombay Village Panchayats Act, 1920, and existing immediately before the coming into force of this Act shall be deemed to have been established under this Act ;

and the rights and liabilities of any such panchayats shall be vesting in and attached to the panchayat so deemed to have been established ;

and any appointment, notification, notice, tax, order, permission, rule or by-law made, issued or imposed in respect of any such panchayat under the Act so repealed shall, so far as is not inconsistent with the provisions of this Act, be deemed to have been made, issued or imposed under the provisions of this Act in respect of the panchayats so deemed to have been established under this Act, unless and until superseded by any appointment, notification, notice, tax, order, permission, rule or by-law made, issued or imposed under this Act.

(2) During such time as this Act and the rules and by-laws shall be in operation in any village, the enactments mentioned in the Schedule shall, to the extent specified in the third column of the Schedule, ceased to have any operation in the said village.

#### SCHEDULE.

(See section 115.)

No. and year of enactment.	Subject or Title.	Extent of repeal.
Bombay Act VII of 1867...	The Bombay District Police Act, 1867.	Sections 33 and 34.

**THE BOMBAY (EMERGENCY POWERS) WHIPPING  
ACT, 1933.**

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**CONTENTS.**

**PREAMBLE.**

**SECTIONS.**

1. Short title, extent and commencement.
2. Punishment of whipping for offences of rioting, etc.

BOMBAY ACT No. X of 1933.<sup>1</sup>

[THE BOMBAY (EMERGENCY POWERS) WHIPPING ACT, 1933]

[26th September, 1933]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

## An Act to amend the law relating to the punishment of whipping in the City of Bombay.

WHEREAS it is expedient to amend the law relating to the Preamble.  
punishment of whipping in the City of Bombay; And whereas the  
previous sanction of the Governor General required by sub-section (3)  
of section 80A of the Government of India Act has been obtained for the  
passing of this Act; It is hereby enacted as follows:—

5 & 6  
Geo. V,  
c. 61. 1. (1) This Act may be called the Bombay (Emergency Powers) Whipping Act, 1933. Short title,  
extent and  
commence-  
ment.

(2) This Act extends to the City of Bombay.

(3) This section shall come into force at once, and the<sup>2</sup>[Provincial Government] may, when in<sup>3</sup>[its] opinion human life or property is manifestly in danger, direct that the remaining provisions of this Act shall come into force from such date as the<sup>2</sup>[Provincial Government] may, by notification in the<sup>4</sup>[Official Gazette], appoint.

IV of  
1909. 2. In addition to the persons who may be punished with whipping under section 4 of the<sup>5</sup>Whipping Act, 1909, whoever, by instigating or by intentionally aiding by any act or illegal omission, abets the offence of rioting or rioting armed with deadly weapons as defined respectively in sections 146 and 148 of the Indian Penal Code, or whoever commits the offence of rioting as defined in the said sections of the said Code, may be punished with whipping in addition to or in lieu of any other punishment to which he may for such offence or such abetment be liable under the said Code. Punishment  
of whipping  
for offences of  
rioting, etc.

NLV  
of  
1909.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V, p. 432; for Report of the Select Committee, see *ibid*, 1933, Pt. V, pp. 516-520; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vols. XXXVII and XXXVIII.

<sup>2</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The word "its" was substituted for the word "his" by *ibid*.

<sup>4</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid*.

<sup>5</sup> Central Acts.

BOMBAY ACT No. XIII of 1933.<sup>1</sup>

[THE CITY OF BOMBAY MUNICIPAL (AMENDMENT) ACT, 1933]

[28th September, 1933]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act further to amend the City of Bombay Municipal Act, 1888, with a view to transfer the powers and duties of the Trustees for the Improvement of the City of Bombay to, and to vest the property and rights vested in the said Trustees in, the Municipal Corporation of the City of Bombay, on the dissolution of the Board of the said trustees.**

10m. WHEREAS the <sup>2</sup>City of Bombay Improvement Trust Transfer  
CIV  
f  
925. Act, 1925, was enacted with a view to transfer to the Municipal Corporation of the City of Bombay the powers of the Board of Trustees for the Improvement of the City of Bombay constituted under the <sup>3</sup>City of Bombay Improvement Act, 1898, and to entrust to the said Corporation, subject to the conditions and limitations specified, the duties of the said Board and to vest in the said Corporation, for the purpose of the improvement of the City of Bombay, the property and rights of the said Board ;

10m. And whereas in pursuance of the aforesaid object the duty of carrying  
CIV  
f  
925. out the provisions of the <sup>2</sup>City of Bombay Improvement Trust Transfer Act, 1925, was, subject to the conditions and limitations therein contained, entrusted to the said Corporation as the Board of Trustees for the Improvement of the City of Bombay as a body corporate with perpetual succession and a common seal and certain property and rights were vested in the said Board ;

And whereas by section 83 of that Act it was further provided that when the Corporation are satisfied that there is no longer any necessity for the continuance of the Board of Trustees they shall make a representation to Government in that behalf and the Government may, in the manner prescribed in the said section, dissolve the Board ;

10m. And whereas a representation has been made to the Government of  
II of  
888. Bombay by the said Corporation that the said Board be now dissolved and that legislation may be undertaken to make such amendments as may be necessary in the City of Bombay Municipal Act, 1888, for that purpose ;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V, pp. 155-165 ; for Report of the Select Committee, see *ibid*, 1933, Pt. V, pp. 541-552 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vols. XXXVII and XXXVIII.

<sup>2</sup> Since repealed by Bom. 13 of 1933, Appendix.

<sup>3</sup> Repealed by Bom. 16 of 1925, s. 4.

And whereas it appears to the Government of Bombay that the said Board should now be dissolved and that the powers and duties of the said Board should be transferred to and the property and rights vested in the said Board should be vested in the said Corporation subject to the limitations hereinafter mentioned and that a committee of the said Corporation to be called the Improvements Committee should be constituted in accordance with the provisions of this Act, and subject to the restrictions and conditions hereinafter specified, for the purpose of the improvement of the City of Bombay in the manner hereinafter mentioned;

And whereas it is proposed that certain lands shall be vested in the said Corporation in the manner hereinafter appearing;

And whereas the plans of such last mentioned lands have been deposited with the Collector of Bombay and are hereinafter referred to as the deposited plans;

And whereas for the purposes aforesaid it is expedient to amend the City of Bombay Municipal Act, 1888, in manner hereinafter appearing; Bom. III of 1888.

And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act, and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. V c. 61.

**Short title.** 1. This Act may be called the City of Bombay Municipal (Amendment) Act, 1933.

**Commence-  
ment.** 2. This Act shall come into operation from such date as the Government may, by notification in the <sup>2</sup>[*Official Gazette*] appoint.

**3-37.** [*Amendments made by sections 3-37 have been incorporated in the City of Bombay Municipal Act, 1888 (Bom. 3 of 1888).*]

**Provision  
regarding  
pending  
cases.**

38. Notwithstanding anything contained in sections 90, 354S, 354T and 354U of the said Act and in section 40 of this Act, in respect of appeals made to the High Court under the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, before the date on which this Act comes into operation, the High Court shall continue to perform the functions assigned to it under the aforesaid Acts and every such appeal shall, so far as may be, be decided in accordance with the provisions of the aforesaid Acts as if this Act had not been passed. Bom. IV of 1898. Bom. XVI of 1925.

**Further  
provision  
regarding  
pending  
references.**

39. All references, moneys, securities, properties, papers, documents, vouchers, books, records and proceedings transferred to the High Court under section 66A of the City of Bombay Improvement Trust Transfer Act, 1925, shall be disposed of by the High Court, as nearly as may be, in accordance with the provisions of that Act and the provisions of that Bom. XVI of 1925.

<sup>1</sup>The Government means the Provincial Government.

<sup>2</sup>The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

Act shall, so far as may be, apply to them, as if they had been made, held or controlled in accordance with that Act and as if this Act had not been passed.

40. (1) From the date on which this Act comes into operation every officer and servant of the Board constituted under the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, shall be deemed to be for all purposes a municipal officer or servant and the designations, grades, salaries, fees and allowances of such officers and servants shall be deemed to have been duly sanctioned under section 79 of the City of Bombay Municipal Act, 1888, and the provisions of the said Act and of any regulations made thereunder relating to municipal officers and servants shall apply to all such officers and servants as if they had been appointed under the said Act :

Bom. IV of 1898. Bom. XVI of 1925. Bom. III of 1888. Officers and servants of the Board to become municipal officers and servants.

Provided that such officers and servants shall not be entitled to claim the benefit of any pension or special leave admissible under the pension rules or leave rules of the Corporation.

(2) Any officer or servant of the said Board, who has been in the service of the Board for a period of not less than five years before the date on which this Act comes into operation shall be entitled in case of retirement within two years from the date of the passing of this Act, to all the benefits of the rules regarding leave in force at the date of the passing of this Act, and to draw his share of the said Board's contribution to the provident fund.

(3) The person holding the office of Chief Officer under section 26 of the City of Bombay Improvement Trust Transfer Act, 1925, at the commencement of the City of Bombay Municipal (Amendment) Act, 1933, shall, so long as he continues to be the Deputy Municipal Commissioner (Improvements) under the provisions of sub-section (4) of section 56A, in all matters of leave and provident fund continue to be governed by the terms and conditions of his appointment as such Chief Officer and be entitled to the benefits thereof.

Bom. XVI of 1925. Leave and provident fund of Chief Officer appointed Deputy Municipal Commissioner (Improvements).

(4) If the said person be appointed Deputy Municipal Commissioner (Improvements) under sub-section (1) of section 56A, he shall, in all matters of leave and provident fund, be deemed to have been subject from the date of his appointment as Chief Officer to the rules to which he would have been subject had he been appointed on the said date a Deputy Commissioner under this Act and to be entitled to the benefits thereof.

41. Notwithstanding anything contained in the said Act, the Commissioner, in addition to the sum payable to the Board of Trustees for the Improvement of the City of Bombay under section 84 of the City of Bombay Improvement Trust Transfer Act, 1925, shall in the municipal accounts, under a separate heading, credit to the accounts of the property vested or vesting in the Corporation and of the receipts and expenditure of the Corporation on account of the transfer to them of the powers, duties, assets and liabilities of the Board of Trustees for the

Bom. XVI of 1925. Transitory provisions.

Improvement of the City of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925, and in the manner prescribed in section 123A of the said Act :—

Bom.  
XVI  
of  
1925.

(i) a sum equal to the amount of the actual net realizations of the Corporation for the financial year 1932-33 under the head of general tax or payments made in lieu of general tax (including arrears and payments in advance) divided by the rate fixed for the general tax for the said financial year; and

(ii) a sum equal to three-fourths of the net receipts from the tobacco duty levied under section 2 of the Tobacco Duty (Town of Bombay) Act, 1857, from the 19th day of March 1932 until the 31st day of March 1934 (both days inclusive).

IV of  
1857.

Repeal.

42. The enactments specified in the Appendix are hereby repealed to the extent mentioned in the fourth column thereof;

Provided that—

(a) the said repeal shall not affect the validity or invalidity of anything already done under the said Acts or under the City of Bombay Improvement Act, 1898;

Bom.  
IV of  
1898.

(b) the said repeal shall not affect any appeal made to the High Court from any award or any part of the award of the Tribunal of Appeal under sub-section (II) of section 48 of the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation; but every such appeal shall, so far as may be, be decided by the High Court in accordance with the provisions of the City of Bombay Improvement Act, 1898, as supplemented by Act XIV of 1904 as if this Act had not been passed;

Bom.  
IV of  
1898.

Bom.  
XIV of  
1898.

(c) all appointments, rules, orders and by-laws made, notifications and notices issued, rents, premia, and fees imposed, contracts entered into and suits and other proceedings instituted under the City of Bombay Improvement Act, 1898, and the City of Bombay Improvement Trust Transfer Act, 1925, shall, so far as may be, be deemed to have been respectively made, issued, imposed, entered into and instituted under the City of Bombay Municipal Act, 1888, as amended by this Act;

Bom.  
IV of  
1898.

Bom.  
XVI of  
1925.

Bom.  
III of  
1888.

(d) all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board of Trustees constituted under the City of Bombay Improvement Act, 1898, or of the City of Bombay Improvement Trust Transfer Act, 1925, before this Act comes into operation shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Municipal Corporation of the City of Bombay;

Bom.  
IV of  
1898.

Bom.  
XVI of  
1925.

(e) sections 42 to 51 inclusive of the City of Bombay Improvement Trust Transfer Act, 1925, shall continue to have effect, so far as applicable, with respect to all Poorer Classes Accommodation Schemes duly sanctioned in accordance with the provisions of

Bom.  
XVI of  
1925.



Bom. the City of Bombay Improvement Act, 1898, or the City of Bombay  
IV of Improvement Trust Transfer Act, 1925, before the date on which the  
1898. City of Bombay Municipal (Amendment) Act, 1933, comes into opera-  
Bom. tion, provided that references in the said sections to the committee and  
XVI of to the Board shall be deemed to be references to the Improvements  
1925. Committee constituted under the City of Bombay Municipal Act, 1888,  
Bom. as amended by the City of Bombay Municipal (Amendment) Act,  
III of 1933, and to the Municipal Corporation of the City of Bombay  
1888. respectively.

Nothing in this Act shall affect any present right of appeal which may have accrued to any party before the date on which this Act comes into operation.

## APPENDIX.

## ENACTMENTS REPEALED.

(See section 42.)

Year.	No.	Short title.	Extent of repeal.
1898	.. I	The City of Bombay Municipal Investments Act, 1898.	Sections 2 and 3.
1925	.. XVI	The City of Bombay Improvement Trust Transfer Act, 1925.	The whole.
1927	.. IV	The City of Bombay Improvement Trust Transfer (Amendment) Act, 1927.	Do.
1927	.. V	The City of Bombay Improvement Trust Transfer (Amendment No. 2) Act, 1927.	Do.
1928	.. VI	The City of Bombay Improvement Trust Transfer (Amendment) Act, 1928.	Do.
1931	.. XI	The City of Bombay Improvement Trust Transfer (Amendment) Act, 1931.	Do.
1931	.. XXI	The City of Bombay Municipal and Improvement Trust Transfer (Amendment) Act, 1931.	In section 1 the words "and Improvement Trust Transfer." Section 3.
1931	.. XXIV	The City of Bombay Improvement Trust Transfer (Second Amendment) Act, 1931.	The whole.

BOMBAY ACT No. XVIII OF 1933.<sup>1</sup>

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1933]

[18th October, 1933]

- An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908. WHEREAS it is expedient further to amend the <sup>2</sup>Indian Registration Act, 1908, in its application to the Presidency of Bombay, for the purpose hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; 5 & 6 Geo. V, c. 61. It is hereby enacted as follows :—

1. This Act may be called the Indian Registration (Bombay Amend- Short title. ment) Act, 1933.

2. To clause (gg) of sub-section (1) of section 69 of the <sup>2</sup>Indian Amendment XVI of 1908. Registration Act, 1908, in its application to the Presidency of Bombay, of section 69 of Act XVI hereinafter called the said Act, the following shall be added, namely :— of 1908.

“and the manner of fixing the signature and seal of the Photo-Registrar at the end of a length of film ;”

3. To clause (c) of sub-section (1) of section 70D of the said Act Amendment of section 70D of Act XVI of 1908. the following shall be added, namely :—

“Provided that when more than one such negative is recorded on one length of film and the Photo-Registrar has affixed his signature and seal at the end of such length of film certifying in the manner prescribed by rules made in this behalf, the exact correspondence of all copies on such length of film with the original documents, the Photo-Registrar shall be deemed to have affixed his signature and seal to each such negative on such length of film.”

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V, p. 962; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vol. XXXVIII.

<sup>2</sup> Central Acts.

THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY  
AMENDMENT) ACT, 1933.

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CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Amendment of section 74 of Act III of 1909.
3. Insertion of new section 77A in Act III of 1909.
4. Amendment of section 82 of Act III of 1909.
5. Amendment of section 83 of Act III of 1909.
6. Amendment of section 112 of Act III of 1909.
7. Insertion of a new section 121A in Act III of 1909.
8. Amendment of section 122 of Act III of 1909.
9. Amendment of section 123 of Act III of 1909.
10. Insertion of new sections 123A and 123B in Act III of 1909.
11. Repeal.

Schedule I.

**BOMBAY ACT No. XX OF 1933.<sup>1</sup>**

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT)  
ACT, 1933]

[27th October, 1933]

Amended by Bom. 3 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order  
in Council.

**An Act to amend the Presidency-towns Insolvency Act, 1909, in  
its application to the Presidency-town of Bombay.**

III of 1909. WHEREAS it is expedient to amend the <sup>2</sup>Presidency-towns Insolvency Act, 1909, in its application to the Presidency-town of Bombay for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act and the previous sanction of the Governor <sup>5 & 6</sup> Geo.V, required by section 80-C of the said Act have been obtained for the <sup>c. 61.</sup> passing of this Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Presidency-towns Insolvency Short title and extent.  
(Bombay Amendment) Act, 1933.

(2) It extends to the Presidency-town of Bombay <sup>3</sup>[and the town of Karachi].

III of 1909. 2. In section 74 of the <sup>2</sup>Presidency-towns Insolvency Act, 1909, Amendment of section 74 of Act III of 1909. in its application to the Presidency-town of Bombay <sup>4</sup>[and the town of Karachi], hereinafter referred to as “the said Act” for the words “it, and also to pay out of his own money interest thereon” the words “such dividend and interest thereon” shall be substituted.

3. After section 77 of the said Act, the following section shall be Insertion of new section 77A in Act III of 1909. inserted, namely:—

“77A. The Official Assignee shall be a corporation sole by the Official Assignee to be corporation sole. name of the Official Assignee of Bombay <sup>5</sup>[or, the Official Assignee of Karachi, as the case may be], and as such Official Assignee shall have perpetual succession and an official seal and may sue and be sued in his corporate name and may do all acts necessary or expedient to be done in the execution of his office.”

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V., pp. 973-974; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vol. XXXVIII.

<sup>2</sup> Central Acts.

<sup>3</sup> The words “and the town of Karachi” were inserted by Bom. 3 of 1935, s. 2 (i).

<sup>4</sup> The words “and the town of Karachi” were inserted by *ibid*, s. 2 (ii).

<sup>5</sup> The words “or, the Official Assignee of Karachi, as the case may be” were inserted by *ibid*, s. 2 (iii).

Amendment of section 82 of Act III of 1909.

Liability of Provincial Government.

4. For section 82 of the said Act, the following section shall be substituted, namely :—

“ 82. The revenues of the <sup>1</sup>[Provincial Government] shall be liable to make good all sums required to discharge any liability which the Official Assignee may be liable to discharge, except when such liability is one to which neither the Official Assignee nor any of his officers has in any way contributed or which neither he nor any of his officers could, by the exercise of reasonable diligence, have averted and in either of these cases the Official Assignee shall not, nor shall the revenues of the <sup>1</sup>[Provincial Government], be subject to any liabilities.”

Amendment of section 83 of Act III of 1909.

Description by which Official Assignee to be mentioned in suits or proceedings.

Amendment of section 112 of Act III of 1909.

5. For section 83 of the said Act, the following section shall be substituted, namely :—

“ 83. In all suits or proceedings by or against the Official Assignee, there shall be inserted after his official title, the description ‘ as assignee of the property of an insolvent (naming the particular insolvent) ’.”

6. In sub-section (2) of section 112 of the said Act :—

(i) for clause (d), the following clause shall be substituted, namely :—

2 \* \* \* \* \*

(ii) in clause (f), after the word “ audit ” the words “ and inspection ” shall be inserted ;

(iii) clause (g) shall be deleted ;

(iv) in clause (h), the words “ out of the proceeds aforesaid ” shall be deleted ; and

(v) to clause (i), the words “ or otherwise in his official capacity ” shall be added.

Insertion of a new section 121A in Act III of 1909.

Transfer of certain funds to Provincial Government.

7. After section 121 of the said Act, the following section shall be inserted, namely :—

“ 121A. The sums and securities standing to the credit of—

<sup>3</sup>(a) (1) the Unclaimed Dividend (Capital) Account less the sum of Rs. 50,000,

(2) the Unclaimed Dividend Revenue Account less the sum of Rs. 25,000,

(3) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account less the sum of Rs. 20,000, and

<sup>1</sup>The words “ Provincial Government ” were substituted for the words “ local Government ” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>Clause (d) was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

<sup>3</sup>This letter and brackets were inserted by Bom. 3 of 1935, s. 2 (iv).

(4) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account,

with the High Court of Judicature, Bombay, <sup>1</sup>[and

(b) (1) the Unclaimed Dividend (Capital) Account less the sum of Rs. 7,500,

(2) the Unclaimed Dividend (Revenue) Account less the sum of Rs. 3,000, and

(3) the Official Assignee's Fund, with the Court of the Judicial Commissioner of Sind,

are hereby transferred to the <sup>2</sup>[Provincial Government]] :

Provided that the revenues of the <sup>2</sup>[Provincial Government] shall be liable to make good all sums required to meet the claims upon the said sums and securities of persons entitled thereto."

8. In section 122 of the said Act—

(i) for the word "prescribed" the words "determined by the <sup>2</sup>[Provincial Government]" shall be substituted ; and

(ii) for the words "the Government of India," the words "<sup>2</sup>[Provincial Government]" shall be substituted.

Amendment of section 122 of Act III of 1909.

9. In section 123 of the said Act, for the words "Government of India" where they occur at both the places and for the words "Governor General in Council" the words "<sup>2</sup>[Provincial Government]" shall be substituted.

Amendment of section 123 of Act III of 1909.

10. After section 123 of the said Act, the following sections, shall be inserted, namely :—

Insertion of new sections 123A and 123B in Act III of 1909.

"123A. The <sup>2</sup>[Provincial Government] may, <sup>3</sup>[out of sums and securities standing to the credit of the accounts of the Official Assignee, Bombay, specified in clauses (1) and (2)] from time to time after consultation with the High Court of Judicature, Bombay,—

Provincial Government to determine the amount to be set apart and the sums to be transferred out of certain accounts

(1) determine the amount to be set apart out of—

(i) the Unclaimed Dividend (Capital) Account, and

(ii) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account,

<sup>2</sup>[relating to the office of the Official Assignee, Bombay].

for meeting the claims of creditors or debtors made within the period specified in section 122, and

<sup>1</sup> These words, letter, figures and brackets were substituted for the words "are hereby transferred to the local Government" by Bom. 3 of 1935, s. 2 (iv).

<sup>2</sup> The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> These words, figures and brackets were inserted by Bom. 3 of 1935, s. 2 (v) (1).

(2) transfer sums to the revenues of the <sup>1</sup>[Provincial Government] from—

- (i) the Unclaimed Dividend (Capital) Account,
- (ii) the Unclaimed Dividend Revenue Account,
- (iii) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account, and
- (iv) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account."

Provincial Government to determine the amount to be set apart and the sums to be transferred out of certain accounts relating to the office of the Official Assignee, Karachi.

"<sup>2</sup>[123B. The <sup>1</sup>[Provincial Government] may out of the sums and securities standing to the credit of the accounts of the Official Assignee, Karachi, specified in clauses (1) and (2) from time to time after consultation with the Court of the Judicial Commissioner of Sind,

(1) determine the amount to be set apart out of the Unclaimed Dividend (Capital) Account, for meeting the claims of creditors or debtors made within the period specified in section 122, and

(2) transfer sums to the revenues of the <sup>1</sup>[Provincial Government] from—

- (i) the Unclaimed Dividend (Capital) Account,
- (ii) the Unclaimed Dividend (Revenue) Account, and
- (iii) the Official Assignee's Fund]."

Repeal.

11. The provisions of the said Act specified in Schedule I hereto annexed shall be repealed.

## SCHEDULE I.

(Provisions repealed.)

(Section 11.)

Sections 61, 68 (2), 84 and 87 (3).

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> Section 123B was added by Bom. 3 of 1935, s. 2 (v) (3).



## THE BOMBAY LIVE-STOCK IMPROVEMENT ACT, 1933.

### CONTENTS.

#### PREAMBLE.

#### Sections.

1. Short title.
2. Extent.
3. Definitions.
4. Appointment of live-stock officer.
5. Prohibition for keeping a bull for breeding purposes.
6. Grant of licences.
7. Refusal to grant or revocation of licence.
8. Grant of duplicate of licence.
9. Duration of licence.
10. Inspection of bulls.
11. Power to order castration of bulls.
12. Duty to produce licence.
13. Penalty for keeping a bull in contravention of this Act or rules or without or in contravention of licence.
14. Penalty for neglect or failure to comply with notice under section 7 or 11.
15. Penalty for neglect or failure to comply with requisition under section 10 or 12.
16. Power of live-stock officer to castrate.
17. Power of live-stock officer to inspect or mark a bull or to enter premises.
18. Officers bound to assist live-stock officers.
19. Cognizance of offences under the Act.
20. Live-stock officer to be public servant.
21. Protection of persons acting in good faith and limitation of suits and prosecutions.
22. Revision.
23. Power of Provincial Government to make rules.
24. Power of Provincial Government to apply the provisions of this Act to buffalo-bulls.
25. Saving.

BOMBAY ACT No. XXII OF 1933.<sup>1</sup>

[THE BOMBAY LIVE-STOCK IMPROVEMENT ACT, 1933.]

[1st December, 1933.]

Adapted and modified by the Adaptation of Indian Laws Order  
in Council.

## An Act to provide for the improvement of live-stock.

WHEREAS it is expedient to provide for the improvement of live-stock in the manner herein provided; And whereas the previous sanction of the Governor General required under sub-section (3) of section 80A and the previous sanction of the Governor required under section 80C of the Government of India Act, have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6  
Geo.  
V,  
c. 61.

1. This Act may be called the Bombay Live-Stock Improvement Act, 1933. Short title.

2. (a) Section 1 and this section extend to the whole of the Presidency of Bombay. Extent.

(b) On a written application made—

(i) by the district local board with the previous concurrence of the Director of Agriculture, or

(ii) by the Director of Agriculture with the previous concurrence of the district local board,

<sup>2</sup>[the Provincial Government] may, by notification in the <sup>3</sup>[*Official Gazette*], direct that the remaining provisions of this Act shall extend to any village in respect of which the application has been made.

(c) Section 1 and this section shall come into force at once and the remaining provisions of this Act shall come into force in any village to which the said provisions shall have been extended under sub-section (b) on such date as <sup>2</sup>[the Provincial Government] may by notification in the <sup>3</sup>[*Official Gazette*] appoint.

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

(1) "Cow" includes a heifer;

(2) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture;

(3) "Licence" means a licence granted under section 6;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Part V, pp. 1000-1001 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933, Vol. XXXVIII.

<sup>2</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(4) "Live-stock officer" means an officer or person appointed or invested with powers under section 4 ;

(5) "Prescribed," with its grammatical variations, means prescribed by rules ;

(6) "Rules" means rules made under section 23 ;

(7) "Village" means a village as defined in the Bombay Land Revenue Code, 1879 ; and

Bom.  
V of  
1879.

(8) "A person is said to keep a bull," if such person owns the bull or has the bull in his possession or custody.

Appointment  
of live-stock  
officer.

4. <sup>1</sup>[The Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], appoint the Director of Agriculture or any other officer of the Department of Agriculture to be a live-stock officer and assign to such officer such powers and duties under this Act, as they may deem fit.

Prohibition  
for keeping  
a bull for  
breeding  
purposes.  
Grant of  
licences.

5. No person shall keep a bull which has attained the prescribed age except under and in accordance with the terms, conditions and restrictions of a licence granted under section 6.

6. Every licence for the keeping of a bull shall be granted by a live-stock officer authorised by <sup>1</sup>[the Provincial Government] by general or special order in this behalf in such form, for such period, and subject to such terms, conditions and restrictions as may be prescribed :

Provided that no fee shall be charged for the grant of a licence.

Refusal to  
grant or  
revocation  
of licence.

7. (1) Subject to rules, the live-stock officer authorised to grant the licence may refuse to grant or may revoke a licence, if in the opinion of such authority, the bull appears to be—

(a) of defective or inferior conformation and likely to beget defective or inferior progeny ; or

(b) permanently affected with any contagious or infectious disease ; or

(c) permanently affected with any other disease rendering the bull, unsuitable for breeding purposes.

(2) The live-stock officer granting a licence may also revoke a licence if in the opinion of such officer there be any breach of any of the terms or conditions of the licence.

(3) No person shall be entitled to any compensation for the revocation of a licence under sub-section (1) or (2).

<sup>1</sup> The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

(4) If a licence is revoked under sub-section (1) or (2), the live-stock officer revoking the licence shall give notice to that effect to the owner or the person stated therein to be the owner of the bull and any such notice given in respect of a licence shall state the grounds for the revocation.

(5) If the notice is duly given in accordance with the last foregoing sub-section to a person who is not the owner of the bull, it shall be the duty of that person forthwith to take all reasonable steps to inform the owner accordingly, and if he fails to do so, he shall indemnify the owner against any loss the owner may suffer by reason of the failure.

8. When the live-stock officer granting the licence is satisfied that a licence granted under section 6 has been lost or destroyed, such officer may, subject to such conditions as may be prescribed, issue to the holder of the licence a duplicate thereof, and thereupon all the provisions of this Act with respect to the licence shall apply to the duplicate as if it were the original licence. Grant of duplicate of licence.

9. A licence granted in respect of a bull shall remain in force until— Duration of licence.  
 (a) the period specified therein expires, or  
 (b) it is revoked under this Act, or  
 (c) the bull dies or is castrated in the prescribed manner.

10. Any person who keeps a bull shall at any reasonable time, either at the place where the bull is for the time being or at any other place, submit the bull for inspection by any live-stock officer when required by such officer to do so and render all reasonable assistance to that officer for the purpose of inspection. Inspection of bulls.

11. (1) A live-stock officer may, by notice served in the prescribed manner, require that any bull which has attained the prescribed age at the date when the notice is served and in respect of which no licence is for the time being in force under this Act, shall be castrated in a prescribed manner within one month after the notice takes effect. Such castration shall, if the owner or other person who keeps the bull requires, be performed or caused to be performed by the live-stock officer free of charge. Power to order castration of bulls.

(2) For the purpose of this section, a notice shall be served on the owner of the bull or on any other person who keeps the bull.

(3) If a notice under this section is duly served on a person who is not the owner of the bull, it shall be the duty of the person forthwith to take all reasonable steps to inform the owner accordingly, and, if he fails to do so, he shall be liable to indemnify the owner against any loss the owner may suffer by reason of the failure.

12. It shall be the duty of any person who for the time being keeps a bull, if a licence is in force in respect of the bull, to produce the licence— Duty to produce licence.

(a) within a reasonable time on demand made by a live-stock officer or an officer of the Agricultural or Veterinary Department authorized

by general or special order by <sup>1</sup>[the Provincial Government] in this behalf in any place where the bull is for the time being;

(b) before a cow is served by a bull on demand made by the person in charge of the cow.

Penalty for keeping a bull in contravention of this Act or rules or without or in contravention of licence.

13. Whoever in contravention of this Act or any rule or order made under this Act or of any terms, conditions or restrictions of licence keeps a bull shall; on conviction, be punishable with fine which may extend to Rs. 25.

Penalty for neglect or failure to comply with notice under section 7 or 11.

14. Whoever neglects or fails to comply with a notice served in accordance with section 7 or 11 shall, on conviction, be punishable with fine which may extend to Rs. 25.

Penalty for neglect or failure to comply with requisition under section 10 or 12.

15. Whoever neglects or fails to submit a bull for inspection when required by a live-stock officer for inspection under section 10 or whoever fails to produce a licence when required to do so in accordance with the provisions of section 12 shall, on conviction, be punishable with fine which may extend to Rs. 25.

Power of live-stock officer to castrate.

16. (1) Whenever an offence under section 15 has been committed, or whenever any bull has not been castrated in compliance with the notice served under section 11, it shall be competent to a live-stock officer to castrate or cause to be castrated in the prescribed manner, the bull in respect of which such offence was committed or such notice was served, as the case may be. Such castration shall be performed or caused to be performed by a live-stock officer free of charge.

(2) It shall also be competent to a live-stock officer to seize any bull, if the person in whose ownership, possession or custody it is, for the time being, is not known or cannot be ascertained after an inquiry in the prescribed manner. On such seizure the live-stock officer may, if he is of opinion that such bull has attained the prescribed age or is suffering from any of the defects or disease specified in section 7, direct that the said bull shall be—

(a) castrated in the prescribed manner, and

(b) sold by public auction or sent to a pinjrapol: provided that if the owner of the said bull appears within fifteen days of such seizure and proves to the satisfaction of the live-stock officer that the said bull is of his ownership,—

the said bull—

(i) if not sold by public auction, or

(ii) if sent to a pinjrapol,

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

shall be delivered to such owner on payment of the costs, charges and expenses incurred for the maintenance of the said bull and determined in the prescribed manner, or

(iii) if sold by public auction, the proceeds of such sale shall be paid to such owner after deducting therefrom the costs, charges, and expenses incurred for the maintenance and sale of the said bull and determined in the prescribed manner.

17. For the purposes of this Act, a live-stock officer shall have power at all reasonable times—

(a) to inspect any bull,

(b) to mark any bull with any prescribed mark in the prescribed manner,

(c) to enter any premises or other place in the prescribed manner where he has reason to believe that a bull is kept.

Power of live-stock officer to inspect or mark a bull or to enter premises.

18. All village officers, all village servants useful to [the Provincial Government] and all officers of the departments of revenue, agriculture and veterinary shall be bound—

Officers bound to assist live-stock officers.

(a) to give immediate information to a live-stock officer of the commission of any offence, or the intention or preparation to commit any offence punishable under this Act which may come to their knowledge;

(b) to take all reasonable measures in their power to prevent the commission of any such offence which they know or have reason to believe is about to be committed; and

(c) to assist any live-stock officer in carrying out the provisions of this Act.

19. No Court shall take cognizance of any offence under this Act, except on a complaint made by a live-stock officer or any person authorised by such officer in that behalf.

Cognizance of offences under the Act.

NLV of 1860. 20. Every live-stock officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Live-stock officer to be public servant.

21. (1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules.

Protection of persons acting in good faith and limitation of suits and prosecutions.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(2) No suit shall be instituted against <sup>1</sup>[the Crown] and no prosecution or suit shall lie against any live-stock officer in respect of anything done or alleged to have been done, in pursuance of this Act, unless the suit or prosecution has been instituted within four months from the date of the act complained of.

Revision.

22. <sup>2</sup>[The Provincial Government] may call for and examine the record of any order or the proceedings of any live-stock officer for the purpose of satisfying themselves as to the legality and propriety of any order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to <sup>2</sup>[the Provincial Government] that any order or proceedings so called for should be modified, annulled or reversed, they may pass such order as they may deem fit.

Power of  
Provincial  
Government  
to make  
rules.

23. (1) <sup>2</sup>[The Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(a) under section 4, prescribing the powers and duties to be exercised and performed by a live-stock officer and the assignment of such powers or duties,

(b) under section 5, prescribing the age of a bull after which it shall not be kept without a licence,

(c) under section 6, prescribing the form of, the manner in which, the terms, conditions and restrictions on which, a licence shall be granted, transferred or renewed,

(d) under section 7, prescribing the conditions subject to which a licence may be revoked,

(e) under sections 7 and 11, prescribing the manner in which notice shall be served,

(f) under section 8, prescribing the conditions subject to which a duplicate of a licence may be granted,

(g) under sections 11 and 16, prescribing the manner in which a bull shall be castrated, and the manner in which inquiry regarding the ownership of a bull shall be made, and the costs, charges and expenses for the maintenance and sale of a bull shall be determined,

(h) under section 17, prescribing the manner and form in which a bull shall be marked and the manner in which a live-stock officer shall enter any premises or other place.

<sup>1</sup>The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

(3) Rules made under this section shall be subject to the condition of previous publication in the <sup>1</sup>[*Official Gazette*].

(4) Rules made under this section shall be laid <sup>2</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>3</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>4</sup>[in which both the Chambers concur] and such rule shall after notification in the <sup>1</sup>[*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of <sup>5</sup>[the Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, <sup>5</sup>[the Provincial Government] may, by notification in the <sup>1</sup>[*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

24. <sup>5</sup>[The Provincial Government] may, by notification in the <sup>1</sup>[*Official Gazette*], direct that all or any of the provisions of this Act which shall have been extended to any village under section 2 shall apply to buffalo-bulls in such village from the date specified in such notification and thereupon the references to bulls and cows in the provisions of this Act so applied shall be construed as references to buffalo-bulls and buffalo-cows respectively and this Act shall apply accordingly.

Power of Provincial Government to apply the provisions of this Act to buffalo-bulls.

25. Nothing in this Act shall apply to a bull dedicated in good faith to a religious purpose according to religious custom and usage.

Saving.

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<sup>1</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by *ibid.*

<sup>3</sup> The word "thereof" was substituted for the words "of the said Council" by *ibid.*

<sup>4</sup> The words "in which both the Chambers concur" were substituted for the words "of the said Council" by *ibid.*

<sup>5</sup> The words "the Provincial Government" were substituted for the word "Government" by *ibid.*



**THE BOMBAY TRADE DISPUTES CONCILIATION ACT, 1934.****CONTENTS.****PREAMBLE.**

## Sections.

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5. Labour Officer.
6. Jurisdiction of Conciliators.
7. Application or report for settlement of trade disputes.
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9. Delegates.
10. Disqualification from being a delegate.
11. Conciliation proceeding.
12. Procedure and powers of Conciliator in conciliation proceeding.
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15. Exemption of documents from stamp duty, court-fee and registration fees.
16. Penalty.
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18. Conciliator and Labour Officer to be public servants.
19. Protection to persons acting in good faith.
20. Rules.
21. Saving of the provisions of the Trade Disputes Act, 1929.

**BOMBAY ACT No. IX OF 1934.<sup>1</sup>**

[THE BOMBAY TRADE DISPUTES CONCILIATION ACT, 1934.]

[9th October, 1934.]

Adapted and modified by the Adaptation of Indian Laws  
Order in Council.

**An Act to make further provision for the prevention and settlement of  
trade disputes by conciliation and for certain other purposes.**

WHEREAS it is expedient to make further provision for the prevention and settlement of trade disputes by conciliation and for certain other purposes hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act ;

It is hereby enacted as follows :—

1. This Act may be called the Bombay Trade Disputes Conciliation Act, 1934.

2. (1) Section 1 and this section extend to the whole of the Bombay Presidency. The remaining provisions of this Act extend to the City of Bombay and the Bombay Suburban District and the <sup>2</sup>[Provincial Government] may further, by notification in the <sup>3</sup>[Official Gazette], direct that the said provisions shall extend to such other area as may be specified in the notification. Extent, commencement and application.

(2) Section 1 and this section shall come into force at once. The <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], direct that the remaining provisions of this Act shall come into force in any area to which the said provisions extend or may have been extended under sub-section (1), on such date as may be specified in the notification.

(3) This Act shall apply, in the first instance, to the textile trade or industry. The <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], direct that the provisions of this Act shall apply to such other trade or industry and in such area as may be specified in the notification.

<sup>1</sup> For statement of Objects and Reasons, see *Bombay Government Gazette*, 1934, Pt. V, pp. 91-95 ; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1934, Vol. XL.

<sup>2</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words " Official Gazette " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

## Definitions.

3. In this Act, unless there is anything repugnant to the subject or context,—

(a) "Commissioner of Labour" means the officer appointed for the time being to be the Commissioner of Labour ;

(b) "Conciliator" includes the Chief Conciliator or a Special or Assistant Conciliator appointed under this Act ;

(c) "Conciliation proceeding" means a proceeding held by a Conciliator under this Act ;

(d) "Delegate" means a person appointed under section 9 to represent a party to a trade dispute in a conciliation proceeding and includes the Labour Officer acting as a delegate to represent workmen in such proceeding ;

(e) "employer" includes any body of persons, whether incorporated or not and any managing agent of an employer ;

(f) "Labour Officer" means an officer appointed to perform the duties of a Labour Officer under this Act ;

(g) "prescribed" means prescribed by rules made under this Act ;

(h) "trade dispute" means any dispute or difference between employers and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person ;

(i) words and expressions not defined in this Act, but defined in the Trade Disputes Act, 1929, shall have the meaning assigned to them in that Act. VII of 1929.

## Appointment of Conciliators.

4. (1) The Commissioner of Labour shall be the ex-officio Chief Conciliator.

(2) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], appoint any person to be a Special Conciliator for such area as may be specified in the said notification.

(3) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], appoint any person to be an Assistant Conciliator for such area as may be specified in the said notification.

## Labour Officer.

5. (1) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], appoint any person to be a Labour Officer for such area as may be specified in the said notification.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

(2) The Labour Officer shall exercise the powers conferred and perform the duties imposed on him by or under this Act. It shall be the duty of the Labour Officer to watch the interests of workmen with a view to promote harmonious relations between employers and workmen and to take steps to represent the grievances of workmen to employers for the purpose of obtaining their redress.

(3) For the purpose of exercising such powers and performing such duties, the Labour Officer may, after giving reasonable notice, enter any place used for the purpose of any trade or industry to which this Act applies and shall be entitled to inspect and call for documents, relevant to the grievances of workmen, in the possession of any employer or workman, as the Labour Officer deems necessary. The Labour Officer may, for the same purpose, enter after giving reasonable notice any premises provided by an employer for the purpose of residence of his workmen.

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall if the person in whose possession the document was so required, be treated as confidential.

6. (1) The Chief Conciliator shall exercise powers and perform duties under this Act throughout the Presidency except in the area for which a Special Conciliator has been appointed under this Act.

Jurisdiction  
of Conci-  
liators.

(2) An Assistant Conciliator shall be subordinate to, and shall exercise such powers and perform such duties as may be delegated to him by, the Chief Conciliator or Special Conciliator, as the case may be.

7. If any trade dispute exists or is apprehended,—

(a) either or both parties to the dispute may apply, whether separately or conjointly, or

(b) the Labour Officer may make a report,

to the Conciliator for a settlement of the dispute.

Application  
or report for  
settlement  
of trade dis-  
putes.

8. (1) If the Conciliator,

(a) in any area for which a Labour Officer is appointed, on receipt of an application or report under section 7, or

(b) elsewhere, on receipt of an application under section 7 or upon his own knowledge or information,

Conciliator  
to give notice  
to parties.

is satisfied that a trade dispute exists or is apprehended, he may cause notice to be given to the parties to the dispute to appear before him at such time and place as may be specified in the notice.

A copy of such notice shall be sent to the Labour Officer.

(2) Notice to the parties shall require them to appoint, within such time as may be specified in the notice, delegates to represent them in the conciliation proceeding.

(3) Notice under this section shall be in the prescribed form and shall be served in the prescribed manner.

Delegates.

9. (1) On receipt of notice under section 8, the parties to a trade dispute shall within the time specified in the notice or within such time as may be fixed by the Conciliator in this behalf appoint delegates in such manner as the Conciliator may direct :

Provided that when a party to the dispute is a single individual, such party may appoint himself as a delegate :

Provided further that the Labour Officer may be appointed as a delegate on behalf of the workmen.

(2) The number of delegates appointed by a party to a trade dispute shall not exceed three :

Provided that when, in the opinion of the Conciliator, such party to the dispute is divided into two or more groups, the Conciliator may allow each of such groups to appoint separate delegates not exceeding three :

Provided, further, that the total number of delegates appointed by all the groups forming the party shall not exceed twelve.

(3) If an employer who is a party to a trade dispute has failed or refused to appoint any delegate within the time specified in the notice or within such further time as may be fixed by the Conciliator, such employer shall, on conviction, be punishable with fine which may extend to Rs. 100 and with further fine which may extend to Rs. 100 for every day on which such failure or refusal continues after the date of the first conviction.

*Explanation.*—Where such employer is a company registered under the <sup>1</sup>Indian Companies Act, 1913, employer shall mean the managing agent or managing director of such company or any other officer of the company authorised to represent such company in the prescribed manner. <sup>VII of 1913.</sup>

(4) No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under sub-section (3).

(5) No criminal court shall take cognizance of any offence under sub-section (3) except with the previous sanction of the <sup>2</sup>[Provincial Government].

(6) Where workmen who are parties to a trade dispute have failed or refused to appoint any delegate within the time specified in the notice or within such further time as may be fixed by the Conciliator, the Labour Officer shall act as the delegate on behalf of such workmen.

<sup>1</sup> Central Acts.

<sup>2</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

10. (1) A person shall be disqualified from being appointed or acting as a delegate, if such person—

(a) is less than twenty-one years of age ; or

(b) is an uncertificated bankrupt or an undischarged insolvent.

Disqualification from being a delegate.

(2) A person shall be disqualified from acting as a delegate, if such person is not, in the opinion of the Conciliator, after the conciliation proceedings have started, a fit and proper person to be a delegate.

(3) The decision of the Chief Conciliator or the Special Conciliator, as the case may be, that a person is disqualified from being appointed or acting as a delegate shall be final.

11. (1) On the date specified in the notice under sub-section (1) of section 8 or on such other date as may be fixed by the Conciliator on his motion or at the request of any of the parties to a trade dispute, the Conciliator shall hold the conciliation proceeding in the prescribed manner.

Conciliation proceeding.

(2) A party to such trade dispute shall be represented in a conciliation proceeding by delegates. The Labour Officer, even if not appointed or acting as delegate, shall be entitled to be present at such proceeding.

(3) It shall be the duty of the Conciliator to endeavour to bring about a settlement of the trade dispute and for this purpose the Conciliator shall inquire into the dispute, and all matters affecting the merits thereof and the right settlement thereof and in so doing may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute and may adjourn the conciliation proceeding for any period sufficient in his opinion to allow the parties to agree upon the terms of the settlement.

12. (1) A Conciliator shall, subject to the provisions of this Act, follow in a conciliation proceeding such procedure as may be prescribed.

Procedure and powers of Conciliator in conciliation proceeding.

(2) For the purpose of holding a conciliation proceeding, the Conciliator shall have the same powers as are vested in courts under the Code of Civil Procedure, 1908, in trying a suit in respect of the following matters, viz. :—

V of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and material objects ; and

(c) issuing commissions for the examination of witnesses ; and shall have such further powers as may be prescribed.

(3) If a party to a trade dispute giving any information or producing any document in a conciliation proceeding makes a request in writing to the Conciliator that such information or the contents of such document

may be treated as confidential, the Conciliator shall direct that such information or document be treated as confidential.

(4) The Conciliator may, if he thinks fit, permit the information or contents of the document in respect of which a request has been made under sub-section (3) to be disclosed to the other party to the trade dispute :

Provided that the Conciliator shall not permit such information or the contents of such document to be so disclosed to the other party to the trade dispute, if it is shown to his satisfaction that such disclosure is likely to affect the interests of the party making the request under sub-section (3) adversely in any matter not connected with the settlement of the said dispute.

(5) Save as provided in sub-section (4), the Conciliator or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document directed to be treated as confidential under sub-section (3), without the consent in writing of the party making the request under the said sub-section.

(6) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution for an offence under section 14 or under the Indian Penal Code.

XLV  
of  
1860.

Settlement  
and Report.

13. (1) If a settlement of a trade dispute is arrived at in a conciliation proceeding, a memorandum of such proceeding and settlement shall be drawn up in the prescribed form by the Conciliator and signed by the delegates. The Conciliator shall send a report of such settlement together with a copy of the memorandum to the <sup>1</sup>[Provincial Government].

(2) If no such settlement is arrived at, the Conciliator shall, as soon as possible, after the close of the conciliation proceeding, send a full report regarding the trade dispute to the <sup>1</sup>[Provincial Government], setting forth the particulars of the proceeding and the steps taken by him for the purpose of ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, a settlement could not be made.

(3) Notwithstanding anything contained in sub-section (1) or (2) any information or contents of any document shall not be included in the memorandum of proceedings, settlement or report drawn up or made under sub-section (1) or (2), if such information or the contents of such document is not permitted by the Conciliator to be disclosed under sub-section (4) of section 12.

(4) The record of the conciliation proceeding held and settlement made under this section shall be maintained in the prescribed manner.

<sup>1</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

14. (1) If the Conciliator or any person present at or concerned in a conciliation proceeding wilfully discloses any information or contents of any document in contravention of section 12, he shall, on complaint made by the party who made the request under sub-section (4) of section 12, be punishable with fine which may extend to one thousand rupees.

Penalty for disclosing confidential information.

(2) No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this section.

(3) No criminal court shall take cognizance of any offence under this section except with the previous sanction of the <sup>1</sup>[Provincial Government].

15. Any application, document or other instrument made or produced in the course of any proceeding under this Act shall be exempt from stamp duty, court-fee or registration fee payable under any law for the time being in force.

Exemption of documents from stamp duty, court-fee and registration fees.

16. If any person instigates or incites others not to take part in a conciliation proceeding, or otherwise obstructs or instigates or incites others to obstruct a Conciliator in the discharge of his duties under this Act or molests or abets the molestation of others, with intent to prevent them from taking part in a conciliation proceeding, such person shall, on conviction, be punishable with imprisonment of either description which may extend to six months or with fine or with both.

Penalty.

*Explanation.*—For the purpose of this section, a person is said to molest any person who

(a) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or persistently follows him from place to place, or interferes with any property owned or used by him, or deprives him of or hinders him in the use thereof, or

(b) loiters or does any similar act at or near the place where a conciliation proceeding is held, in such a way and with intent that any person may thereby be deterred from entering or approaching such place.

17. It shall be lawful for a Conciliator at any time and from time to time when necessary for the purposes of exercising the powers conferred and performing the duties imposed by or under this Act to enter any premises used for the purpose of any trade or industry to which this Act applies.

Power of entry.

XLV of 1860. 18. A Conciliator and a Labour Officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Conciliator and Labour Officer to be public servants.

19. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection to persons acting in good faith.

<sup>1</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.



Rules.

20. (1) The <sup>1</sup>[Provincial Government] may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(a) prescribing the powers and duties of the Labour Officer ;

(b) prescribing the powers and duties which may be delegated to Assistant Conciliators ;

(c) prescribing the form and manner in which notice shall be given under section 8 ;

(d) prescribing the manner in which the officer of a company shall be authorised to represent the company under section 9 ;

(e) regulating the procedure in which a conciliation proceeding shall be held under section 11 ;

(f) determining the scale of fees at which witnesses shall be paid for appearance in a conciliation proceeding under section 11 ;

(g) specifying the powers which may be exercised by the Conciliator for the purpose of a conciliation proceeding under section 11 ;

(h) prescribing the form in which and the particulars which shall be mentioned in the memorandum of a settlement under section 13 ;

(i) prescribing the manner in which the record of a conciliation proceeding and settlement shall be maintained under section 13 ; and

(j) providing for any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the <sup>1</sup>[Provincial Government], necessary for giving effect to the provisions of this Act.

(3) The rules made under this section shall be subject to the condition of previous publication in the <sup>2</sup>[*Official Gazette*].

(4) Rules made under this section shall be laid <sup>3</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>4</sup>[thereof] next following and shall be liable to be modified and rescinded by a resolution

<sup>1</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

<sup>3</sup> The words " before each of the Chambers of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council " by *ibid.*

<sup>4</sup> The word " thereof " was substituted for the words " of the said Council " by *ibid.*

<sup>1</sup>[in which both the Chambers concur] and such rule shall after notification in the <sup>2</sup>[*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when in the opinion of the <sup>3</sup>[Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the <sup>3</sup>[Provincial Government] may by notification in the <sup>2</sup>[*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

21. Nothing in this Act shall affect any of the provisions of the Trade Disputes Act, 1929, and no conciliation proceeding shall be held relating to any matter or trade dispute which is referred to and is pending before, the Court of Inquiry or Board of Conciliation under the said Act.

Saving of the provisions of the Trade Disputes Act, 1929.

VII of  
1929.

<sup>1</sup> The words " in which both the Chambers concur were " substituted for the words " of the said Council " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

<sup>3</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by *ibid.*

**THE BOMBAY DEVADASIS PROTECTION ACT, 1934.**

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**PREAMBLE.**

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1. Short title and extent.
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4. Marriage by a devadasi.
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6. Release of land from liability for performance of service.
7. Power to make rules.

BOMBAY ACT No. X OF 1934. <sup>1</sup>

[THE BOMBAY DEVADASIS PROTECTION ACT, 1934.]

[15th October, 1934]

Adapted and modified by the Adaptation of Indian  
Laws Order in Council.**An Act to protect devadasis and to prevent the dedication of women to  
Hindu deities, idols, objects of worship, temples and religious  
institutions in the Bombay Presidency.**

WHEREAS the practice of dedicating women as devadasis to Hindu deities, idols, objects of worship, temples or other religious institutions exists in the Bombay Presidency ;

AND WHEREAS such practice, however ancient and pure its origin, now leads such women to a life of prostitution ;

AND WHEREAS it is now desirable and expedient to end such practice, wherever it exists in the Bombay Presidency ;

AND WHEREAS the previous sanction of the Governor General  
5 & 6 required by section 80A (3) and of the Governor required by section 80C  
Geo. V. of the Government of India Act have been obtained for the passing of  
c. 61. this Act ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Devadasis Protection Act, Short title and extent.  
1934.

(2) It extends to the whole of the Bombay Presidency.

2. In this Act, unless there is something repugnant in the subject or Definitions.  
context :—

(a) "devadasi" means any unmarried woman who is dedicated to any Hindu deity, idol, object of worship, temple or other religious institution ;

(b) "temple" means a place by whatever designation known, dedicated to, or used by, the Hindu community, or any section thereof as a place of religious worship ; and

(c) "woman" means a female human being of any age.

3. The performance of any ceremony intended to dedicate or having Illegality of dedication of a woman as a devadasi.  
the effect of dedicating a woman as a devadasi, whether such woman has or has not consented to the performance of such ceremony, is hereby

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1933, Pt. V, pp. 1029-1031 ; for Report of the Select Committee, see *ibid* 1934, Pt. V, pp. 62-65 ; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1933 and 1934, Vols. XXXVIII, XXXIX and XL.

declared unlawful and to be of no effect, any custom or rule of Hindu Law to the contrary notwithstanding.

Marriage by a devadasi.

4. No marriage contracted by a woman shall be invalid and no issue of such marriage shall be illegitimate by reason of such woman being a devadasi, any custom or rule of Hindu Law to the contrary notwithstanding.

Penalty.

5. Whoever, other than the woman to be dedicated, performs, permits, takes part in or abets the performance of, any ceremony referred to in section 3, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one year, or with fine or with both.

Release of land from liability for performance of service.

6. (1) Notwithstanding any adjudication or settlement made under the Bombay Rent-free Estates Act, 1852, the Exemptions from Land-revenue (No. 1) Act, 1863, and the Exemptions from Land-revenue (No. 2) Act, 1863, or rules made thereunder, or the terms of any grant made or sanad issued by <sup>1</sup>[or on behalf of the Crown], when lands are assigned as emoluments for the performance by a devadasi of any services as such, the Collector shall, after holding such inquiry as may be prescribed, by order in writing, direct that the land shall be released from liability for performance of such services and that there shall be paid by the holder of such land in lieu of such services such rent as the Collector shall determine in the prescribed manner :

Provided that if a woman who is a devadasi at the time when this Act comes into force, is the holder of such land or performs services as a devadasi for which such land is assigned and appears at such inquiry or gives notice in the prescribed manner and objects to the release of the land and the payment of rent under the provisions of this section the Collector shall pass orders directing that the land shall not be released and rent shall not be payable under this section during the lifetime of such devadasi.

(2) Rent directed to be paid under sub-section (1) shall, when the performance of such services is for the benefit of a Hindu deity, idol, object of worship, temple or other religious institution, be payable by the holder to or on account of such deity, idol, object of worship, temple or other religious institution and in other cases to <sup>2</sup>[the Crown for the purposes of the Province].

*Explanation.*—Land shall have the same meaning as defined in the Bombay Land Revenue Code, 1879.

Bom.  
V of  
1879

<sup>1</sup> The words "or on behalf of the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "the Crown for the purposes of the Province" were substituted for the word "Government" by *ibid.*

7. (1) <sup>1</sup>[The Provincial Government] may make rules generally for the purpose of carrying out the provisions of this Act and in particular for the manner in which the Collector shall hold an inquiry and determine the rent under section 6 and the manner in which notice of objection shall be given under the said section. Power to make rules.

(2) The rules to be made under this section shall be subject to the condition of previous publication.

(3) Rules made under this section shall be laid <sup>2</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>3</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>4</sup>[in which both the Chambers concur], and such rule shall, after notification in the <sup>5</sup>[*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of <sup>1</sup>[the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of the Act, <sup>1</sup>[the Provincial Government] may, by notification in the <sup>5</sup>[*Official Gazette*], declare that the modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

<sup>1</sup> The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by *ibid.*

<sup>3</sup> The word "thereof" was substituted for the words "of the said Council" by *ibid.*

<sup>4</sup> The words "in which both the Chambers concur" were substituted for the words "of the said Council" by *ibid.*

<sup>5</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

BOMBAY ACT No. XI OF 1934.<sup>1</sup>

[THE OPIUM (BOMBAY AMENDMENT) ACT, 1934.]

[24th October, 1934]

## An Act further to amend the Opium Act, 1878, in its application to the Presidency of Bombay.

I of 1878. WHEREAS it is expedient further to amend the <sup>2</sup>Opium Act, 1878, in its application to the Presidency of Bombay for the purpose hereinafter appearing ; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act ; It is hereby enacted as follows :—

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c. 61.

1. This Act may be called the Opium (Bombay Amendment) Act, Short title. 1934.

I of 1878. 2. In section 20 of the <sup>2</sup>Opium Act, 1878, in its application to the Presidency of Bombay, hereinafter called the said Act, for the words of section 20 of Act I of 1878. “not below the rank of Inspector, and every officer of the department of Excise not below the rank of Assistant Inspector” the following shall be substituted, namely :—

“and Excise in Sind, not below the rank of Jamadar or Dafedar, every officer of the department of Salt, in the Presidency of Bombay except Sind, not below the rank of Inspector, every officer of the department of Excise, in the Presidency of Bombay except Sind, not below the rank of Sub-Inspector.”

3. In sections 20A, 20B and 20C of the said Act, the words “of the department of Salt and Excise or the Customs department” shall be omitted. Amendment of sections 20A, 20B and 20C of Act I of 1878.

<sup>1</sup>For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1934, Pt. V, pp. 104-105 ; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1934, Vol. XL.

<sup>2</sup>Central Acts.

**THE IDENTIFICATION OF PRISONERS (BOMBAY  
AMENDMENT) ACT, 1935.**

**CONTENTS.**

**PREAMBLE.**

**Sections.**

1. Short title and extent.
2. Amendment of section 4 of XXXIII of 1920.



**BOMBAY ACT No. IV OF 1935.<sup>1</sup>**

[THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT) ACT, 1935.]

[13th April, 1935.]

**An Act further to amend the Identification of Prisoners Act, 1920,  
in its application to the Presidency of Bombay.**

WHEREAS it is expedient further to amend the Identification of Prisoners Act, 1920, in its application to the Presidency of Bombay for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Identification of Prisoners (Bombay Amendment) Act, 1935. Short title and extent.

(2) It extends to the whole of the Presidency of Bombay.

2. For section 4 of the Identification of Prisoners Act, 1920, the following shall be substituted, namely:— Amendment of section 4 of XXXIII of 1920.

“4. Any person who has been—

(a) ordered to remove himself or caused to be removed from British India under section 3 or 17 of the Foreigners Act, 1864, Taking of measurements of unconvicted persons.

(b) directed to remove himself under section 27 of the City of Bombay Police Act, 1902, or under section 46 of the Bombay District Police Act, 1890,

(c) arrested under section 55 of the Code of Criminal Procedure, 1898, or

(d) arrested in connection with an offence punishable under section 112 of the City of Bombay Police Act, 1902, or under section 61D of the Bombay District Police Act, 1890, or in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards;

shall, if so required by a police officer, allow his measurements or photograph to be taken in the prescribed manner.”

<sup>1</sup>For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Pt. V, p. 18 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1935, Vol. XII.

**THE BOMBAY NURSES, MIDWIVES AND HEALTH  
VISITORS REGISTRATION ACT, 1935.**

**CONTENTS.**

**PREAMBLE.**

**Sections.**

1. Short title, extent and commencement.
2. Definitions.
3. Establishment, incorporation and constitution of the Council.
4. Appointment of members in default of election.
5. Period of office of members.
6. Vacancies.
7. Vacancy not to affect proceedings.
8. Disqualifications.
9. Disabilities from continuing as member.
10. Leave of absence to members.
11. Maintenance of register.
12. Persons entitled to registration.
13. Refusal of registration, and removal and re-entry of names.
14. Appeal from order under section 13.
15. Institutions for training nurses, midwives or health visitors to be recognised by Council.
16. Appeal against refusal to recognise institutions under section 15.
17. Removal of names from register on notice of death.
18. Penalty for dishonest use of certificates.
19. Penalty for unlawful assumption of title of registered nurse, midwife or health visitor.
20. Court competent to try offences under the Act.
21. Funds of the Bombay Presidency Nursing Association to be vested in the Council.
22. Power of Provincial Government to make rules.
23. Power of the Council to make by-laws.
24. Protection of persons acting in good faith, under the Act, rules or by-laws.
25. Control.

## BOMBAY ACT No. VII OF 1935.<sup>1</sup>

### THE BOMBAY NURSES, MIDWIVES AND HEALTH VISITORS REGISTRATION ACT, 1935.]

[30th April, 1935.]

Adapted and modified by the Adaptation of Indian  
Laws Order in Council.

#### An Act to provide for the registration and better training of nurses, midwives and health visitors in the Presidency of Bombay.

WHEREAS it is expedient to provide for the registration and better training of nurses, midwives and health visitors in the Presidency of Bombay; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935. Short title, extent and commencement.

(2) It shall extend to the whole of the Presidency of Bombay, excluding Sind.

(3) It shall come into force on such date as the <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], appoint.

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

(a) "affiliated institution" means an institution for the nursing of the sick, maternity or child welfare, which may be affiliated to the Council in accordance with the by-laws;

(b) "by-law" means a by-law made by the Council under section 23;

(c) "Council" means the Bombay Nurses, Midwives and Health Visitors Council, constituted under section 3;

(d) "institution" includes any association which maintains or controls a nursing establishment;

(e) "nurse" includes a male nurse;

(f) "prescribed" means prescribed by rules;

(g) "register" means a register maintained under section 11 and the expressions "registered" and "registration" shall be construed accordingly;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Pt. V, pp. 62-65 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1935, Vol. XLI.

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(h) "registered medical practitioner" means a person registered under the Bombay Medical Act, 1912;

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1912.

(i) "rule" means a rule made by the <sup>1</sup>[Provincial Government] under section 22.

Establish-  
ment, incor-  
poration and  
constitution  
of the  
Council.

3. (1) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], establish a Council to be called "the Bombay Nurses, Midwives and Health Visitors Council" for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate, and have perpetual succession and a common seal and may, by the said name, sue and be sued.

(2) The Council shall consist of the following twenty-one members, namely:—

(a) as *ex-officio* members,

- (i) the Surgeon-General with the Government of Bombay;
- (ii) the Director of Public Health for the Government of Bombay;
- (iii) the Lady Superintendent, Cama and Alless Hospitals, Bombay;
- (iv) the Lady Superintendent, St. George's Hospital Nursing Association, Bombay;
- (v) the Lady Superintendent, Sir David Sassoon and Jacob Sassoon Hospitals, Poona;
- (vi) the Sister Superior, Jamsetji Jeejeebhoy Hospital, Bombay;
- (vii) the Lady Superintendent, King Edward Memorial Hospital, Bombay;
- (viii) the Lady Superintendent, Nowrosji Wadia Maternity Hospital, Bombay, and the Lady Superintendent, Jerbai Wadia Children's Hospital, Bombay, in rotation;

(b) as elected members,

- (i) five persons to be elected by the affiliated institutions in the City of Bombay;
- (ii) one person to be elected by the affiliated institutions in the Northern Division;
- (iii) one person to be elected by the affiliated institutions in the Central Division;
- (iv) one person to be elected by the affiliated institutions in the Southern Division;
- (v) two registered medical practitioners, one of whom shall be a woman, to be elected by the Bombay Medical Council;

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

(c) as nominated members—

one registered nurse, one registered midwife and one registered health visitor to be nominated by the <sup>1</sup>[Provincial Government]:

Provided that, in the case of the first constitution of the Council under this Act, the <sup>1</sup>[Provincial Government] shall appoint—

(i) the eight persons eligible for election under clause (b) (i), (ii), (iii) and (iv), to be members and such persons shall be deemed to have been elected members under each of the said clauses, respectively, and

(ii) one nurse, one midwife and one health visitor, having such qualifications as the <sup>1</sup>[Provincial Government] may deem proper to be members and such nurse, midwife and health visitor shall be deemed to have been nominated under clause (c).

(3) The Surgeon-General with the Government of Bombay shall *ex-officio* be the President, and the Vice-President of the Council shall be elected from among the members of the Council and shall hold office for one year or until the election of his successor.

4. If any of the institutions referred to in clause (b) of sub-section (2) of section (3) does not, by such date as may be prescribed, elect a person to be a member of the Council, the <sup>1</sup>[Provincial Government] shall, by order in writing, appoint to the vacancy a person qualified for election thereto; and the person so appointed shall be deemed to be a member of the Council as if he had been duly elected by the said institution.

5. The members of the Council, other than the *ex-officio* members specified in sub-clauses (i) to (vi) of clause (a) of sub-section (2) of section 3, shall hold office for a period of five years or for such less period as the <sup>1</sup>[Provincial Government] may prescribe in this behalf:

Provided that an out-going member shall continue in office until the election or nomination of his successor as the case may be.

6. When a vacancy occurs in the office of a member of the Council through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled in the manner prescribed. Any person elected or nominated to fill a casual vacancy shall, notwithstanding anything contained in section 5, hold office only so long as the member in whose place he is elected or nominated would have held office if the vacancy had not occurred.

7. If a vacancy in the office of a member of the Council has occurred, the continuing members thereof shall act as if no vacancy had occurred, and no act or proceeding of the Council shall be deemed invalid merely

<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

by reason of a vacancy in the Council or of a defect in the election or nomination of a person acting as a member of the Council.

Disqualifications.

8. No person shall be a member of the Council—

(a) who has been sentenced by a criminal court for an offence punishable with imprisonment for a term exceeding three months or to transportation, such sentence not having been subsequently reversed, quashed or remitted, unless he has by order, which the <sup>1</sup>[Provincial Government] is hereby empowered to make in this behalf, been relieved from the disqualification arising on account of such sentence, or

(b) who is an undischarged insolvent, or

(c) who has been adjudicated by a competent court to be of unsound mind, or

(d) whose name has been removed from the register.

Disabilities from continuing as member.

9. (1) If any member, during the period for which he has been elected or nominated—

(a) absents himself without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or

(b) is absent out of India for a period exceeding eight consecutive months; or

(c) becomes subject to any of the disqualifications specified in section 8; or

(d) having been elected by the Bombay Medical Council, ceases to be a registered medical practitioner,

the President of the Council shall forthwith report the fact to the <sup>1</sup>[Provincial Government], who shall thereupon, by order in writing, declare his seat to be vacant.

(2) If any question arises whether a vacancy has occurred under subsection (1), the orders of the <sup>1</sup>[Provincial Government] shall be final for the decision of such question.

Leave of absence to members.

10. The Council may permit any member to absent himself from the meetings of the Council for any period not exceeding six months.

Maintenance of register.

11. The Council shall maintain a register of—

(i) nurses,

(ii) midwives, and

(iii) health visitors,

in such forms, containing such particulars, and divided into such parts as may be prescribed.

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<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

12. Persons who have undergone such courses of training, have passed such examinations and who fulfil such other conditions as may be prescribed, shall, on payment of the prescribed fee and on making an application in the prescribed form, be entitled to registration: Persons entitled to registration.

Provided that nurses and midwives who are at the commencement of this Act enrolled on the registers maintained by the Bombay Presidency Nursing Association shall be entitled to have their names transferred, according to their qualifications, to the appropriate registers maintained under section 11.

13. (1) Subject to such conditions as may be prescribed, the Council may, after giving an opportunity to the person concerned to be heard in his defence and to appear, and after holding an enquiry in the prescribed manner, refuse to enter in the register the name of any person, or may order the removal of the name of such person from the register. Refusal of registration, and removal and re-entry of names.

(2) The order passed under sub-section (1) shall be in writing, and shall be served on the person concerned in the prescribed manner.

(3) The Council may direct that the name of any person against whom an order under sub-section (1) has been passed shall be entered or re-entered in the register, as the case may be.

14. (1) Any person, aggrieved by any order of the Council under section 13, may, within three months from the date on which such order is served, appeal against such order to the <sup>1</sup>[Provincial Government]. Appeal from order under section 13.

(2) The order of the <sup>1</sup>[Provincial Government] on any such appeal shall be final.

15. (1) The institutions which are approved and recognised by the Council after inspection by its representative shall be competent to train nurses, midwives or health visitors, and to send them for examination for the qualifying certificates of the Council. Institutions for training nurses, midwives or health visitors to be recognised by Council.

(2) The Council may withdraw recognition from any such institution after its inspection by a representative of the Council. The order of such withdrawal shall be in writing and shall be served in the prescribed manner.

16. Any person aggrieved by the refusal of the Council to approve and recognise any institution as competent to train nurses, midwives or health visitors may appeal, within three months from the date of such refusal, to the <sup>1</sup>[Provincial Government] against such order of refusal. The decision of the <sup>1</sup>[Provincial Government] on any such appeal shall be final. Appeal against refusal to recognise institutions under section 15.

<sup>1</sup> The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

Removal of names from register on notice of death.

17. Every Registrar of Births and Deaths, who receives notice of the death of any person whose name he knows to be or has reason to believe is entered in any register, shall forthwith transmit by post to the Council a certificate of registration of such death signed by him and stating the time and place of death; and thereupon the name of such person shall be removed from the register.

Penalty for dishonest use of certificates.

18. Any person who—

(a) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him or to any other person;

(b) procures or attempts to procure registration under the provisions of this Act by making or producing, or causing to be made or produced any false or fraudulent declaration, certificate or representation, whether in writing or otherwise, or

(c) wilfully makes or causes to be made any false representation in any matter relating to the register or certificates issued under the provisions of this Act,

shall be punishable with fine not exceeding Rs. 250.

Penalty for unlawful assumption of title of registered nurse, midwife or health visitor.

19. Any person who, not being a registered nurse, midwife or health visitor, takes or uses the name or title of registered nurse, midwife or health visitor, or uses any name, title, description, prescribed uniform, object or sign-board, with the intention that it may be believed, or with the knowledge that it is likely to be believed that such person is a registered nurse, midwife or health visitor, shall be punishable with fine not exceeding Rs. 100.

Court competent to try offences under the Act.

20. No court other than a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

Funds of the Bombay Presidency Nursing Association to be vested in the Council.

21. The funds of the Bombay Presidency Nursing Association are hereby transferred to the Council, and shall hereafter vest in the Council for the purposes of this Act.

Power of Provincial Government to make rules.

22. (1) The [Provincial Government] may, after previous publication, make rules to carry out all or any of the purposes of this Act.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.



(2) In particular and without prejudice to the generality of the foregoing power, they may make rules—

(a) prescribing the period of less than five years for which a member of the Council may hold office under section 5 ;

(b) prescribing the manner in which elections and nominations of members of the Council and the election of the Vice-President shall be made and casual vacancies shall be filled under section 6 ;

(c) prescribing the form in which a register shall be kept, the particulars to be entered in such register, and the parts in which such register shall be divided under section 11 ;

(d) prescribing the courses of training and examinations entitling a person to registration, the fee payable on application for registration, the form in which such applications shall be made, and the conditions subject to which names shall be entered in the register under section 12 ;

(e) prescribing the causes for which, the conditions under which and the manner in which the names of nurses, midwives and health visitors may be removed or re-entered in the register under section 13, and the manner in which the order of removal or refusal shall be served on such persons ;

(f) the manner in which an order of withdrawal of recognition of an institution shall be served under section 15 ;

(g) prescribing the fees payable in respect of an appeal under section 14 or 16 ; and

(h) any matter which is to be or may be prescribed.

(3) All rules made by the <sup>1</sup>[Provincial Government] under this section shall be laid <sup>2</sup>[before each of the Chambers of the Provincial Legislature] for one month previous to the session thereof, and shall be liable to be rescinded or modified by a resolution <sup>3</sup>[in which each of the Chambers concur during] its next session ; such rule shall, after notification in the <sup>4</sup>[Official Gazette], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of the <sup>1</sup>[Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the <sup>1</sup>[Provincial Government] may, by notification in the <sup>4</sup>[Official Gazette], declare that the modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by *ibid.*

<sup>3</sup>The words "in which each of the Chambers concur during" were substituted for the words "of the said Council tabled at" by *ibid.*

<sup>4</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

Power of the  
Council to  
make  
by-laws.

23. (1) The Council may make by-laws, not inconsistent with this Act or the rules,

(a) for regulating the compilation, maintenance and publication of the register and the conditions of admission to the register ;

(b) for regulating the conduct of any examinations which may be prescribed as a condition of admission to the register and any matters ancillary to or connected with such examinations, including the courses of training which the candidates appearing for the examinations shall undergo ;

(c) for the approval of any institution for the purpose of such training and the granting of diplomas to candidates passing the examinations ;

(d) for regulating the conditions under which institutions for nursing the sick, maternity or child welfare may be affiliated to the Council ;

(e) for appointing a Registrar and such other servants as may be necessary ;

(f) for regulating the pay, pension, conduct and other conditions of service of persons appointed under clause (e) ;

(g) for establishing a provident fund for the benefit of the employees of the Council and of affiliated institutions and regulating its administration ;

(h) for regulating and supervising the practice of their profession by registered nurses, midwives and health visitors ;

(i) for regulating the publication of the names of registered nurses, midwives and health visitors and their residences ;

(j) for regulating the conditions under which such nurses, midwives and health visitors registered in other provinces or other countries may be admitted to the register, on such other provinces and countries granting reciprocal registration to persons registered on the register of the Council ;

(k) for regulating the summoning of meetings of the Council and its proceedings ;

(l) for determining the manner in which all fees levied under this Act and all moneys received by the Council shall be accounted for, audited and applied for the purposes of this Act, and for regulating the expenditure of the Council generally ;

(m) for prescribing the travelling and other expenses payable to the members of the Council or of committees ; and

(n) generally for the provision of any matters in respect of which the Council considers provision should be made for the purposes of this Act.

(2) No by-law made by the Council shall come into force until it has been confirmed by the <sup>1</sup>[Provincial Government], with or without modification or amendment.

(3) All by-laws made under this section shall be published in the <sup>2</sup>[Official Gazette].

24. No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.

Protection of persons acting in good faith, under the Act, rules or by-laws.

25. (1) If at any time it shall appear to the <sup>1</sup>[Provincial Government] that the Council has failed to exercise, or has exceeded or abused any of the powers conferred upon it by or under this Act, or has failed to perform any of the duties imposed upon it by or under this Act, the <sup>1</sup>[Provincial Government] may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Council, and if the Council fails to remedy such default, excess or abuse, within such time as the <sup>1</sup>[Provincial Government] may fix in this behalf, the <sup>1</sup>[Provincial Government] may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period as it may think fit and thereupon the funds and property of the Council shall vest in the <sup>1</sup>[Provincial Government] for the purposes of this Act until a new Council shall have been constituted under section 3.

Control.

(2) When the <sup>1</sup>[Provincial Government] has dissolved the Council under sub-section (1), it shall take steps as soon as may be convenient to constitute a new Council under section 3 and thereupon the property and funds referred to in sub-section (1) shall re-vest in the Council so constituted.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

**THE INDIAN MOTOR VEHICLES (BOMBAY AMENDMENT)  
ACT, 1935.**

**CONTENTS.**

**PREAMBLE.**

**Sections.**

- 1 Short title and extent.
2. Amendment of preamble of Act VIII of 1914.
3. Amendment of section 11 of Act VIII of 1914.
4. Insertion of a new section after section 11 of Act VIII of 1914.  
Section 11A.—Power of Provincial Government to fix rates of fees and to appropriate them for purposes of provincial expenditure.
5. Using or driving a motor vehicle in good faith prior to this Act without payment of fee not an offence by reason of section 4.
6. Addition of Schedule to Act VIII of 1914.

**SCHEDULE.**

## BOMBAY ACT No. XIV OF 1935.<sup>1</sup>

[THE INDIAN MOTOR VEHICLES (BOMBAY AMENDMENT) ACT, 1935.]

[12th September, 1935.]

Adapted and modified by the Adaptation of Indian Laws Order  
in Council.

### An Act to amend the Indian Motor Vehicles Act, 1914.

VIII  
of  
1914. WHEREAS it is expedient to amend the Indian Motor Vehicles Act,  
1914, so as to remove doubts as to the validity of certain fees levied under  
the said Act and as to the powers of the Local Government to appropriate  
the said fees as part of the general revenues for the purposes of provincial  
expenditure; And whereas the previous sanction of the Governor  
5 & 6  
Geo. General required under sub-section (3) of section 80A of the Govern-  
V. ment of India Act and the previous sanction of the Governor required  
c. 61. under section 80C of the said Act have been obtained for the passing  
of this Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Motor Vehicles (Bombay Short title  
Amendment) Act, 1935. and extent.

(2) It shall extend to the whole of the Presidency of Bombay.

VIII  
of  
1914. 2. In the preamble to the Indian Motor Vehicles Act, 1914, herein- Amendment  
after called the said Act, after the words "British India", the words of preamble  
"And whereas it is expedient to empower the <sup>2</sup>[Provincial Government] of Act VIII  
of 1914.  
to levy certain fees in respect of such vehicles and to appropriate the  
said fees as part of the general revenues for the purposes of provincial  
expenditure" shall be inserted.

3. In section 11 of the said Act, the following Explanation shall be Amendment  
added, namely:— of section 11  
of Act VIII  
of 1914.

*Explanation.*—For the purposes of clauses (a) and (d), the issue  
of a certificate of registration or a driving licence shall include the  
renewal of such certificate or licence respectively."

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V,  
pp. 158-159; and for Proceedings in Council, see *Bombay Legislative Council Debates*,  
1935, Vol. XLII.

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Gov-  
ernment" by the Adaptation of Indian Laws Order in Council.

Insertion of a new section after section 11 of Act VIII of 1914.

4. After section 11 of the said Act, the following new section shall be inserted, namely :—

Power of Provincial Government to fix rates of fees and to appropriate them for purposes of provincial expenditure.

“ 11A. Notwithstanding anything contained in this Act, it shall be deemed to be lawful, and always to have been lawful, for the [Provincial Government] under the rules made under section 11 to prescribe and levy fees in respect of the matters specified in the schedule at rates not exceeding the maxima specified therein and to appropriate the said fees as part of the general revenues for the purposes of provincial expenditure.”

Using or driving a motor vehicle in good faith prior to this Act without payment of fee not an offence by reason of section 4.

5. No person who in good faith, prior to the commencement of this Act, has used or driven a motor vehicle without payment of fees referred to in section 4 shall be deemed to have committed an offence under the said Act by reason merely of the prescription and levy of the said fees having been declared lawful under the said section.

Addition of Schedule to Act VIII of 1914.

6. To the said Act, the following Schedule shall be added, namely :—

“ SCHEDULE.

(Section 11-A.)

Purpose for which fee is levied.	Maximum rate.
1	2
	Rs.
1. Driving licence	.. 20
2. Renewal of driving licence	.. 5
3. Registration—	
(i) Motor cycles ..	.. 10
(ii) Heavy motor vehicles ..	.. 80
(iii) Other motor vehicles ..	.. 40
4. Renewal of registration certificates—	
(i) when presented on or before the date of expiry or within 10 days after that date ..	.. 8 motor cycles. 64 heavy motor vehicles. 32 other motor vehicles.
(ii) in other cases ..	.. As in 3 above.
5. Dealers' Numbers—	
(i) for the first 7 letters ..	.. 150
(ii) for every additional 7 letters ..	.. 150”

<sup>1</sup> The words “ Provincial Government ” were substituted for the words “ Local Government ” by the Adaptation of Indian Laws Order in Council.

THE MUSSALMAN WAKF (BOMBAY AMENDMENT) ACT, 1935.

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BOMBAY ACT No. XVIII OF 1935.<sup>1</sup>

[THE MUSSALMAN WAKF (BOMBAY AMENDMENT) ACT, 1935.]

[23rd September, 1935]

Adapted and modified by the Adaptation of Indian  
Laws Order in Council.An Act to amend the Mussalman Wakf Act, 1923, in its application  
to the Presidency of Bombay.

XLII  
of  
1923. WHEREAS it is expedient to amend the Mussalman Wakf Act, 1923,  
in its application to the Presidency of Bombay for the purposes here-  
inafter appearing;

AND WHEREAS the previous sanction of the Governor General  
5 & 6 required by sub-section (3) of section 80A of the Government of India  
Geo. Act and the sanction of the Governor under section 80C of the said Act  
V.  
o. 61. have been obtained for the passing of this Act;

It is hereby enacted as follows:—

1. This Act may be called the Mussalman Wakf (Bombay Amend- Short title.  
ment) Act, 1935.

XLII  
of  
1923. 2. After the preamble of the Mussalman Wakf Act, 1923, hereinafter  
called the principal Act, the heading "Part I" shall be inserted. Heading after  
the preamble  
of XLII of  
1923.

3. In section 2 of the principal Act,—

(a) after clause (b), the following shall be inserted, namely:—

"(bb) 'District' means a district constituted under section 3  
of the Bombay Civil Courts Act, 1869, and includes the City of  
Bombay."

XIV  
of  
1869.

(b) after clause (e), the following shall be added, namely:—

"(ee) 'Wakf Committee' means a committee constituted under  
section 6L."

4. After section 2 of the principal Act, the heading "Part II" shall Heading after  
section 2 of  
XLII of 1923.  
be inserted.

5. After section 6 of the principal Act, the following parts shall be Insertion of  
Parts III to  
VI in XLII  
of 1923.  
inserted, namely:—

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V, pp. 28-29; for report of the Select Committee, see *ibid*, pp. 91-96, 113-117 and 135-136 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1935, Vols. XLI and XLII.

## "PART III.

*Powers of the Court to call for Particulars and Statement of Accounts.*

Power of court to call upon the mutawalli to submit statement.

6A. (1) Notwithstanding anything contained in section 3, it shall be competent to the court, on failure of a mutawalli to furnish a statement as required under the said section, to require the mutawalli to furnish, within such time as the court shall fix, a statement containing all or any of the particulars referred to in the said section, including a copy of the deed or instrument, if any, creating the wakf.

(2) The provisions of section 4 shall apply to a statement furnished under this section as if such statement had been furnished under section 3.

Power of court to require statement of accounts at any time.

6B. (1) Notwithstanding anything contained in section 5, it shall be competent to the court, on failure of a mutawalli to furnish a statement of accounts as required under the said section, to require the mutawalli to prepare and furnish, within such time as the court may fix, a statement of accounts of the nature described in the said section and for such period as the court may think fit.

(2) The provisions of section 6 shall apply to any statement of accounts required to be furnished under this section as if such statement of accounts were a statement of accounts furnished under section 5.

## PART IV.

*Powers of the Court to Enquire.*

Power of court to enquire.

6C. (1) The court may, either on its own motion or upon the application of any person claiming to have an interest in a wakf, hold an enquiry in the prescribed manner at any time to ascertain—

(i) whether a wakf is a wakf to which this Act applies ;

(ii) whether any property is the property of such wakf and whether the whole or any substantial portion of the subject matter of such wakf is situate within the local limits of the jurisdiction of the court ; and

(iii) who is the mutawalli of such wakf.

(2) If it comes to the knowledge of the court that a suit has been instituted in any civil court in regard to any of the matters mentioned in sub-section (1), it shall stay the enquiry so far as it relates to, or is likely to be affected by, the court's findings or order in regard to such matters, until the suit is finally decided in that court.

(3) The court shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, it shall proceed with the enquiry in regard to such matters, if any, as may not have been decided in such suit.

(4) On completion of the enquiry provided for in sub-sections (1) and (3), the court shall record its findings as to the matters mentioned in the said sub-sections, except such matters as may have been decided in the aforesaid suit.

(5) Save as provided in this section, the court shall not, when acting under this section, try or determine any question of the title of any person claiming adversely to the wakf.

## PART V.

### *Registration of Wakfs, Wakf Accounts and Wakf Administration Funds.*

6D. (1) The court shall, after the submission of a statement under <sup>Registration</sup> section 3 or section 4 or section 6A and an enquiry, if necessary, held <sup>of Wakfs.</sup> under section 6C, or merely after an enquiry held under section 6C, record, in such form as may be prescribed in a register called the Register of Wakfs, the following particulars :—

(a) a description of the wakf property sufficient for the identification thereof ;

(b) the gross annual income from such property ;

(c) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or during the period which has elapsed since the creation of the wakf, whichever period is shorter ;

(d) the amount of the Government revenue and cesses and of all rents annually payable in respect of the wakf property ;

(e) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (c) relate ;

(f) the amount set apart under the wakf for—

- (i) the salary of the mutawalli and allowances to individuals ;
- (ii) purely religious purposes ;
- (iii) charitable purposes ;
- (iv) any other purposes ;

(g) the name of the mutawalli ; and

(h) such other particulars as may be prescribed.

(2) Statements, if any, furnished under sections 3, 4 and 6A shall be filed with the said register of wakfs.

6E. (1) When any change occurs in any of the particulars recorded in the Register of Wakfs, the mutawalli shall, within three months of the occurrence of such change, report to the court such change in the <sup>Amendment</sup> <sup>of entries in</sup> <sup>Register of</sup> <sup>Wakfs.</sup>

prescribed form, accompanied by the prescribed fee. The provisions of sections 3 and 4 shall, so far as may be, apply to any such statement.

(2) For the purpose of verifying the correctness of the entries in the Register of Wakfs or ascertaining any change which may have occurred in such register, the court may hold an enquiry in the prescribed manner. The provisions of section 6C shall, so far as may be, apply to any such inquiry.

(3) If the court, after receiving a report under sub-section (1) and holding an enquiry, if necessary, under sub-section (2), or merely after an enquiry held under sub-section (2), is satisfied that a change has occurred in any of the particulars recorded in the Register of Wakfs with regard to a wakf, it shall amend in the prescribed manner the entry or entries affected by such change and shall file the report furnished under sub-section (1) along with the statement, if any, relating to the said wakf filed under section (3).

Entries in the Register of Wakfs and findings recorded under section 6C to be final subject to section 6G.

6F. The entries made by the court in the Register of Wakfs and the findings recorded under section 6C shall, subject to the provisions of section 6G, be final for the purposes of this Act.

Making or amendment of entries in Register of Wakfs by order of Court.

6G. A civil court of competent jurisdiction deciding any question relating to any wakf may direct that the court shall make such entries or amendments of entries in the Register of Wakfs relating to the said wakf as are consequential upon its decision, and the court shall make such entries or amendments of such entries accordingly.

Maintenance of accounts and their audit.

6H. (1) Every mutawalli of a wakf in respect of which an entry has been recorded in the Register of Wakfs shall keep regular accounts of all moveable and immoveable property received, and of all payments and alienations made and incumbrances created by him on behalf of the wakf of which he is the mutawalli. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

(2) The account shall be balanced on the thirty-first day of March in each year, and shall be examined and audited annually or at such other intervals, and in such manner as may be prescribed and by the persons referred to in section 6.

(3) Every auditor acting under sub-section (2) shall have access to the accounts and to all books, vouchers and other documents and records in the possession and under the control of the mutawalli :

Provided that, if it is proved to the satisfaction of the court that the gross annual income of any particular wakf is less than two hundred rupees, the court may by order in writing exempt such wakf from the provisions of this section.

6I. Every wakf shall, for the purpose of meeting the charges and expenses incidental to the registration, superintendence, administration and control of wakfs, the maintenance of the registers of wakfs, the scrutiny and audit of accounts of wakfs, the institution and defence of suits and proceedings relating to wakfs, and generally carrying into effect the purposes of this Act, be liable to pay to the Wakf Administration Fund of the district concerned annually such contribution, on such date and in such manner as may be prescribed :

Provided that the <sup>1</sup>[Provincial Government] may, by rules made in this behalf, exempt from the provisions of this section any particular wakf or class of wakfs.

6J. For each district there shall be created a fund to be called the Wakf Administration Fund of the district concerned, and there shall be placed to the credit thereof the following sums, namely :—

- (a) any fee which may be levied under this Act,
- (b) contributions under section 6I,
- (c) any sums received by the Wakf Administration Fund from private sources,
- (d) any sums allotted by <sup>2</sup>[any Government] or by any local authority to the Wakf Administration Fund.

6K. The Wakf Administration Fund of a district shall be under the control and management of the court and shall be applicable to the payment of charges for and expenses incidental to the registration, superintendence, administration and control of wakfs, the maintenance of the Register of Wakfs, the scrutiny and audit of accounts of wakfs, the institution and defence of suits and proceedings relating to wakfs, and generally carrying into effect the purposes of this Act.

## PART VI.

### *Supervision and Control.*

6L. (1) There shall be constituted in each district a wakf committee to advise and assist the court in all matters relating to the registration, superintendence, administration and control of wakfs.

(2) The Committee shall consist of :—

- (a) the members of the Indian and <sup>3</sup>[Provincial Legislatures],

<sup>1</sup> The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " any Government " were substituted for the word " Government " by *ibid.*

<sup>3</sup> The words " Provincial Legislatures " were substituted for the words " Local Legislatures " by *ibid.*

(b) two members elected in the prescribed manner by the mutawallis of all wakfs in the district registered under the Act,

(c) two members elected in the prescribed manner by the members of each district local board in the district professing the Mussalman faith from among their number,

(d) one member elected in the prescribed manner by the members professing the Mussalman faith of each municipality in the district constituted under the Bombay District Municipal Act, 1901,

Bom.  
III  
of  
1901.

(e) two members elected in the prescribed manner by the members professing the Mussalman faith of each municipality in the district constituted under the City of Bombay Municipal Act, 1888, the City of Karachi Municipal Act, 1933, or the Bombay Municipal Boroughs Act, 1925, and

Bom.  
III  
of  
1888.  
Bom.  
XVII  
of  
1933.  
Bom.  
XVIII  
of  
1925.

(f) such other members not exceeding one-fourth of the total number of the members of the Committee as the <sup>1</sup>[Provincial Government] may nominate :

Provided that no person who does not ordinarily reside in the district or does not profess the Mussalman faith shall be eligible to be a member of the Committee.

Functions  
of Wakf  
Committee.

6M. (1) It shall be competent to the court to refer at any time to the Wakf Committee or any three or more members thereof, for advice, opinion, enquiry, report or recommendation, within such time as the court may direct, any matter relating to the registration, superintendence, administration and control of wakfs, and in particular any matter relating to—

(a) the conduct of a mutawalli or a trustee in the administration of a wakf or his fitness to continue as a mutawalli or a trustee,

(b) the settlement, cancellation or alteration of a scheme for the administration of a wakf, or

(c) the application of the funds of a wakf or any surplus thereof.

(2) When the court has referred any of the matters mentioned in subsection (1) to a wakf committee or any members thereof for advice, opinion, enquiry, report or recommendation, and the committee or the members thereof, as the case may be, have, either unanimously or by a majority, made their recommendation in relation to the matter referred

<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

to them, the court may pass orders as it thinks fit after giving due consideration to such recommendation—

- (i) suspending, removing or dismissing a mutawalli or trustee,
- (ii) appointing a new mutawalli or trustee,
- (iii) settling, cancelling or altering a scheme for the administration of a wakf,
- (iv) directing the application, investment or deposit of the funds of a wakf or any surplus thereof in a particular manner or to a particular purpose,
- (v) generally for carrying out the purposes of the Act.

Provided that nothing in this section shall be deemed to authorise the court to pass any order which is inconsistent with the objects and purposes of the wakf.

Provided further that no order under this section shall be passed to the prejudice of any mutawalli or trustee without giving such mutawalli or trustee an opportunity to be heard.

(3) For the performance of any of the duties under sub-section (2) the Wakf Committee or any members thereof to whom the court has referred any matter for advice, opinion, enquiry, report, or recommendation, the committee or such members thereof may by order in writing require—

- (a) the production of any document necessary for the purpose ;
- (b) the attendance of any person for the purpose of giving evidence or for the production of any document referred to in clause (a).

(4) The provisions of sub-sections (2) and (3) of section 6C shall so far as may be, apply to any inquiry under sub-section (1) or (2).

V of 1908. 6N. Notwithstanding anything contained in section 92 of the Code of Civil Procedure, 1908, it shall be competent to the court, after such enquiry as it may think fit, (a) to authorise any one or more of the members of a Wakf Committee to institute or defend any suit or proceeding for the purposes of the protection or recovery of the property of a wakf or for the application of the property of a wakf to any public, charitable or religious purpose and (b) to allocate from the Wakf Administration Fund such sums as may, in the opinion of the court, be necessary for the aforesaid purpose.

6O. (1) It shall be competent to the court to direct one or more members of the Wakf Committee to undertake the inspection, in the prescribed manner, of the property, records and accounts of any wakf and to report to the court, within such time as the court may direct, the result of such inspection.

(2) It shall be competent to the court to employ upon such terms and conditions as may be prescribed such persons as may in the opinion of the court be necessary for carrying out the purposes of this Act and to pay them such remuneration from the Wakf Administration Fund as may be prescribed.

Court's power to order special audit.

6P. It shall be competent to the court at any time to order a special audit of the accounts of a wakf by an accountant possessing the prescribed qualifications and to order the cost of such audit to be paid by the mutawalli from the income of the property of the wakf or out of the Wakf Administration Fund.

Publication of lists of wakfs.

6Q. There shall be published annually on such date as the <sup>1</sup>[Provincial Government] may determine in the <sup>2</sup>[*Official Gazette*] and in the principal vernacular of the district in a newspaper circulating therein a list of wakfs and a statement of the sums standing to the credit of the Wakf Administration Fund, under the signature of the court and in such form as the <sup>1</sup>[Provincial Government] may prescribe."

Insertion of a new heading after section 6Q.

6. After section 6Q inserted by this Act, into the principal Act, the heading "Part VII" shall be inserted.

Amendment of section 7 of XLII of 1923.

7. In section 7 of the principal Act after the word and figure "section 4", the words and figures "section 6A or section 6B or section 6C or section 6E" shall be inserted.

Amendment of section 8 of XLII of 1923.

8. In section 8 of the principal Act,—

(a) after the word and figure "section 4" the words and figures "or section 6A or section 6C or section 6E" shall be inserted; and

(b) after the word and figure "section 5" the words and figures "or section 6B or section 6C" shall be inserted.

Amendment of section 9 of XLII of 1923.

9. In section 9 of the principal Act,—

(a) after the word and figure "section 4", the words and figures "or section 6A or section 6C or section 6E" shall be inserted;

(b) after the word and figure "section 5", the words and figures "or section 6B or section 6C" shall be inserted;

(c) after the word and figure "section 6", the words and figures "or section 6H or section 6P or any entry in the Register of Wakfs or any statement, notice, intimation, report, accounts or any document filed under this Act" shall be inserted.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "Local Official Gazette" by *ibid.*



10. After section 9 of the principal Act, the following shall be inserted, namely :—

Insertion of new section after section 9 of XLII of 1923.

V of 1908.

“ 9A. (1) The provisions of the Code of Civil Procedure, 1908, relating to—

Provisions of Code of Civil Procedure to apply.

(a) the proof of facts by affidavits,

(b) the enforcing of the attendance of any person and his examination on oath,

(c) the enforcing of the production of documents, and

(d) the issuing of commissions shall apply to all proceedings held by the court under this Act and provisions relating to the service of summonses shall apply to the service of notices thereunder.

(2) The provisions of the said Code relating to the execution of decrees shall, so far as they are applicable, apply to the execution of orders passed by the court under this Act.”

11. After section 9A inserted by this Act, into the principal Act, the heading “ Part VIII ” shall be inserted.

Heading after section 9A of this Act.

12. In section 10 of the principal Act—

Amendment of section 10 of XLII of 1923.

(a) after the word and figure “ section 4 ”, the words and figures “ or section 6A or section 6C or section 6E ” shall be inserted ;

(b) after the word and figure “ section 5 ”, the words and figures “ or section 6B or section 6C ” shall be inserted ;

(c) after the word “ accounts ” where it occurs for the first time, the words, figure and letter “ or who is required by section 6H to keep regular accounts ” shall be inserted ;

(d) after the word “ document ” where it occurs for the second time, the words “ or to keep regular accounts ” shall be inserted ;

(e) after the word “ statement ” where it occurs for the fourth time the words “ or keeps accounts ” shall be inserted.

13. After section 10 of the principal Act, the following shall be inserted, namely :—

Insertion of new sections after section 10 of XLII of 1923.

“ 10A. (1) If any person fails to comply with any order passed by the Court or by the Wakf Committee or any member thereof under or in pursuance of the provisions of this Act, such person shall, if such failure to comply is not punishable under any of the sections of this Act, be on conviction punishable with fine which may extend to one thousand rupees.

Penalty for non-compliance with any other order.

(2) A Criminal Court may, in passing an order, of conviction for an offence under sub-section (1), specify the period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him, and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified :

Provided that, if the person failing to comply with any direction issued by such court satisfies such court that there is good reason for his failure to do so and applies for an extension of the period specified under this section, such court may, if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

Cognizance  
of offences.

10B. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Court given in the prescribed manner.

(2) No Criminal Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try an offence under this Act.

Prosecution  
of, and suits  
against, per-  
sons acting  
in good faith.

10C. No suit or prosecution or other proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Recovery of  
sums due  
under this  
Act.

10D. All sums due under this Act shall be recoverable as arrears of land revenue."

Amendment  
of section 11  
of XLII of  
1923.

14. (1) In sub-section (2) of section 11 of the principal Act—

(a) in clause (a) after the word and figure "section 3", the words and figures "or under section 6A or section 6C" shall be inserted;

(b) for clause (b) the following shall be substituted, namely :—

(b) the manner in which notice to be published under section 4 and the fees to be charged upon application made to the court under sub-section (1) of section 4 or under section 6A or section 6B or section 6C;

(c) in clause (c) after the word and figure "section 5", the words and figures "or section 6B or section 6C" shall be inserted;

(d) in clause (d) after the word and figure "section 6", the words and figures "or section 6H or section 6P" shall be inserted;

(e) in clause (e), after the brackets and letter "(e)" the words "the manner of inspection and" shall be inserted;

(f) after clause (f), the following shall be inserted, namely :—

“(f1) the manner in which subject to the provisions of section 9A an inquiry shall be held by the Court and the Wakf Committee under section 6C or 6M and the manner in which the parties shall be represented in such inquiry and the costs of such inquiry shall be borne,

(f2) the manner in which the Register of Wakfs shall be prepared and maintained under section 6D,

(f3) the form in which a change in any of the particulars recorded in the Register of Wakfs shall be reported and the amount of fee to accompany such report and the manner in which the inquiry shall be held and the entries in the Register of Wakfs shall be amended under section 6E,

(f4) the form in which the accounts shall be prepared, kept and furnished, the particulars to be entered therein, and the manner in which, and the interval at which such accounts shall be audited under section 6H,

(f5) the amount of contribution, the date on which and the manner in which it shall be paid and exemptions granted under section 6I,

(f6) the appointment and remuneration of auditors appointed under the Act,

(f7) the management, custody, investment and disbursement of the Wakf Administration Fund,

(f8) the purpose for which a Wakf Administration Fund shall be applied under section 6K,

(f9) the number of members who shall constitute a Wakf Committee, the period of office of a Wakf Committee and the manner in which such committee shall hold its meetings and the procedure to be followed at their meetings,

(f10) the manner in which the inspection of the property, records and accounts of a wakf shall be carried out, the sum which shall be paid in respect of the costs of the members of the Wakf Committee undertaking such inspection, the terms and conditions on which persons shall be employed and the remuneration which shall be paid to such persons, under section 6O,

(f11) the qualifications of an accountant appointed under section 6P,

(f12) the form in which a list of wakfs shall be published under section 6Q.”

(2) After sub-section (2) of section 11 of the principal Act, the following new sub-section shall be added, namely :—

“(3) Rules made under this section shall be laid <sup>1</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>2</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>3</sup>[in which both the Chambers concur] and such rule shall after notification in the <sup>4</sup>[*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when in the opinion of the <sup>5</sup>[Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the <sup>5</sup>[Provincial Government] may by notification in the <sup>4</sup>[*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.”

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<sup>1</sup> The words “before each of the Chambers of the Provincial Legislature” were substituted for the words “upon the table of the Bombay Legislative Council” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The word “thereof” was substituted for the words “of the said Council” by *ibid.*

<sup>3</sup> The words “in which both the Chambers concur” were substituted for the words “of the said Council” by *ibid.*

<sup>4</sup> The words “*Official Gazette*” were substituted for the words “Local Official Gazette” by *ibid.*

<sup>5</sup> The words “Provincial Government” were substituted for the words “Local Government” by *ibid.*

**THE IDENTIFICATION OF PRISONERS (BOMBAY  
SECOND AMENDMENT) ACT, 1935.**

**CONTENTS.**

**PREAMBLE.**

**Sections.**

1. Short title and extent.
2. Amendment of section 3 of Act XXXIII of 1920.
3. Amendment of section 4 of Act XXXIII of 1920.

BOMBAY ACT No. XXI OF 1935.<sup>1</sup>

[THE IDENTIFICATION OF PRISONERS (BOMBAY SECOND AMENDMENT) ACT, 1935.]

[1st October, 1935.]

## An Act to amend the Identification of Prisoners Act, 1920, in its application to the Presidency of Bombay.

WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920, in its application to the Presidency of Bombay, for the purpose hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; 5 & 6 Geo. V, c. 61. It is hereby enacted as follows:—

1. (1) This Act may be called the Identification of Prisoners (Bombay Second Amendment) Act, 1935. Short title and extent.

(2) It extends to the whole of the Presidency of Bombay.

2. In clause (a) of section 3 of the Identification of Prisoners Act, 1920, hereinafter called the said Act, after the word "punishable" the words and figures "under section 121 of the City of Bombay Police Act, 1902, or of any other offence punishable" shall be inserted. Amendment of section 3 of Act XXXIII of 1920.

3. In clause (d) of section 4 of the said Act after the figure "112" the word and figure "or 121" shall be inserted. Amendment of section 4 of Act XXXIII of 1920.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V, p. 180; and for Proceedings in Council, see *Bombay Legislative Council Debates*, Vol. XLIII.

## THE BOMBAY PUBLIC TRUSTS REGISTRATION ACT, 1935.

### CONTENTS.

#### PREAMBLE.

#### Sections.

1. Short title, extent and operation.
2. Application and saving.
3. Definitions.
4. Appointment of Registrars.
5. Obligation to furnish particulars relating to public trusts.
6. Power of Registrar to hold inquiry.
7. Register of Public Trusts.
8. Amendment of entries in Register of Public Trusts.
9. Stay of inquiry or entry in Register.
10. Entries in Register of Public Trusts to be final subject to section 11.
11. Amendment of Register by order of Court.
12. Maintenance of accounts and their audit.
13. Inspection and grant of copies.
14. Annual contribution from public trusts.
15. Public Trusts Administration Fund.
16. Application of Public Trusts Administration Fund.
17. Special audit.
18. Publication of list of public trusts.
19. Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.
20. Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.
21. Penalty for failure to comply with the order of Registrar.
22. Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.
23. Cognizance of offences.
24. Registrars to be public servants.
25. Prosecution of persons acting in good faith.
26. Recovery of sums due under this Act.
27. Power of Provincial Government to make rules.

BOMBAY ACT No. XXV OF 1935.<sup>1</sup>

[THE BOMBAY PUBLIC TRUSTS REGISTRATION ACT, 1935.]

[19th November, 1935.]

Amended by Bom. Act 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act for the registration of trusts created or existing for a public purpose of a religious or charitable nature and for the audit and filing of accounts of such trusts with a view to ensuring the better management thereof.**

WHEREAS it is expedient to provide for the registration of trusts created or existing for a public purpose of a religious or charitable nature and for the audit and filing of accounts of such trusts with a view to ensuring the better management thereof; And whereas the previous sanction of the Governor General required under sub-section (3) of section 80-A and of the Governor required under section 80-C of the Government of India Act have been obtained for the passing of this Act;

5 & 6  
Geo.V.  
c. 61.  
It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Public Trusts Registration Act, 1935. Short title,  
extent and  
operation.

(2) It extends to the whole of the Presidency of Bombay.

(3) <sup>2</sup>[The Provincial Government] may, by notification in the <sup>3</sup>[*Official Gazette*], direct that this Act shall come into force on such date as may be appointed in the notification.

2. (1) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Hindu community or any section of such community and, having an annual gross income of not less than Rs. 1,000. Application  
and saving.

(2) Subject to the provisions of sub-section (3), <sup>2</sup>[the Provincial Government], on a motion of <sup>4</sup>[either or both of the Chambers of the Provincial Legislature] or otherwise, may, after previous publication by notification in the <sup>3</sup>[*Official Gazette*], direct that all or any of the provisions of this Act shall apply to any other public trust or class of public trusts.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V, pp. 130-134, for report of the Select Committee, see *ibid*, pp. 225-236, 253-257, 261-262 and 306-309 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1935. Vols. XLII and XLIII.

<sup>2</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid*.

<sup>4</sup> The words "either or both of the Chambers of the Provincial Legislature" were substituted for the words "the Bombay Legislative Council" by *ibid*.



(3) The provisions of this Act shall not apply to public trusts to which the Mussalman Wakf Act, 1923, applies. XLII  
of  
1923.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context—

(1) "Manager" means any person who for the time being either alone or in association with some other person or persons administers the property of any public trust.

(2) "Prescribed" means prescribed by rules made under this Act.

(3) "Public trust" means an express or constructive trust created or existing for public purposes of a religious or charitable nature.

(4) "Registrar" means an officer appointed under section 4 to exercise the powers and perform the duties of a Registrar of Public Trusts.

(5) "Rules" means rules made under section 27.

(6) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act. II of  
1882.

Appointment of Registrars.

4. [The Provincial Government] may appoint officers belonging to the judicial service not below the rank of a subordinate Judge of the second class or a Judge of a Court of Small Causes as Registrars of Public Trusts for the purposes of this Act and may define the district or area within which each of them shall exercise his powers and perform his duties.

Obligation to furnish particulars relating to public trusts.

5. (1) Every manager of the property of a public trust shall, in the case of—

(i) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act, and

(ii) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust,

submit to the Registrar within whose jurisdiction the whole or any substantial portion of the subject matter of such trust is situate a statement in the prescribed form and accompanied by the prescribed fee, containing the following particulars:—

(a) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee,

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<sup>1</sup> The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(b) the description of the trust property, both moveable and immoveable, sufficient for the identification thereof, and the approximate value thereof,

(c) the gross average annual income of such property estimated on the income of the three years preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(d) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (c) relate,

(e) any other particulars as may be prescribed.

(2) A copy of the deed or instrument creating the public trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

(3) Such statement shall be signed by the manager or his agent specially authorised in this behalf.

(4) Every person signing the statement shall verify it in the manner prescribed.

6. (1) A Registrar may either on his own motion or upon the petition of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain— Power of Registrar to hold inquiry.

(i) whether a trust is a public trust,

(ii) whether any property is the property of such trust,

(iii) whether the whole or any substantial portion of the subject matter of the trust is situate within his jurisdiction,

(iv) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of trustee of such trust,

(v) the origin, nature and object of such trust,

(vi) the amounts of gross average annual income and expenditure of such trusts, and

(vii) any other such particulars as may be prescribed under subsection (1) of section 5.

(2) If it comes to the Registrar's knowledge that a suit has been instituted in any Court in regard to any of the matters mentioned in subsection (1), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Court's findings or orders in regard to such matters, until the suit is finally decided in that Court.

(3) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(4) On completion of the enquiry provided for in sub-sections (1) and (3), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matters as may have been decided in such suit.

(5) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters :—

- (a) enforcing the attendance of any person and examining him on oath,
- (b) compelling the production of documents and material objects,
- (c) issuing commissions for the examination of witnesses,
- (d) proof of facts by affidavits.

(6) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

Register of  
Public  
Trusts.

7. The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6, record entries in such form as may be prescribed in a register called the Register of Public Trusts and shall file the statement, if any.

Amendment  
of entries in  
Register of  
Public  
Trusts.

8. (1) When any change occurs in any of the particulars recorded in the Register of Public Trusts, the manager shall, within three months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompanied by the prescribed fee. The provisions of sections 5 and 6 shall, so far as may be, apply to such statement.

(2) For the purpose of verifying the correctness of the entries in the Register of Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Register, the Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such inquiry.

(3) If the Registrar, after receiving a report under sub-section (1) and holding an enquiry, if necessary, under sub-section<sup>1</sup> (2), or merely after an enquiry held under sub-section (2), is satisfied that a change has occurred in any of the particulars recorded in the Register of Public Trusts with regard to a public trust, he shall amend in the prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-section (1) along with the statement, if any, relating to the said trust filed under section 5.

<sup>1</sup> The figure "2" was substituted for the figure "1" by Bom. 24 of 1936, s. 2, Schedule.

9. (1) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public trust particulars of which have been recorded in the Register of Public Trusts by the Registrar of any other district or area.

Stay of inquiry or entry in Register.

(2) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, [the Provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under section 6 or 8 or act under section 7 in regard to such trust.

10. Entries made by the Registrar in the Register of Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act.

Entries in Register of Public Trusts to be final subject to section 11.

11. A Civil Court of competent jurisdiction deciding any question relating to any registered public trust shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Public Trusts relating to the said trust in accordance with its decision.

Amendment of Register by order of Court.

12. (1) Every manager of a public trust in respect of which an entry has been recorded in the Register of Public Trusts under section 6 shall keep regular accounts of all moveable and immoveable property, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust property and of all payments and alienations made, on behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

Maintenance of accounts and their audit.

(2) The accounts shall be balanced each year on the thirty-first day of March, or such other day, as may be fixed by the Registrar in any particular case, and shall be examined and audited annually in such manner and by a person who is the holder of a certificate granted under section 144 of the Indian Companies Act, 1913, or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout British India or by such persons as may be prescribed.

VII  
of  
1913.

(3) Every auditor acting under sub-section (2) shall have access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(4) Within six months after the thirty-first day of March, or such other day, as may be fixed by the Registrar in any particular case, of the year

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

for which the accounts are balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto :

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note under this section.

*Exception.*—Nothing in this section shall apply—

(1) to any public trust

(a) which is governed by the <sup>1</sup>Religious Endowments Act, 1863, XX o 1863.

(b) in respect of which a scheme has been settled under section 92, V of 1908. Civil Procedure Code, 1908, or

(2) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator General or the Official Trustee.

Inspection  
and grant of  
copies.

13. Subject to such conditions and on payment of such fee, as may be prescribed, the Registrar shall on application by—

(a) any person who appears to him to have an interest in any entry or portion thereof in the Register of Public Trusts or any statement, notice, intimation, account, audit note or any other document filed under this Act, or

(b) any other person permitted by the Registrar in this behalf

(i) allow such person inspection of the entries in such Register or of such document, or

(ii) furnish such person with copies certified under his hand, of any entry or portion thereof in such Register or of any of such documents.

Annual  
contribution  
from public  
trusts.

14. Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed :

Provided that the contributions prescribed under this section shall be fixed at rates in proportion to the gross income of the public trust but in accordance with a progressively diminishing scale.

*Explanation.*—Progressively diminishing scale shall, for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

15. For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area, namely :—

- (a) any fees which may be levied under section 5, 8 or 13,
- (b) contributions under section 14,
- (c) any sums received by the Public Trusts Administration Fund from private sources,
- (d) any sums allotted by <sup>1</sup>[any Government] or by any local authority to the Public Trusts Administration Fund.

*Explanation.*—For the purpose of this section the City of Bombay shall be deemed a district.

16. The Public Trusts Administration Fund of a district or any area as created under section 15 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

17. It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order the cost of such audit to be paid by the trustee from the income of the property of the public trust or out of the Public Trusts Administration Fund.

18. Every Registrar shall publish annually under his signature, in the <sup>2</sup>[*Official Gazette*] and in a newspaper published in the principal vernacular of, and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Public Trusts Administration Fund, in such form and on such date as <sup>3</sup>[the Provincial Government] may prescribe.

19. If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits a statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

<sup>1</sup> The words "any Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

<sup>3</sup> The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

Public Trusts-  
Adminis-  
tration Fund.

Application  
of Public  
Trusts Ad-  
ministration  
Fund.

Special audit.

Publication  
of list of  
public trusts.

Penalty for  
failure to  
furnish or  
for furnish-  
ing false  
statements  
under sec-  
tion 5, 6 or 8.

Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.

20. If any manager fails or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

Penalty for failure to comply with the order of Registrar.

21. If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act, such person shall on conviction be punishable with fine which may extend to Rs. 100.

Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.

22. Any Court may, in passing an order of conviction and sentence for any of the offences under section 19, 20 or 21, specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified :

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failure to do so and applies for extension of the period specified under this section, the Court may, if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

Cognizance of offences.

23. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Registrar given in the prescribed manner within whose jurisdiction the whole or a substantial portion of the subject matter of the public trust in respect of which the offence is alleged to have been committed is situate.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try an offence under this Act.

Registrars to be public servants.

24. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code of 1860.

Prosecution of persons acting in good faith.

25. No suit or prosecution or other proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Recovery of sums due under this Act.

26. All sums due under this Act shall be recoverable as arrears of land revenue.

27. (1) <sup>1</sup>[The Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

Power of  
Provincial  
Government  
to make  
rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely :—

(a) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5 (1).

(b) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5 (1), clause (e).

(c) Prescribing the manner in which the statement furnished to the Registrar shall be verified under section 5 (4).

(d) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(e) Prescribing the form of Register of Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8 (3).

(f) Prescribing the form of the statement reporting a change and the fee payable along with such statement under section 8.

(g) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12 (1).

(h) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (2) and 17.

(i) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12 (4).

(j) Prescribing the fee payable for the inspection of the Register of Public Trusts under section 13.

(k) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such inspection under section 13.

(l) Prescribing the fee payable for obtaining certified copies of entries in the Register of Public Trusts and of documents filed with the Registrar under section 13.

(m) Prescribing the amount of contribution payable by a public trust and the date and the manner of such payment under section 14.

<sup>1</sup> The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.



(n) Prescribing the objects in addition to those specified in the said section, to which the Public Trusts Administration Fund shall be applied under section 16.

(o) Prescribing the manner in which the Registrar may give sanction under section 23.

(p) Any other matter not specifically provided for in this Act, but which in the opinion of <sup>1</sup>[the Provincial Government] is necessary for carrying into effect the provisions of this Act.

Provided that the rules made under clauses (a), (f), (j) and (m) shall provide for such adjustment from time to time of the rates of fees payable under sections 5, 8 and 13 and the contributions payable under section 14 in respect of the public trusts in any district or area as not ordinarily to leave any surplus in the Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of <sup>1</sup>[the Provincial Government] for payment of the charges and expenses referred to in section 16.

(3) The rules made under this section shall be subject to the condition of previous publication in the <sup>2</sup>[*Official Gazette*].

(4) Rules made under this section shall be laid <sup>3</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>4</sup>[thereof] next following and shall be liable to be modified or rescinded by a statutory motion <sup>5</sup>[carried in both the Chambers] and such rules shall after notification in the <sup>6</sup>[*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of <sup>1</sup>[the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, <sup>1</sup>[the Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

<sup>1</sup> The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

<sup>3</sup> The words " before each of the Chambers of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council " by *ibid.*

<sup>4</sup> The word " thereof " was substituted for the words " of the said Council " by *ibid.*

<sup>5</sup> The words " carried in both the Chambers " were substituted for the words " of the said Council " by *ibid.*

<sup>6</sup> The words " *Official Gazette* " were substituted for the words " *Local Official Gazette* " by *ibid.*

**BOMBAY ACT No. XXIX OF 1935.<sup>1</sup>**

[THE BOMBAY CRIMINAL PROCEDURE (ELECTIONS OFFENCES)  
AMENDMENT ACT, 1935.]

[30th November, 1935.]

**An Act to amend the Code of Criminal Procedure, 1898, in its  
application to the Presidency of Bombay.**

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Presidency of Bombay, for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Criminal Procedure (Elections Offences) Amendment Act, 1935. Short title  
and extent.

(2) It shall apply to the whole of the Presidency of Bombay.

2. In section 196 of the Code of Criminal Procedure, 1898, in its application to the Presidency of Bombay, after the word and figures "section 127" the words and figures "and section 171F so far as it relates to the offence of personation" shall be inserted. Amendment  
of section 196  
of Act V of  
1898.

3. In Schedule II to the same Code—

Amendment  
of Schedule II  
to Act V of  
1898.

(a) in the entry relating to section 171F of the Indian Penal Code, the words "and personation" shall be deleted;

(b) after the said entry so amended, the following shall be inserted, namely :—

Personation at an elec- tion.	May arrest without warrant.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
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(c) in the third column in the entry relating to section 171G of the Indian Penal Code, for the word "Ditto", the words "Shall not arrest without warrant" shall be substituted.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V, pp. 259-260; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1935, Vol. XLIII.

## THE BOMBAY MOTOR VEHICLES TAX ACT, 1935.

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#### SCHEDULE I.

#### SCHEDULE II.

**BOMBAY ACT No. XXXIV OF 1935.<sup>1</sup>**

[THE BOMBAY MOTOR VEHICLES TAX ACT, 1935.]

[6th February, 1936.]

Amended by Bom. Act 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act to provide for the imposition of a tax on motor vehicles in the Bombay Presidency.**

WHEREAS it is expedient to impose a tax on motor vehicles in the Bombay Presidency and to provide for certain other purposes hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (3) of section 80A of the Government of India Act and the previous sanction of the Governor required under section 80C of the said Act have been obtained for the passing of this Act: It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Motor Vehicles Tax Act, 1935. Short title, commencement and extent.

(2) It shall come into force on the 1st day of April 1936.

(3) It extends to the whole of the Presidency of Bombay excluding Sind.

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

(1) "Certificate of registration" means a certificate of registration granted in accordance with the rules for the time being in force under the Indian Motor Vehicles Act, 1914, for the registration of motor vehicles and includes a general licence issued under the said rules to a dealer in or manufacturer of such vehicles. III of 914.

(2) "Licence card" means a licence card issued under the rules for the time being in force under the Indian Motor Vehicles Act, 1914. III of 914.

(3) "Local authority" includes a cantonment authority within the meaning of the Cantonments Act, 1924. I of 924.

(4) "Motor vehicle" means a vehicle, carriage or other means of conveyance which is, or may be, propelled on a road by electrical or

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V, pp. 286-289; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1935, Vol. XLIII.

mechanical power either entirely or partially, but does not include a tram car or carriage within the meaning of the Indian Tramways Act, 1886, or the Bombay Tramways Act, 1874.

XI of  
1886.  
Bom.  
I of  
1874.

(5) "Prescribed" means prescribed by rules made under this Act.

(6) "Presidency" means the Presidency of Bombay excluding Sind.

(7) "Public road" means any street, road, square, court, alley, passage or riding path over which the public have a right of way, whether a thoroughfare or not, and includes the roadway over any public bridge or causeway.

(8) "Quarter" means a period of three months commencing from the 1st day of January, the 1st day of April, the 1st day of July or the 1st day of October in each year and the term "quarterly" shall be construed accordingly.

(9) "Registering authority" means the authority provided by rules for the time being in force under the Indian Motor Vehicles Act, 1914, for the registration of motor vehicles.

VIII  
of  
1914.

(10) "Registered owner" means the person in whose name a motor vehicle is registered under the Indian Motor Vehicles Act, 1914.

VIII  
of  
1914.

(11) "Schedule" means a schedule appended to this Act.

(12) "Tax" means a tax imposed under this Act.

(13) "Trailer" means any vehicle other than a side car drawn or propelled or intended to be drawn or propelled by a motor vehicle.

(14) "Year" means a financial year.

Levy of tax. 3. (1) As from the 1st day of April 1936 a tax at the rates fixed by the <sup>1</sup>[Provincial Government] by notification in the <sup>2</sup>[Official Gazette] not exceeding the maximum rates specified in the First Schedule shall be levied on all motor vehicles used or kept for use in the Presidency.

(2) The tax leviable under sub-section (1) shall be paid in advance by every registered owner of, or any person having possession or control of, a motor vehicle—

(i) annually at the rates fixed by the <sup>1</sup>[Provincial Government] under sub-section (1), or

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

(ii) for one or more quarters on payment for each such quarter at one-fourth of the annual rates referred to in clause (i) plus six and one-fourth per centum, or

(iii) for any period less than a quarter, expiring on the last date of any quarter, at the quarterly rates referred to in clause (ii) less one-twelfth of the annual rate of the tax for every complete calendar month which has expired during such quarter :

Provided that in the case of motor vehicles kept by a dealer in or manufacturer of such vehicles for the purposes of trade, the tax at the rate specified in the said schedule shall be paid by such dealer or manufacturer on vehicles permitted to be used on roads in the manner prescribed by rules made under the Indian Motor Vehicles Act, 1914.

VIII  
of  
1914.  
VIII  
of  
1914.

4. Notwithstanding anything contained in the Indian Motor Vehicles Act, 1914, or any rules made thereunder, a certificate of registration shall not be granted or renewed in respect of any motor vehicle, until the tax in respect of such vehicle has been paid in the prescribed manner and a certificate of registration shall not be granted or renewed in respect of any motor vehicle for a period exceeding the period for which the tax has been paid in respect of such vehicle. Grant or renewal of registration certificates.

5. (1) When any person has paid the annual tax in advance in respect of a motor vehicle, he shall be entitled on the production of a certificate signed by a registering authority stating that the certificate of registration and licence card issued in respect of such vehicle have been surrendered to a refund, firstly, in respect of the quarter or quarters which may not have commenced when the certificate of registration and licence card are surrendered, of a sum equal to the difference between the sum paid as annual tax and the sum which would have been payable at the quarterly rate, for every quarter which has expired when, and the quarter in which, the certificate of registration and licence card are surrendered, and secondly, in respect of any unexpired portion of a quarter, in accordance with the provisions of sub-section (2) of this section as if he had paid the tax for that quarter at the quarterly rate. Refund of tax.

(2) When any person has paid the quarterly tax in advance in respect of a motor vehicle, he shall be entitled on the production of a certificate signed by a registering authority stating that the certificate of registration and licence card issued in respect of such vehicle have been surrendered to a refund, for each complete calendar month in the period for which such tax has been paid and which has not commenced on the date on which the certificate and licence card are surrendered, of a sum equal to one-twelfth of the annual rate of the tax leviable in respect of such vehicle.

(3) When any person has paid the tax in advance in respect of a motor vehicle, he shall be entitled, on the production of a certificate signed by a registering authority stating that an application for the registration or for the renewal of registration of such vehicle has been refused, to a refund of the tax paid.

Declaration by person having possession or control of a motor vehicle.

6. (1) Every registered owner of, or person who has possession or control of, a motor vehicle used or kept for use in the Presidency shall fill up and sign a declaration in the prescribed form, stating the prescribed particulars and shall deliver within the prescribed time the declaration so filled up and signed to a registering authority and shall pay to the registering authority the tax which he appears by such declaration to be liable to pay in respect of such vehicle.

(2) When a motor vehicle used or kept for use is altered so as to render the registered owner or person who has been in possession or control of such vehicle liable to the payment of an additional tax under section 7, such person shall fill up and sign an additional declaration in the prescribed form, showing the nature of the alteration made and containing the prescribed particulars and shall deliver such additional declaration so filled up and signed together with the registration certificate in respect of the motor vehicle so altered to a registering authority and shall pay to the registering authority the additional tax payable under section 7 which he appears by such additional declaration to be liable to pay in respect of such vehicle.

Payment of additional tax.

7. When any motor vehicle in respect of which a tax has been paid is altered in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or person who is in possession or control of such vehicle shall pay an additional tax of a sum which is equal to the difference between the tax already paid, and the tax which is payable, in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of its being altered and the registering authority shall not grant a fresh certificate of registration or renew any certificate of registration in respect of such vehicle so altered until such amount of tax has been paid.

Power of police officer to stop a motor vehicle.

8. (1) Any police officer in uniform, not below such rank as may be prescribed by <sup>2</sup>[the Provincial Government] in this behalf, may require the driver of any motor vehicle on any public road to stop such vehicle and cause it to remain stationary so long as may reasonably be necessary for the purpose of satisfying himself that the amount of the tax due in accordance with the provisions of this Act in respect of such vehicle has been paid.

(2) Any person failing to stop a motor vehicle when required to do so by a police officer under sub-section (1) shall, on conviction, be punishable with the same penalty as provided in section 12.

Utilization of the proceeds of the tax.

9. (1) The <sup>2</sup>[Provincial Government] shall—

(a) pay annually to any local board which at the commencement of this Act was levying tolls on vehicles or animals and to any other local authority which at the said date was levying or collecting tolls on motor

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Government" by *ibid.*

vehicles and trailers a sum determined by the <sup>1</sup>[Provincial Government], after consulting the local board or local authority concerned, as representing the net average annual income of such local board or local authority from such tolls, after deducting the cost of collection, during the three years ending on the 31st day of March 1936, plus 10 per centum ; and

<sup>2</sup>(b) \* \* \* \*

(2) The contributions to the local authorities fixed under sub-section (1) shall be paid in such instalments and in such manner and on such dates as the <sup>1</sup>[Provincial Government], after consulting the local authorities concerned, may determine.

(3) If in any year the net proceeds of the tax collected under this Act, after deducting the expenses of collection which shall be determined by the <sup>1</sup>[Provincial Government], does not exceed the sum of Rs. 26,57,000 such proceeds together with the sum of Rs. 9,29,000 shall be distributed among the local authorities and the <sup>1</sup>[Provincial Government] proportionately to the sums determined under sub-section (1) as payable to each such local authority and to be credited to the <sup>1</sup>[Provincial Government], and any sum by which such proceeds fall short of the sum of Rs. 26,57,000 shall be made good in the same proportion in the earliest subsequent year or years in which such proceeds may exceed the aforesaid sum of Rs. 26,57,000.

<sup>3</sup>(4) \* \* \* \*

*Explanation.*—“ Road ” includes the slopes, berms and side drains of a road, all bridges, culverts and causeways built on or across a road and footways.

10. (1) Whoever—

(a) as a registered owner or otherwise has possession or control of any motor vehicle used or kept for use without having paid the amount of the tax or additional tax due in accordance with the provisions of this Act in respect of such vehicle, or

(b) delivers a declaration or additional declaration wherein the particulars required by or under this Act to be therein set forth are not fully and truly stated,

Penalty for possession or control of motor vehicle without payment of tax and for incomplete and untrue declaration.

shall, on conviction, be punishable with fine which may extend to a sum equal to the total tax payable on account of such vehicle, and in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder, with fine which may extend to a sum equal to twice the amount of the total tax payable on account of the motor vehicle in respect of which the offence is committed ; and the amount of any tax due shall be recoverable as if it were a fine.

<sup>1</sup> The words “ Provincial Government ” were substituted for the words “ Local Government ” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> Clause (b) was omitted by *ibid.*

<sup>3</sup> Sub-section (4) was omitted by *ibid.*



(2) It shall be lawful for any person who is accused of an offence under this section to pay as penalty in the prescribed manner and in the prescribed time and to the prescribed officer by way of composition for the offence with which he is accused such sum as may be prescribed. On payment by such person of such sum together with the amount of tax due, if any, such person, if in custody, shall be set at liberty and if any proceedings in any criminal court have been instituted against such person in respect of such offence the composition shall be deemed to amount to an acquittal and on further criminal proceedings shall be taken against such person in respect of such offence.

Tax recoverable as arrear of land revenue.

11. Any tax due under this Act shall be recoverable in the same manner as an arrear of land revenue.

Other penalties.

12. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, on conviction, if no other penalty is elsewhere provided in this Act or the rules for such a contravention, be punishable with fine which may extend to one hundred rupees and in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder, with fine which may extend to two hundred rupees.

Trial of offences.

13. No court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try an offence punishable under this Act.

Levy of toll on certain bridges.

14. Notwithstanding anything contained in this Act, it shall be lawful—

(a) for the <sup>1</sup>[Provincial Government] or any local board to levy tolls on vehicles and animals, or

(b) for any other local authority to levy tolls on motor vehicles or trailers,

under any other law for the time being in force, on any bridge constructed after the commencement of this Act by the <sup>1</sup>[Provincial Government], local board or other local authority as the case may be :

Provided that the <sup>1</sup>[Provincial Government] is satisfied that—

(a) the capital cost incurred in the construction of such bridge is not less than five lakhs of rupees, and

(b) such bridge is of special service to the public :

Provided further that such toll shall be levied only at such rate and for such period as the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], declare to be necessary for the recovery of the amount expended upon the construction of such bridge or such portion of the said amount as the <sup>1</sup>[Provincial Government] may determine.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

Bom. 15. Except as provided in the Bombay Ferries Act, 1868, and in section 14, no toll shall be levied or collected— Bar to levy tolls on motor vehicles.

(a) on any vehicle or animal by the <sup>1</sup>[Provincial Government] or any local board, or

(b) on any motor vehicle or trailer by any other local authority.

Bom. 16. (1) Where, before the commencement of this Act, the collection of tolls leviable at any toll station has been leased to any person under any law for the time being in force, other than the Bombay Ferries Act, 1868, and the lease relates wholly or in part to any period subsequent to the commencement of this Act, the amount which the lessee has contracted to pay to the local authority concerned or to the <sup>1</sup>[Provincial Government] shall be reduced by the amount of the loss suffered by him in consequence of this Act having come into force. Modification of leases.

(2) If the lessee and the local authority are unable to agree as to the amount of such loss or if any other dispute arises between them as to the effect of this Act on the contract of lease, such dispute shall be decided by the Collector of the district, and any such dispute arising between the <sup>1</sup>[Provincial Government] and their lessee shall be decided by the <sup>1</sup>[Provincial Government]. The decision of the Collector or the <sup>1</sup>[Provincial Government], as the case may be, shall be final.

17. No prosecution, suit or other proceeding shall lie against any person for anything in good faith done or intended to be done under this Act. Protection for bona fide acts.

18. The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], exempt either totally or partially any motor vehicle or class of motor vehicles from the payment of the tax. Every notification issued under this section shall be laid <sup>3</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>4</sup>[thereof] next following and shall be liable to be rescinded or modified by a resolution <sup>5</sup>[in which both the Chambers concur], and the rescission or modification so made shall, after publication by notification in the <sup>2</sup>[Official Gazette], be deemed to have come into force. Exemptions.

19. All motor vehicles used solely for the purpose of agriculture shall be exempt from the payment of the tax. Exemption of motor vehicle used for agriculture.

*Explanation.*—A motor vehicle used for transporting agricultural produce shall not for the purposes of this section be deemed to be used solely for the purpose of agriculture.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

<sup>3</sup> The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by *ibid.*

<sup>4</sup> The word "thereof" was substituted for the words "of the said Council" by *ibid.*

<sup>5</sup> The words "in which both the Chambers concur" were substituted for the words "of the said Council" by *ibid.*

Power to  
make rules.

20. (1) The <sup>1</sup>[Provincial Government] may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the <sup>1</sup>[Provincial Government] may make rules for all or any of the following purposes, namely:—

(a) to prescribe the manner in which the tax shall be paid ;

(b) to prescribe the form of any declaration or certificate, the particulars to be stated therein and the time within which the declaration shall be delivered ;

(c) to regulate the manner in which refunds or deductions or exemptions may be claimed ;

(d) to specify the police officers employed to exercise power under section 8 ;

(e) to prescribe the amount of penalty payable under sub-section (2) of section 10, the manner in which, the time within which and the officer to whom, such penalty shall be paid ;

(f) to provide for the total or partial exemption from liability to payment of the tax of any motor vehicle brought into the Presidency by any person visiting the Presidency or making a temporary stay therein, the time within which the declaration shall be made by any such person, the amount which shall be payable on account of such vehicle and the token which any such vehicle shall carry ;

(g) to prescribe the manner in which an application shall be made under section 21 ;

(h) any other matter which may be prescribed.

(3) All rules made under this section shall be published in the <sup>2</sup>[Official Gazette].

(4) Rules made under this section shall be laid <sup>3</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>4</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>5</sup>[in which both the Chambers concur] and the modification or rescission so made shall, after publication by notification in the <sup>2</sup>[Official Gazette], be deemed to have come into force :

Provided that when in the opinion of the <sup>1</sup>[Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], declare that the modification or rescission shall

<sup>1</sup> The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by *ibid.*

<sup>3</sup> The words " before each of the Chambers of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council " by *ibid.*

<sup>4</sup> The word " thereof " was substituted for the words " of the said Council " by *ibid.*

<sup>5</sup> The words " in which both the Chambers concur " were substituted for the words " of the said Council " by *ibid.*

have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

21. (1) Any certificate of registration in respect of a motor vehicle used or kept for use in the Presidency in force at the commencement of this Act shall be deemed to have been cancelled unless an application for a fresh certificate shall have been made in the prescribed manner on or before the first day of May 1936. On such application being made, there shall be deducted from the sum payable as the tax a sum equal to one-twelfth of the registration fee paid under the Indian Motor Vehicles Act, 1914, in respect of the said motor vehicle for each remaining complete month of the period for which the former certificate would have been in force.

Existing certificates deemed to be cancelled unless application for fresh certificate made within certain time and this Act not to affect past liability.

(2) Nothing in this Act shall affect the liability of any person to pay the arrears of any toll due from him on any motor vehicle on any day, or payable in respect of any period, prior to the 1st day of April 1936 under any enactment in force immediately before the commencement of this Act, and any such arrears shall be recoverable in accordance with the provisions of such enactment as if this Act had not been passed.

22. The enactments specified in the second Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Amendment of certain enactments.

23. Notwithstanding anything contained in the Indian Motor Vehicles (Bombay Amendment) Act, 1935, any fees payable in respect of and incidental to registration of motor vehicles for any period after the commencement of this Act shall be levied at such rates as may be prescribed under rules made under section 11 of the Indian Motor Vehicles Act, 1914, as if the said Act had not been amended by the provisions of the Indian Motor Vehicles (Bombay Amendment) Act, 1935 :

Levy of registration fees under Act VIII of 1914 after passing of this Act.

Provided that the rates so prescribed shall be such that the total receipts from such fees shall not exceed the cost of administration of the Indian Motor Vehicles Act, 1914, as determined by the <sup>1</sup>[Provincial Government]:

Provided further that the rates so prescribed shall not, in respect of matters specified in column 1, exceed the maxima specified in column 2.

	1	2
Driving licence .. .. .	.. .. .	Rs. 5
Renewal of driving licence .. .. .	.. .. .	Re. 1
Temporary driving licence .. .. .	.. .. .	Rs. 2
Registration of motor vehicle .. .. .	.. .. .	Rs. 8
Renewal of registration of motor vehicle .. .. .	.. .. .	Rs. 2
Transfer of registration certificate of motor vehicle .. .. .	.. .. .	Re. 1
Duplicate driving licence or registration certificate .. .. .	.. .. .	Re. 1

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

## SCHEDULE I.

(See Section 3)

	Maximum annual rate of tax.
	Rs.
A.—Motor vehicles fitted solely with pneumatic tyres :—	
I.—Motor cycles and tricycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power) not exceeding 8 cwt. in weight, unladen :—	
(a) Cycles not exceeding 200 lbs. in weight, unladen .. ..	18
(b) Cycles exceeding 200 lbs. in weight, unladen .. ..	24
(c) Tricycles .. .. .	24
(d) Cycles or tricycles used for drawing a trailer or sidecar, in addition to above rates .. ..	3
II.—Motor vehicles not exceeding 5 cwt. in weight unladen adapted and used for invalids .. .. .	
	5
III.—Motor vehicles including tricycles used for the transport or haulage of goods or materials weighing more than 8 cwt., unladen—	
(a) Vehicles not exceeding 15 cwt. in weight, unladen .. ..	180
(b) Vehicles exceeding 15 cwt. but not exceeding 30 cwt. in weight, unladen .. .. .	300
(c) Vehicles exceeding 30 cwt. but not exceeding 50 cwt. in weight, unladen .. .. .	400
(d) Vehicles exceeding 50 cwt. but not exceeding 70 cwt. in weight, unladen .. .. .	450
(e) Vehicles exceeding 70 cwt. in weight, unladen .. .. .	500

Maximum annual rate of tax.

Rs.

(f) Additional tax payable in respect of such vehicles used for drawing trailers—	
(1) for each trailer not exceeding one ton in weight, unladen ..	150
and	
(2) for each trailer exceeding one ton in weight, unladen ..	240

Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer ;

Provided further that the rates for motor vehicles registered for use solely within municipal and cantonment limits shall be two-thirds of the aforesaid rates.

IV.—Motor vehicles plying for hire and used for the transport of passengers :—

(a) Vehicles licensed to carry in all not more than two persons (excluding the driver of the vehicle).. .. .	88
(b) Vehicles licensed to carry more than two persons (excluding the driver of the vehicle)—for every additional person which the vehicle is so licensed to carry ..	16

<sup>1</sup>Provided that the rates for motor vehicles registered for use solely within municipal and cantonment limits shall be  $\frac{2}{3}$ rds of the aforesaid rates :

<sup>1</sup>Provided further that the maximum annual tax in the case of motor vehicles registered for use solely within municipal and cantonment limits shall not exceed Rs. 333-6-0 and in other cases shall not exceed Rs. 500.

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<sup>1</sup> These provisos were substituted for the original provisos by Bom. 24 of 1936, s. 2, schedule.

Maximum annual rate of tax.

Rs.

V.—Motor vehicles other than those liable to tax under the foregoing provisions of the Schedule :—

(a) Vehicles not exceeding 15 cwt. in weight, unladen .. ..	40
(b) Vehicles exceeding 15 cwt. but not exceeding 30 cwt. in weight, unladen .. ..	60
(c) Vehicles exceeding 30 cwt. but not exceeding 45 cwt. in weight, unladen .. ..	80
(d) Vehicles exceeding 45 cwt. in weight, unladen .. ..	110
(e) Additional tax payable in respect of such vehicles used for drawing trailers :—	
(1) for each trailer not exceeding 1 ton in weight, unladen ..	25
(2) for each trailer, exceeding 1 ton in weight, unladen ..	50

Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.

B.—Motor vehicles other than those fitted solely with pneumatic tyres. The rates shown in class A plus 50 per centum.

C.—Motor vehicles visiting the Presidency. The rates prescribed in the rules.

D.—Dealers in or Manufacturers of motor vehicles.

For a general licence—

(1) in respect of any seven or less number of motor vehicles ..	300
(2) in respect of any additional seven or less number of motor vehicles ..	300

## SCHEDULE II.

(See Section 22).

Year.	Number.	Act.	Amendment.
1901	III	The Bombay District Municipal Act.	In clause (b) of section 59— (1) in sub-clause (iii), after the word "vehicles" the words and brackets " (other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935) " shall be inserted ; (2) in sub-clause (x-a), after the words " any other tax " the words and brackets " (other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935) " shall be inserted.
1923	VI	The Bombay Local Boards Act.	In section 99, after the words " any tax " the words and brackets " (other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935) " shall be inserted.
1925	XVIII	The Bombay Municipal Boroughs Act.	In section 73— (1) in clause (iii), after the word " vehicles " the words and brackets " (other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935) " shall be inserted ; (2) in clause (xiv), after the words " any other tax " the words and brackets " (other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935) " shall be inserted.
1933	VI	The Bombay Village Panchayats Act.	In sub-section (2) of section 89, in clause (vi), after the words " any other tax " the words and brackets " (other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935) " shall be inserted.

<sup>1</sup> The word " any " was substituted for the word " and " by Bom. 24 of 1936, s. 2 schedule.



**THE BOMBAY COTTON CONTROL ACT, 1935.****CONTENTS.** ✓**PREAMBLE.****SECTIONS.**

1. Short title and extent.
2. Definitions.
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9. Duty of owner, occupier and person in charge to give facilities for inspection by authorised officer.
10. Previous sanction and limitation for prosecution.
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BOMBAY ACT No. XXXV OF 1935.<sup>1</sup> *A<sup>c</sup>*

[THE BOMBAY COTTON CONTROL ACT, 1935.]

[20th February, 1936.]

Adapted and modified by the Adaptation of Indian Laws  
Order in Council.

**An Act to provide for the prohibition of the cultivation of Goghari cotton and the mixing of such cotton with other cotton and for the prohibition or restriction of the possession or use of, or trade in, Goghari cotton or cotton mixed with Goghari cotton.**

WHEREAS it is expedient in the best interests of the growers of cotton in certain areas in the Presidency of Bombay, the cotton trade and the economic prosperity of the said Presidency to maintain the quality and reputation of the cotton grown in those areas and for that purpose to prohibit the cultivation of Goghari cotton and the mixing of such cotton with other cotton and to prohibit or restrict the possession or use of, or trade in, Goghari cotton or cotton mixed with Goghari cotton ;

And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Cotton Control Act, 1935. Short title and extent.

(2) It extends to the whole of the Presidency of Bombay.

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

(a) "Cotton" includes cotton plant, ginned and unginced cotton, cotton waste and cotton seed ;

(b) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture ;

(c) "Goghari cotton" means the kind of cotton known as *Gossypium herbaceum* (Variety Goghari) ; and

(d) "Controlled area" means an area specified in a notification under section 3.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V, pp. 323-326 ; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1935, Vol. XLIII.

Power to issue notification prohibiting the cultivation, etc. of Goghari cotton.

3. The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], in such local area and for such period as may be specified in the notification—

(a) prohibit the cultivation of Goghari cotton ; or

(b) prohibit the mixing of Goghari cotton with any other cotton ;  
or

(c) prohibit or restrict the possession or use of, or trade in, Goghari cotton or any other cotton mixed with Goghari cotton.

Penalty.

4. Any person, who, knowingly in contravention of the provisions of this Act or of any notification issued under section 3 or rule made under section 14—

(a) cultivates Goghari cotton shall, on conviction, be punishable with fine which may extend to rupees twenty for the first offence and to rupees fifty for every subsequent offence ;

(b) (i) mixes or causes to be mixed Goghari cotton with any other cotton, or

(ii) possesses, uses or trades in, Goghari cotton or any other cotton mixed with Goghari cotton,  
shall, on conviction, be punishable with fine which may extend to rupees five hundred for the first offence and to rupees one thousand for every subsequent offence.

Confiscation.

5. Whenever an offence under this Act has been committed, all cotton in respect of which the offence has been committed and every box, receptacle, package or covering in which such cotton is contained shall be liable to confiscation.

Procedure in confiscation.

6. (1) When in any case tried by a criminal Court, the Court decides that anything is liable to confiscation under section 5, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation.

(2) When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act is found and is not claimed by any person, the officer authorised by the <sup>1</sup>[Provincial Government] in this behalf may hold an inquiry and may order confiscation :

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing liable to confiscation or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

7. (1) The officer authorised under sub-section (2) of section 6 may Compound- accept from any person who is reasonably suspected of having <sup>ing.</sup> committed an offence under section 4, a sum of money as may be prescribed by rules made under section 14 by way of composition for such offence.

(2) On payment of such sum, such person, if in custody, shall be set at liberty and if proceedings in any criminal court have been instituted against such person in respect of such offence, the composition shall be deemed to amount to an acquittal and no further proceedings shall be taken against such person in respect of such offence.

(3) Notwithstanding anything contained in sub-section (2), it shall be lawful for the court or the officer authorised under sub-section (2) of section 6 to order confiscation of anything liable to confiscation under section 5.

8. (1) Any officer authorised in this behalf by the <sup>1</sup>[Provincial Government] may between the hours of 6 a.m. and 6 p.m.— Power of entry and seizure.

(a) enter upon any land in a controlled area in which he knows or has reason to believe that Goghari cotton has been or is being cultivated in contravention of a notification under section 3, uproot or cause to be uprooted such cotton, and seize the cotton so uprooted; or

(b) enter upon or into any land, building, ship, vessel, vehicle or place in a controlled area in which he knows or has reason to believe that Goghari cotton or any other cotton mixed with Goghari cotton is kept in contravention of a notification under section 3, and seize such cotton.

(2) Every officer seizing any cotton under this section shall forthwith—

(a) make a report of such seizure to the nearest Magistrate of the First or Second Class having jurisdiction to try the offence committed in respect of such cotton, specifying in such report the particulars of such cotton, and furnish a copy of such particulars to the occupier, or person in charge of the land, building, ship, vessel, vehicle or place on or in which such seizure was made, and

(b) subject to rules made under section 14, forward such cotton to the nearest officer authorised by the <sup>1</sup>[Provincial Government] to receive it, for examination and for report to the Director of Agriculture.

(3) The opinion of the officer authorised under sub-section (2) regarding such cotton recorded in any document signed by such officer shall be evidence as to the nature of such cotton in any inquiry, trial or proceeding under this Act.

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<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Duty of owner, occupier and person in charge to give facilities for inspection by authorised officer.

9. (1) Every owner, occupier or person in charge, of any land, building, ship, vessel, vehicle, or place shall give all reasonable facilities to the officer, authorised under sub-section (1) of section 8, to inspect such land, building, ship, vessel, vehicle or place.

(2) Any person who contravenes the provisions of sub-section (1), shall, on conviction, be punishable with fine which may extend to rupees twenty.

Previous sanction and limitation for prosecution.

10. No prosecution under this Act shall be instituted without the previous sanction of the Director of Agriculture.

Cognizance of offences.

11. No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try any offence under this Act.

Protection for acts done under the Act.

12. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Officer acting under the Act to be public servant.

13. Every officer acting or purporting to act in pursuance of the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV  
of  
1860.

Rules.

14. (1) The <sup>1</sup>[Provincial Government] may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the <sup>1</sup>[Provincial Government] may make rules for all or any of the following purposes, namely:—

(a) to prescribe the sum of money to be paid by way of composition under section 7;

(b) to prescribe the conditions subject to which cotton seized may be forwarded under section 8;

(c) any other matter which is to be or may be prescribed.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to rupees fifty.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

(4) The rules made under this section shall be subject to the condition of previous publication in the <sup>1</sup>[*Official Gazette*].

(5) Rules made under this section shall be laid <sup>2</sup>[before each of the Chambers of the Provincial Legislature] at the session <sup>3</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>4</sup>[in which both the Chambers concur] and such rule shall after notification of such resolution in the <sup>1</sup>[*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when in the opinion of the <sup>5</sup>[Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the <sup>5</sup>[Provincial Government] may by notification in the <sup>1</sup>[*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

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<sup>1</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by *ibid.*

<sup>3</sup> The word "thereof" was substituted for the words "of the said Council" by *ibid.*

<sup>4</sup> The words "in which both the Chambers concur" were substituted for the words "of the said Council" by *ibid.*

<sup>5</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

**THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY  
AMENDMENT) ACT, 1936.**

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## BOMBAY ACT No. IV OF 1936.<sup>1</sup>

[THE COTTON GINNING AND PRESSING FACTORIES  
(BOMBAY AMENDMENT) ACT, 1936.]

[16th March, 1936.]

Adapted and modified by the Adaptation of Indian Laws  
Order in Council.

### An Act to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Presidency of Bombay.

XII of 1925. 5 & 6 Geo. V, c. 61. WHEREAS it is expedient to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Presidency of Bombay for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (3) of section 80A and the previous sanction of the Governor required under section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1936. Short title,  
extent and  
commence-  
ment.

(2) This Act shall extend in the first instance to the Province of Sind or such area in the said Province with effect from such date as the <sup>2</sup>[Provincial Government] may by notification in the <sup>3</sup>[Official Gazette] appoint. The <sup>2</sup>[Provincial Government] may by notification in the <sup>3</sup>[Official Gazette] extend the provisions of this Act to any other area with effect from such date as the <sup>2</sup>[Provincial Government] may appoint in the said notification.

XII of 1925. 2. In section 2 of the Cotton Ginning and Pressing Factories Act, 1925, hereinafter called the said Act,— Amendment  
of section 2  
of Act XII  
of 1925.

(1) after the word, comma and dash “context,—” the following shall be inserted, namely:—

“(aa) ‘admixture of cotton’ means a prescribed mixture of different varieties of cotton;” and

(2) after clause (f) the following clause shall be inserted, namely:—

“(ff) ‘licence’ means a licence granted under section 2A.”

(3) after clause (h) the following clause shall be inserted, namely:—

“(i) ‘Season’ means such period as may from time to time be prescribed.”

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V, pp. 335-336; for Report of the Select Committee, see *Bombay Government Gazette*, 1936, Part V, pp. 24-27; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1936, Vol. XLIV.

<sup>2</sup> The words “Provincial Government” were substituted for the words “Local Government” by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words “Official Gazette” were substituted for the words “local official Gazette” by *ibid.*



Insertion of section 2A in Act XII of 1925.

3. After section 2 of the said Act, the following section shall be inserted, namely :—

XII  
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Licence for working cotton ginning factory or cotton pressing factory.

“2A. (1) No cotton ginning factory or cotton pressing factory shall be worked without a licence granted to the owner thereof by such authority, in such form, subject to such conditions and on payment of such fee, as may be prescribed.

(2) (a) A licence for which the prescribed fee has been paid shall be liable to be refused only on the ground that the owner or person in charge of a cotton ginning or cotton pressing factory in respect of which a licence is applied for has been convicted of an offence punishable under this Act.

(b) A licence shall be liable to be suspended, withdrawn or cancelled only on the ground that the owner or person in charge of the cotton ginning or cotton pressing factory in respect of which a licence was granted has been convicted of an offence punishable under this Act :

Provided that no licence shall be suspended, withdrawn or cancelled under this clause until after the expiration of the season in which the said owner or person has been so convicted.

(3) If any person works a cotton ginning or cotton pressing factory in respect of which a licence has not been granted or has been suspended, withdrawn or cancelled, such person shall be punishable :—

(a) on a first conviction, with fine which may extend to five hundred rupees and, if the offence has continued for more than one day, with an additional fine which may extend to one hundred rupees for every day subsequent to the first day during which the offence has continued ; and

(b) on every subsequent conviction, with fine which may extend to fifteen hundred rupees and, if the offence has continued for more than one day, with an additional fine which may extend to two hundred rupees for every day subsequent to the first day during which the offence has continued.”

Amendment of section 3 of Act XII of 1925.

4. In sub-section (2) of section 3 of the said Act :—

(1) the word “ and ” shall be omitted, and

(2) the following words shall be added at the end :—

“ and the prescribed particulars as supplied by such person of the cotton ginning factory where it has been ginned.”

5. After section 3 of the said Act, the following new sections shall be inserted, namely:—

Insertion of  
new sections  
3A, 3B and  
3C in Act  
XII of 1925.

“3A. (1) The <sup>1</sup>[Provincial Government] may by notification in the <sup>2</sup>[Official Gazette] declare that in any area specified in such notification and to which this Act has been extended, no cotton which is ginned or pressed in a cotton ginning or cotton pressing factory shall contain any admixture of cotton.

Prohibition  
against  
watering,  
etc., of  
cotton.

(2) Any owner of a cotton ginning or cotton pressing factory or any person in charge of such factory—

(a) who knowing or having reason to believe that any cotton is watered or contains seed in excess of the prescribed proportion or contains any foreign substance, gins or presses or allows such cotton to be ginned or pressed in such factory, or

(b) who in any area specified in the notification under sub-section (1) gins or presses or allows to be ginned or pressed any cotton which he knows or has reason to believe to contain an admixture of cotton,

shall, on conviction, be punishable with fine which may extend to five thousand rupees.

(3) Any owner of cotton who knowingly waters any cotton which is ginned and which is being, or is intended to be, pressed in a cotton pressing factory, or mixes seed or foreign substance with such cotton, or in any area specified in sub-section (1) makes any admixture of cotton, or abets or knowingly allows or connives at any such watering, mixing or admixture of cotton, shall, on conviction, be punishable with fine which may extend to five thousand rupees.

*Explanation.*—For the purposes of this section, cotton shall not be deemed to be watered, unless such cotton contains moisture in excess of the normal quantity. The normal quantity of moisture in any given quantity of cotton is the amount of moisture that such cotton is reasonably expected to have, regard being had to the place or places at or to which, and the time or times of the year in which, such cotton has been picked, collected, stored, conveyed, left, ginned or pressed. A certificate given by the prescribed authority as to the normal quantity of moisture that a given quantity of such cotton should have and the quantity of moisture that it possesses shall be evidence of such matters, until the contrary is proved; and if the latter quantity exceeds the former it shall be evidence, until the contrary is proved, that the cotton is watered.

<sup>1</sup>The words “Provincial Government” were substituted for the words “Local Government” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words “Official Gazette” were substituted for the words “local official Gazette” by *ibid.*

Examination  
of cotton,  
packages or  
bales.

3B. (1) The <sup>1</sup>[Provincial Government] or any gazetted officer authorised by it in this behalf may on its or his own motion or on receipt of a complaint that there has been a contravention of the provisions of section 3A in respect of any cotton, package or of any bale and in the case of a complaint, on payment of the prescribed fee by the complainant, cause such cotton or the contents of such package or bale to be examined by the prescribed person or body.

(2) A certificate given by such person after examination of the contents of any bale under sub-section (1) shall be admissible in evidence and be presumptive proof of the facts mentioned therein until the contrary is proved.

Entry and  
inspection.

3C. (1) The <sup>1</sup>[Provincial Government] may authorise any gazetted officer to enter into and inspect, at any reasonable time, any cotton ginning or cotton pressing factory for the purpose of ascertaining whether there is any contravention therein of any of the provisions of this Act or of any rule made thereunder or of any of the conditions subject to which a licence has been granted in respect of such factory and to seize all things in respect of which an offence punishable under this Act appears to have been committed.

(2) The owner or the person in charge of every cotton ginning or cotton pressing factory shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

(3) The owner or the person in charge of such factory shall, in every instance, be permitted to attend during the inspection and the things seized during such inspection shall be sealed in the prescribed manner."

Amendment  
of section 5  
of Act XII  
of 1925.

6. For section 5 of the said Act, the following section shall be substituted, namely:—

Returns.

"5. (1) The owner of every cotton ginning factory shall submit to the prescribed authority, within such time and in such form, as may be prescribed, monthly returns showing the quantity of cotton ginned in the factory during the preceding month and from the commencement of the season to the end of that month.

(2) The <sup>1</sup>[Provincial Government] shall compile from the monthly returns submitted under sub-section (1), and shall publish in such manner as the <sup>2</sup>[Central Government] may direct, a statement showing the total quantity of cotton ginned in the province during the month and from the commencement of the season to the end of the month to which the returns relate ;

<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Central Government" were substituted for the words "Governor General in Council" by *ibid.*

Provided that the quantity of cotton ginned in an individual factory shall not be published.

(3) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form, as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week.

(4) The <sup>1</sup>[Provincial Government] shall compile from the weekly returns submitted under sub-section (3), and shall publish in such manner as the <sup>2</sup>[Central Government] may direct, a statement showing the total number of bales pressed in the province during the week and from the commencement of the season to the end of the week to which the returns relate :

Provided that the number of bales pressed in any individual factory shall not be published.

(5) If default is made in submitting any return as required by sub-section (1) or sub-section (3), the owner of the factory shall, on conviction, be punishable with fine which may extend to fifty rupees.

(6) Where the owner of a cotton ginning or cotton pressing factory has notified to the prescribed authority that the work of ginning cotton or pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (1) or sub-section (3) until such work has been resumed."

7. In section 6 of the said Act, after the words "other than" the words and figures "the standard weights and measures, weighing and measuring instruments authorised under the Bombay Weights and Measures Act, 1932, in districts or areas in which Parts II, III, V and VI of that Act are in force or elsewhere other than" shall be inserted.

Amendment of section 6 of Act XII of 1925.

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8. In sub-section (1) of section 7 of the said Act, after the words "for the purpose of sections" insert the figures and letters "3A, 3C".

Amendment of section 7 of Act XII of 1925.

9. After section 11 of the said Act the following new section shall be inserted, namely :—

Insertion of new section 11A in Act XII of 1925.

"11A. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, a Presidency Magistrate or a Magistrate of the First Class may pass any sentence provided for any offence punishable under this Act and the provisions of the said Code shall be deemed to have been amended accordingly."

Power of Magistrate to pass sentence.

<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Central Government" were substituted for the words "Governor General in Council" by *ibid.*

Amendment  
of section 13  
of Act XII  
of 1925.

10. (1) In section 13 of the said Act, after clause (a), the following clauses shall be inserted, namely:—

“(aa) what shall constitute an admixture of cotton ;

(ab) the period which shall from time to time constitute a season ;

(ac) the authority by whom, the form in which, the conditions subject to which and the fees on payment of which, a licence may be granted under sub-section (1) of section 2A ;

(ad) the particulars of the cotton ginning factory to be entered in the register maintained under sub-section (2) of section 3 ;

(ae) the proportion of seed which may be contained in cotton ;

(af) the person authorised to give a certificate regarding the quantity of moisture contained in any cotton and other matters specified in section 3A ;

(ag) the person authorised to examine bales under section 3B ;

(ah) the procedure for making a complaint and causing the contents of a bale to be examined and the fee for examination of the contents of a bale under sub-section (1) of section 3B ;

(ai) the manner in which the things seized shall be sealed under section 3C.”

(2) Section 13 of the said Act shall be renumbered as sub-section (1) of that section and after the sub-section so renumbered, the following sub-sections shall be added, namely:—

“(2) The rules to be made under sub-section (1) shall be subject to the condition of previous publication.

(3) Rules made under sub-section (1) shall as soon as they are made be laid <sup>1</sup>[before each of the Chambers of the Provincial Legislature] for a period of one month and shall be liable to be modified or rescinded by a resolution <sup>2</sup>[passed by each of the Chambers during] the session thereof immediately following the expiry of the said period ; such rule shall, after notification in the <sup>3</sup>[Official Gazette], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of the <sup>4</sup>[Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the <sup>4</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.”

<sup>1</sup> The words “ before each of the Chambers of the Provincial Legislature ” were substituted for the words “ upon the table of the Bombay Legislative Council ” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words “ passed by each of the Chambers during ” were substituted for the words “ tabled at ” by *ibid.*

<sup>3</sup> The words “ Official Gazette ” were substituted for the words “ local official Gazette ” by *ibid.*

<sup>4</sup> The words “ Provincial Government ” were substituted for the words “ Local Government ” by *ibid.*

11. After section 15 of the said Act, the following sections shall be added, namely :—

Addition of sections 16 and 17 in Act XII of 1925.

“ 16. Whoever contravenes any of the provisions of this Act or any rule made thereunder or any of the conditions subject to which a licence has been granted to him shall, on conviction, if no other penalty is already provided in this Act for such contravention, be punishable with fine which may extend to five hundred rupees or, if he has previously been convicted of an offence under this Act or any rule made thereunder, with fine which may extend to fifteen hundred rupees. Penalty.”

17. (1) The District Magistrate may accept from any person whose licence is liable to be suspended, withdrawn or cancelled under this Act, or who is reasonably suspected of having committed an offence under this Act, a sum of money in lieu of such suspension, withdrawal or cancellation or by way of composition for the offence which may have been committed, as the case may be. Compound-  
ing offences,  
etc.

(2) On payment by such person of such sum to the District Magistrate, such person if in custody shall be set at liberty and if criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal.”

12. In sub-sections (5) and (6) of section 3, in sub-section (2) of section 4, in sub-section (2) of section 6, in sub-section (3) of section 7, in sub-section (2) of section 8 and in sub-section (3) of section 9 of the said Act for the words “ shall be punished ” the words “ shall, on conviction, be punishable ” shall be substituted. Amendment  
of sections 3,  
4, 6, 7, 8  
and 9 of Act  
XII of 1925.

BOMBAY ACT No. XV OF 1936.<sup>1</sup>

[THE INDIAN LUNACY, BOMBAY DISTRICT MUNICIPAL AND BOMBAY MUNICIPAL BOROUGHS (AMENDMENT) ACT, 1936]

[27th November, 1936]

An Act to amend the Indian Lunacy Act, 1912, in its application to the Presidency of Bombay, the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925.

IV of 1912. Bom. III of 1901. Bom. XVIII of 1925. 5 & 6 Geo. V, c. 61.

WHEREAS it is expedient to amend the Indian Lunacy Act, 1912, in its application to the Presidency of Bombay, the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called the Indian Lunacy, Bombay District Short title. Municipal and Bombay Municipal Boroughs (Amendment) Act, 1936.

IV of 1912.

2. In the Indian Lunacy Act, 1912—

Amendment of section 88 of Act IV of 1912.

(1) In section 88—

(i) after the words “has the means to maintain him”, the words “or if any local authority is liable for the cost of maintenance of such lunatic under any law for the time being in force” shall be inserted;

(ii) the words “or any local authority liable for the cost of maintenance of such lunatic under any law for the time being in force” shall be deleted;

(iii) after the word “resides”, the words “or the local authority liable for the cost of his maintenance is constituted” shall be inserted;

(iv) at the end of the marginal note, the following words shall be added, namely:—

“or by local authority liable for such costs”.

(2) In section 89—

(i) in sub-section (1)—

Amendment of Act IV of 1912.

(a) after the words “such lunatic” where they occur for the second time, the words “or that any local authority is liable for the cost of maintenance of such lunatic under any law for the time being in force” shall be inserted;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1936, Part V, p. 164; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1936, Vol. XLV.

278     *The Indian Lunacy, Bombay District Municipal and*     [BOM. XV  
          *Bombay Municipal Boroughs (Amendment) Act, 1936*     OF 1936]

(b) after the words "such person", the words "or from such local authority" shall be added;

(c) at the end, the following proviso shall be added, namely :—

“ Provided that no order for the recovery of the cost of maintenance of such lunatic from a local authority shall be made if he has an estate applicable to his maintenance or if there is any person legally bound, and having the means, to maintain him.”

(ii) in sub-section (2), after the word "person", the words "or the local authority" shall be inserted.

**3-4.** [*The amendments made by sections 3 and 4 of this Act have been incorporated in the Bombay District Municipal Act, 1901 and the Bombay Municipal Boroughs Act, 1925, respectively.*]



**THE BOMBAY FAMINE RELIEF FUND ACT, 1936.**

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**CONTENTS.****PREAMBLE.****SECTIONS.**

1. Short title, extent and commencement.
2. Definitions.
3. Establishment of the Bombay Famine Relief Fund.
4. Withdrawal of the Famine Relief Fund and its investment in securities of the Central Government.
5. Purposes for which the Fund may be utilised.
6. Investment and reinvestment of amounts not required.
7. Accounts of the Fund and making up of the deficiency in the Fund.

BOMBAY ACT No. XIX OF 1936. <sup>1</sup>

[THE BOMBAY FAMINE RELIEF FUND ACT, 1936]

[5th December, 1936.]

Adapted and modified by the Adaptation of Indian Laws  
Order in Council.

An Act to provide for the establishment and maintenance in the Presidency of Bombay of a Fund, called the Bombay Famine Relief Fund, for meeting expenditure at the time of serious famine or of distress caused by serious drought, flood or other natural calamities in the said Presidency.

WHEREAS it is expedient to provide for the establishment and maintenance in the Presidency of Bombay of a Fund for utilisation on occasions of serious famine and of distress caused by serious drought, flood or other natural calamities in the said Presidency; And whereas the previous sanction of the Governor required by section 80C of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

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61.

1. (1) This Act may be called the Bombay Famine Relief Fund Act, 1936. Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the Presidency of Bombay.

(3) This section shall come into force at once. The remaining provisions of this Act shall come into force on such date as the <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], appoint.

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

(1) "Fund" means the Bombay Famine Relief Fund established under section 3; and

(2) "Presidency" means the Presidency of Bombay.

3. On the commencement of this Act, the <sup>2</sup>[Provincial Government] shall establish in and for the Presidency a Fund called "The Bombay Famine Relief Fund". The Fund shall consist of—

(i) the securities of the <sup>4</sup>[Central Government] mentioned in section 4;

(ii) the interest which may from time to time accrue on such securities;

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1936, Part V, pp. 130-191; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1936, Vol. XLV.

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*", by *ibid.*

<sup>4</sup> The words "Central Government" were substituted for the words "Government of India" by *ibid.*

(iii) such other sums as the <sup>1</sup>[Provincial Government] may from time to time contribute to the Fund under sub-section (2) of section 7 or otherwise; and

(iv) the interest which may from time to time accrue on the securities of the <sup>2</sup>[Central Government] in which the sums to the credit of the Fund may be invested or reinvested under section 6.

Withdrawal of the Famine Relief Fund and its investment in securities of the Central Government.

4. The <sup>1</sup>[Provincial Government] shall, on the commencement of this Act, apply to the <sup>2</sup>[Central Government] for permission to withdraw the balance to their credit in the Famine Relief Fund maintained under rule 29 of the Devolution Rules made under the Government of India Act and on such permission being accorded, the <sup>1</sup>[Provincial Government] shall, after setting apart from the balance so withdrawn, such sum as may be required during the remaining portion of the financial year 1936-37 for the grant of loans to cultivators and for meeting the expenditure on the relief of famine, if any, in the Presidency, invest the balance in securities of the <sup>2</sup>[Central Government] in the name of the Secretary to the Government of Bombay, Finance Department.

Purposes for which the Fund may be utilised.

5. The Fund shall not be expended except upon—

(i) the relief of serious famine in the Presidency; and

(ii) the relief of distress caused by serious drought, flood or other natural calamities in the Presidency:

Provided that when the Fund exceeds sixty-three lakhs of rupees, the <sup>1</sup>[Provincial Government] may utilise the excess to meet expenditure on protective irrigation works and other works for the prevention of famine in the Presidency, or for the grant of loans to cultivators either under the Land Improvement Loans Act, 1883, or under the Agriculturalists' Loans Act, 1884, or for relief purposes, or in the repayment of advances made by the <sup>2</sup>[Central Government] or to meet irrecoverable balances of loans granted under the said Acts or for relief purposes.

Investment and reinvestment of amounts not required.

6. The <sup>1</sup>[Provincial Government] shall from time to time invest or re-invest in securities of the <sup>2</sup>[Central Government] all sums to the credit of the Fund, which may not be immediately required for any of the purposes mentioned in section 5.

Accounts of the Fund and making up of the deficiency in the Fund.

7. (1) The accounts of the Fund shall be made up at the end of each financial year, the securities belonging to the Fund being valued at their market value on the last day of such year.

(2) If the accounts so made up show that the balance in the Fund at the end of such year falls short of sixty-three lakhs of rupees, the deficiency shall be made up from the revenues of the Province:

Provided that if the deficiency exceeds ten lakhs of rupees, it may be made up in annual instalments, the amount of each instalment except the last being not less than ten lakhs of rupees.

<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Central Government" were substituted for the words "Government of India" by *ibid.*

<sup>3</sup>The words "Central Government" were substituted for the words "Governor General in Council" by *ibid.*

## THE BOMBAY OPIUM SMOKING ACT, 1936.

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30. Protection of persons acting in good faith, and limitation of suits or prosecutions.
31. Certain officers to be public servants.

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#### SCHEDULE.

BOMBAY ACT No. XX OF 1936.<sup>1</sup>

[THE BOMBAY OPIUM SMOKING ACT, 1936]

[7th December, 1936.]

Adapted and modified by the Adaptation of Indian Laws  
Order in Council.

An Act to provide for the control of the practice of opium smoking and to prevent the assembling of persons for the purpose of such smoking in the Presidency of Bombay.

WHEREAS it is expedient to control the practice of opium smoking and to prevent the assembling of persons for such smoking in the Presidency of Bombay in the manner hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section 6 o.V, (3) of section 80A of the Government of India Act and the previous 31. sanction of the Governor required under section 80C of the said Act have 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 Bombay Opium Smoking Act, 1936. Short title, extent and commencement.

(2) It extends to the whole of the Presidency of Bombay.

(3) This section shall come into force at once. The <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], direct that the remaining provisions of this Act shall come into force on such date as may be appointed in the notification.

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

(1) "Collector" includes an officer appointed under section 3 to exercise the powers and perform the duties of a Collector under this Act;

(2) "Commissioner" means the Commissioner of Excise;

(3) "Duly empowered" means duly empowered by the <sup>2</sup>[Provincial Government] by a general or special order;

<sup>1</sup>For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1936, Part V, pp. 179-181; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1936, Vol. XLV.

<sup>2</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup>The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

13. Power of entry, search and arrest by certain officer.
14. Arrest of persons obstructing officers in execution of duties under the Act.
15. Mode of making searches and arrests.
16. Disposal of persons arrested and of articles seized.
17. Refusal to give name and residence.
18. Certain officers empowered to investigate offences under the Act.
19. Offences under the Act to be bailable.
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SCHEDULE.

BOMBAY ACT No. XX OF 1936.<sup>1</sup>

[THE BOMBAY OPIUM SMOKING ACT, 1936]

[7th December, 1936.]

Adapted and modified by the Adaptation of Indian Laws  
Order in Council.

An Act to provide for the control of the practice of opium smoking and to prevent the assembling of persons for the purpose of such smoking in the Presidency of Bombay.

WHEREAS it is expedient to control the practice of opium smoking and to prevent the assembling of persons for such smoking in the Presidency of Bombay in the manner hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section 6 v, (3) of section 80A of the Government of India Act and the previous sanction of the Governor required under section 80C of the said Act have 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 Bombay Opium Smoking Act, 1936. Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the Presidency of Bombay.

(3) This section shall come into force at once. The <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], direct that the remaining provisions of this Act shall come into force on such date as may be appointed in the notification.

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

(1) "Collector" includes an officer appointed under section 3 to exercise the powers and perform the duties of a Collector under this Act;

(2) "Commissioner" means the Commissioner of Excise;

(3) "Duly empowered" means duly empowered by the <sup>2</sup>[Provincial Government] by a general or special order;

<sup>1</sup>For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1936, Part V, pp. 179-181; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1936, Vol. XLV.

<sup>2</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup>The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*" by *ibid.*



(4) "Instrument of smoking" means any article used for the purpose of smoking opium ;

(5) "Opium" has the same meaning as is assigned to it in the Opium Act, 1878, and includes *chandul*, *madat*, opium dross or scrapings from the opium pipe and every other preparation or admixture of opium which may be used for smoking ;

(6) "Place" includes a house, building, shop, hut, tent, boat or vessel and any part thereof ; and

(7) "Prepared opium" means any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and the dross or other residue remaining after opium is smoked.

## CHAPTER II.

### PROHIBITION AND CONTROL.

Appointment of special Collectors. 3. The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[*Official Gazette*], appoint any person other than the Collector of Land Revenue, to exercise in any district or area, all or any of the powers conferred, and perform all or any of the duties imposed, by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of the <sup>1</sup>[Provincial Government], as the <sup>1</sup>[Provincial Government] may from time to time direct.

Opium smoking assembly. 4. An assembly of two or more persons is designated an opium smoking assembly, when the common object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes.

*Explanation 1.*—An assembly which was not an opium smoking assembly when it was assembled may subsequently become such assembly.

*Explanation 2.*—A man and his wife shall not be deemed to be an opium smoking assembly within the meaning of this section, even if their common object be to smoke opium or to prepare opium for smoking purposes.

Member of opium smoking assembly. 5. Whoever, being aware of facts which render an assembly an opium smoking assembly, intentionally joins that assembly, or continues therein, is said to be a member of that assembly.

Presumption raised by presence of opium and any instrument of smoking. 6. The presence of any opium or prepared opium, and of any instrument of smoking or of any apparatus used in the preparation of opium in any place where two or more persons are assembled shall be held sufficient to raise a presumption that each member of such assembly is present at such place for the purpose of smoking opium or of preparing opium for smoking purposes.

<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

## CHAPTER III.

## OFFENCES AND PENALTIES.

7. Whoever is a member of an opium smoking assembly shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one month, or with fine which may extend to Rs. 100, or with both. Penalty for being member of opium smoking assembly.

8. Whoever opens, keeps or uses any place, or permits any place to be opened, kept or used for the purpose of an opium smoking assembly, or has the care or management of, or in any way assists in conducting the business of, any place used or kept for the purposes aforesaid, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to Rs. 1,000, or with both. Penalty for opening, keeping or having charge of place of assembly.

9. Whoever, being the owner of any place and knowing or having reason to believe that such place, whether in his actual occupation or otherwise, is being or is about to be used for the purpose of an opium smoking assembly, fails, either himself or through his agent or servant, to give the earliest possible notice of such knowledge or belief to the Collector or the officer in charge of the nearest police station, or to an officer empowered under this Act to investigate offences punishable under this Act, shall, on conviction, be punishable with fine which may extend to Rs. 500. Penalty when owner fails to give notice of use of place for such assembly.

10. Whoever, having been convicted of an offence under section 7, section 8 or section 9, is again convicted of an offence under any of the said sections, shall, on conviction, be liable for any such subsequent offence to an enhanced punishment, not exceeding double the punishment which might be imposed on a first conviction for such offence. Penalty for subsequent offences.

11. (1) Whenever any person is convicted of an offence punishable under this Chapter, and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under this Chapter, the court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix. Security for abstaining from offences.

(2) The bond shall be in the form contained in the Schedule annexed to this Act and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond, as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate court or by the High Court when exercising its power of revision.

## CHAPTER IV.

## PROCEDURE.

Power to  
issue war-  
rants.

12. The Commissioner, Collector or any officer of the Excise Department duly empowered or a Magistrate authorised under section 24 to take cognizance of offences under this Act may issue a warrant for the arrest of any person whom he has reason to believe, to have committed an offence under this Act, or for the search, whether by day or by night, of any place in which he has reason to believe that an offence under this Act has been, or is being or is likely to be committed, or in which opium, an instrument of smoking or an apparatus used in the preparation of opium is kept or concealed.

Power of  
entry, search  
and arrest by  
certain  
officer.

13. The Commissioner, Collector or any officer duly empowered, who has reason to believe that an offence under Chapter III has been, or is being or is likely to be, committed in any place, may—

(a) enter such place by day or by night with any persons whose assistance he may consider necessary,

(b) search any such place in which he has reason to believe that any opium, or instrument of smoking, or any apparatus used in the preparation of opium is kept or concealed,

(c) detain and search, and, if he thinks proper, arrest any person found in such place or whom he has reason to believe to have committed an offence punishable under Chapter III, and

(d) seize all opium and instruments of smoking and any apparatus used in the preparation of opium which may be found in such place or on or about such person.

Arrest of  
persons  
obstructing  
officers in  
execution of  
duties under  
the Act.

14. The Commissioner, Collector or any officer duly empowered may arrest, without an order from a magistrate and without warrant, any person who obstructs him in the execution of his duty under this Act, or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

Mode of  
making  
searches and  
arrests.

15. (1) The provisions of the Code of Criminal Procedure, 1898, shall apply, so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests and searches made under this Act. <sup>1898</sup>

(2) All such warrants shall be executed by a police officer, or an officer of the Excise Department duly empowered in this behalf or if the officer issuing the warrant deems fit by any other person :

Provided that no search shall, in the absence of local search witnesses, be deemed to be illegal or defective or irregular, if such absence is explained to the satisfaction of the court.

16. (1) Every person arrested and article seized under a warrant issued under section 12 shall be forwarded without delay to the authority by whom the warrant was issued, and every person arrested and article seized under section 13 or section 14 shall be forwarded without delay to—

(a) the nearest officer of the Excise Department empowered under section 18, or

Bom. IV of 1902. (b) (i) in the City of Bombay to the nearest officer in charge of a section within the meaning of the City of Bombay Police Act, 1902, and

V of 1898. (ii) elsewhere, to the officer in charge of the nearest police station within the meaning of the Code of Criminal Procedure, 1898.

(2) The authority or officer to whom any person or article is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal, according to law, of such person or article.

17. (1) When any person who, in the presence of any officer of such rank as the <sup>1</sup>[Provincial Government] may, by general or special order, specify in this behalf, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and residence may be ascertained.

Disposal of persons arrested and articles seized.

Refusal to give name and residence.

(2) When the correct name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a magistrate, if so required :

Provided that if such person is not resident in British India the bond shall be secured by a surety or sureties residing in British India.

(3) Should the correct name and residence of such person not be ascertained within 24 hours from the time of arrest, and should he fail to execute the bond, or, if he is so required, to furnish sufficient sureties, he shall be forthwith forwarded to the nearest magistrate having jurisdiction.

18. (1) The Commissioner, Collector and any officer of the Excise Department duly empowered in this behalf shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

Certain officers empowered to investigate offences under the Act.

V of 1898. (2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence :

<sup>1</sup>The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council,

Provided that—

(a) if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a magistrate or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required, before a magistrate and shall make a full report of the case to his superior officer, if any, and be guided by the order which he shall receive on such report ;

(b) the powers of such officer other than the Commissioner or Collector shall be subject to such further modifications or restrictions as the <sup>1</sup>[Provincial Government] may determine.

Offences under the Act to be bailable.

19. (1) All offences punishable under this Act shall be bailable.

(2) Any officer authorised under section 18 to investigate an offence punishable under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without warrant for an offence punishable under this Act.

Articles seized during investigation.

20. When anything has been seized by any officer exercising powers under section 18, such officer, after such inquiry as may be necessary—

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the magistrate to whom such person is forwarded or before whom bail has been taken for his appearance ;

(b) if it appears that such thing is liable to confiscation, but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to his superior officer, if any ;

(c) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to his superior officer, if any, accordingly.

Officers and persons required to assist in detection of offences under the Act.

21. All village officers, all village servants useful to Government and all officers of the Departments of Police, Forest, Customs, Salt Revenue and all persons in the employment of the Bombay Port Trust shall be bound—

(a) to give immediate information to any of the officers mentioned in section 12 or section 13 or section 18 of the commission of any offence and of the intention or preparation to commit any offence under this Act which may come to their knowledge ;

(b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed ; and

(c) to assist such officer in carrying out the provisions of this Act.

<sup>1</sup> The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

22. Any officer or person mentioned in the preceding section who without lawful excuse neglects or refuses to give information or to take preventive measures or to give assistance to any of the officers mentioned in section 12 or section 13 or section 18 in the manner required by the preceding section shall, on conviction, be punishable with fine which may extend to Rs. 500.

Penalty for neglecting to assist officers acting under the Act.

23. Any officer empowered under this Act who—

(a) without reasonable ground of suspicion, enters or searches, or causes to be searched any place, or

Penalty for vexatious search or arrest.

(b) vexatiously and unnecessarily seizes the property of any person on the pretext of seizing or searching for anything liable to confiscation under this Act, or

(c) vexatiously and unnecessarily detains, searches or arrests any person

shall, on conviction, be punishable with fine which may extend to Rs. 500.

24. No magistrate other than a Presidency Magistrate, or a Magistrate of the First Class, or a Magistrate of the Second Class duly empowered in this behalf, shall take cognizance of any offence under this Act.

Jurisdiction.

25. No magistrate shall take cognizance of any offence punishable under this Act,—

Cognizance of offences.

(a) except on the complaint or report of the Commissioner or a Collector or any other officer duly empowered under section 12 or a police officer, or

(b) except upon his own knowledge or suspicion.

26. Whenever any offence under this Act has been committed, all opium, prepared opium, instruments of smoking and apparatus used in the preparation of opium found in the place or with the persons forming an opium smoking assembly, together with the receptacles, packages, coverings, animals, carts, vessels or other conveyances used in carrying them shall be liable to confiscation.

Things liable to confiscation.

27. (1) In the trial of offences under this Act, whether the accused is convicted or acquitted, the court shall decide whether any article seized under this Act is liable to confiscation under the preceding section, and if it decides that the article is so liable, it may order its confiscation accordingly.

Procedure in making confiscation.

(2) When any article seized under this Act appears liable to confiscation under the preceding section but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer duly empowered in this behalf may inquire into and decide such liability and may order confiscation accordingly :

Provided that no order of confiscation of an article shall be made until the expiry of one month from the date of seizure or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in support of his claim ;

Provided further that if any such article, other than opium, is liable to speedy and natural decay, or if the Collector or other officer is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(3) Any person not convicted who claims any right to property which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

## CHAPTER V.

### MISCELLANEOUS.

Delegation  
of powers.

28. The powers conferred on the Commissioner or Collector under this Act may, subject to the general or special orders of <sup>1</sup>[the Provincial Government], be delegated by the Commissioner or Collector, as the case may be, in whole or in part, to any subordinate officer.

Power to  
make rules.

29. (1) The <sup>2</sup>[Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes :—

(a) regulating the disposal of things confiscated,

(b) prescribing and regulating the payment of rewards out of fines imposed under this Act,

(c) providing for any other matter for which there is no provision or there is insufficient provision in this Act and for which provision is, in the opinion of the <sup>3</sup>[Provincial Government], necessary for giving effect to the provisions of this Act.

(3) Rules made under this section shall be subject to the condition of previous publication in the <sup>3</sup>[*Official Gazette*].

(4) Rules made under this section shall be laid <sup>4</sup>[before each Chamber of the Provincial Legislature] at the session <sup>5</sup>[thereof] next following and shall be liable to be modified or rescinded by a resolution <sup>6</sup>[in which both the Chambers concur], and such rule shall, after notification in the <sup>3</sup>[*Official Gazette*], be deemed to have been modified or rescinded accordingly :

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Provincial Government" were substituted for the words "local Government" by *ibid.*

<sup>3</sup>The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

<sup>4</sup>The words "before each Chamber of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by *ibid.*

<sup>5</sup>The word "thereof" was substituted for the words "of the said Council" by *ibid.*

<sup>6</sup>The words "in which both the chambers concur" were substituted for the words "of the said Council" by *ibid.*

Provided that when, in the opinion of the <sup>1</sup>[Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], declare that such modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

30. (1) No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of persons acting in good faith, and limitation of suits or prosecutions.

(2) No suit shall be instituted against <sup>3</sup>[the Crown] and no prosecution or suit shall lie against any officer in respect of anything done or alleged to have been done in pursuance of this Act, unless such suit or prosecution has been instituted within three months of the date of the act complained of.

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31. All officers empowered under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Certain officers to be public servants.

## SCHEDULE.

*Bond to abstain from the commission of offences under the Bombay Opium Smoking Act, 1936.*

(Section 11).

Whereas I (name) inhabitant of (place), have been called upon to enter into a bond to abstain from the commission of offences under section 7, section 8 and section 9 of the Bombay Opium Smoking Act, 1936, for the term of I hereby bind myself not to commit any such offence during the said

<sup>1</sup> The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

<sup>3</sup> The words "the Crown" were substituted for the word "Government" by *ibid.*





**THE PARSİ PUBLIC TRUSTS REGISTRATION ACT, 1936.****CONTENTS.****PREAMBLE.****SECTIONS.****PRELIMINARY.**

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24. Recovery of sums due under this Act.
25. Power of Provincial Government to make rules.

BOMBAY ACT No. XXIII OF 1936.<sup>1</sup>

[THE PARSİ PUBLIC TRUSTS REGISTRATION ACT, 1936.]

[31st December, 1936.]

Adapted and modified by the Adaptation of Indian Laws  
Order in Council.

An Act to make provision for the registration, publication and inspection of Trusts created or existing for a public purpose for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect thereof.

WHEREAS it is expedient to provide for the registration, publication and inspection of Trusts created or existing for a public purpose of a charitable or religious nature for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect of the same; AND WHEREAS the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

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*Preliminary.*

1. (1) This Act may be called the Parsi Public Trusts Registration Act, 1936. Short title  
and extent.

(2) It extends to the whole of the Bombay Presidency.

(3) <sup>2</sup>[The Provincial Government] may, by notification in the <sup>3</sup>[*Official Gazette*], direct that this Act shall come into force on such date as may be appointed in the notification.

2. (1) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Parsi community or any section of such community and, having an annual gross income of not less than Rs. 1,000. Application

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1935, Part V, pp. 348-349; for Report of the Select Committee, see *Bombay Government Gazette*, 1936, Part V, pp. 96-103; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1936, Vol. XLV.

<sup>2</sup> The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(2) <sup>1</sup>[The Provincial Government] may by notification in the <sup>2</sup>[*Official Gazette*] exempt any trust or any class of trusts from all or any of the provisions of this Act.

(3) In the case of a public trust of which the author belongs to the Parsi community and which is created or exists not solely for the benefit of the said community, <sup>1</sup>[the Provincial Government] may, on application of such author, or, if such author is dead, of the majority of the trustees of such trust, by notification in the <sup>2</sup>[*Official Gazette*] apply all or any of the provisions of this Act to such trust.

(4) The provisions of the Bombay Public Trust Registration Act, Bom. 1935, shall not apply to any public trust to which any of the provisions <sup>XXV</sup> of 1935 of this Act apply.

## Definitions.

3. In this Act unless there is anything repugnant in the subject or context,

(1) "Manager" means a trustee or any other person who for the time being either alone or in association with some other person or persons administers the property of any public trust.

(2) "Prescribed" means prescribed by rules made under this Act.

(3) "Public trust" means an express or constructive trust created or existing for public purposes of a religious or charitable nature.

(4) "Registrar" means a person appointed under section 4 to exercise the powers and perform the duties of a Registrar of Parsi Public Trusts under this Act.

(5) "Rules" means rules made under this Act.

(6) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act. II of 1882.

## Appointment of Registrars.

4. <sup>1</sup>[The Provincial Government] may appoint officers belonging to the Judicial Service not below the rank of a Subordinate Judge of the First Class or a Judge of a Court of Small Causes to be Registrars of Parsi public trusts for the purposes of this Act, and may define the district or area within which each of them shall exercise his powers and perform his duties.

## Obligation to furnish particulars relating to public trusts.

5. (1) Every manager of the property of a public trust shall, in the case of—

(i) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act, and

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(ii) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust

submit to the Registrar within whose jurisdiction the whole or any substantial portion of the subject matter of such trust is situate or the property or funds of such trust or any substantial portion thereof are for the time being administered a statement in the prescribed form and accompanied by the prescribed fee, containing the following particulars :—

(a) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee,

(b) the description of the trust property, both moveable and immovable, sufficient for the identification thereof, and the approximate value thereof,

(c) the gross average annual income of such property estimated on the income of the three years immediately preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(d) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (c) relate,

(e) any other particulars as may be prescribed.

(2) A copy of the deed or instrument creating the public trust or such extract thereof as in the opinion of the Registrar sufficiently shows the origin, nature and object of such trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

(3) Such statement shall be signed by the manager or his agent specially authorised in this behalf.

(4) Every person signing the statement shall verify it in the manner prescribed.

(5) The Registrar may, for sufficient cause extend the period for furnishing a statement under this section.

6. (1) A Registrar may either on his own motion or upon the petition of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain—

Power of Registrar to hold inquiry.

(i) whether a trust is a public trust,

(ii) whether any property is the property of such trust,

(iii) whether the whole or any substantial portion of the subject matter of the trust is situate, or whether the property or funds of such trust or any substantial portion thereof are for the time being administered, within his jurisdiction,

(iv) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of trustee of such trust,

(v) the origin, nature and object of such trust,

(vi) the amounts of gross average annual income and expenditure of such trust, and

(vii) any other particulars as may be prescribed under sub-section (1) of section 5.

(2) The petition referred to in sub-section (1) shall show in what way the petitioner claims to be interested in the public trust and shall be signed and verified in the manner prescribed for the signing and verification of a statement under section 5.

(3) If it comes to the knowledge of the Registrar that a suit has been instituted in any Court in regard to any of the matters mentioned in sub-section (1), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Court's findings or orders in regard to such matters, until the suit is finally decided in that Court.

(4) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(5) On completion of the enquiry provided for in sub-sections (1) and (4), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matters as may have been decided in such suit.

(6) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters:—

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(a) enforcing the attendance of any person and examining him on oath,

(b) compelling the production of documents and material objects,

(c) issuing commissions for the examination of witnesses,

(d) proof of facts by affidavits.

(7) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

7. The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6, record entries in such form as may be prescribed in a register called the Register of Parsi Public Trusts and shall file the statement, if any.

8. (1) When any change occurs in any of the particulars recorded in the Register of Parsi Public Trusts, the manager shall, within six months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompanied by the prescribed fee. The provisions of sections 5 and 6 shall, so far as may be, apply to such statement. Amendment of entries in Register.

(2) For the purpose of verifying the correctness of the entries in the Register of Parsi Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Register, the Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such enquiry.

(3) If the Registrar, after receiving a report under sub-section (1) and holding an enquiry, if necessary, under sub-section (2), or merely after an enquiry held under sub-section (2), is satisfied that a change has occurred in any of the particulars recorded in the Register of Parsi Public Trusts with regard to a public trust, he shall amend in the prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-section (1) along with the statement, if any, relating to the said trust filed under section 5.

9. (1) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public trust particulars of which have been recorded in the Register of Parsi Public Trusts by the Registrar of any other district or area. Stay of inquiry or entry in Register.

(2) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, <sup>1</sup>[the Provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under section 6 or 8 or act under section 7 in regard to such trust.

10. (1) Entries made by the Registrar in the Register of Parsi Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act. Entries in Register to be final subject to section 11.

(2) Nothing in this section shall be deemed to bar in any way the right of any person aggrieved by any such entry to institute a suit in a court of competent jurisdiction in regard to any matter affected by such entry.

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.



Amendment  
of Register  
by order of  
Court.

11. A Civil Court of competent jurisdiction deciding any question relating to any trust to which this Act applies or in respect of which any entry has been recorded in a Register of Parsi Public Trusts shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Parsi Public Trusts relating to the said trust in accordance with its decision.

Maintenance  
of accounts  
and their  
audit.

12. (1) Every manager of a public trust in respect of which an entry has been recorded in the Register of Parsi Public Trusts under section 6 shall keep regular accounts of all moveable and immoveable properties, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust property and of all payments and alienations made, on behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

(2) The accounts shall be balanced each year on the thirty-first day of March, or such other date, as the manager of any particular public trust may at his option choose in regard to such trust: provided that when such date is so chosen, the manager shall as soon as practicable intimate to the Registrar the date so chosen; provided further that the date so chosen may be altered only with the consent of the Registrar and subject to such conditions as he may think fit to impose. The accounts so balanced shall be examined and audited annually in such manner and by a person who is the holder of a certificate granted under <sup>VII of</sup> section 144 of the Indian Companies Act, 1913, or by such persons as 1913. may be prescribed.

(3) Every auditor acting under sub-section (2) shall have access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(4) Within six months after the thirty-first day of March, or such other date, as may be chosen by the manager in any particular case, under sub-section (2) of the year for which the accounts are balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto:

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note under this section.

*Exception.*—Nothing in this section shall apply—

(1) to any public trust in respect of which a scheme has been settled under section 92, Civil Procedure Code, 1908, and such scheme requires the submission of accounts of such trusts to the court and audit thereof by any person appointed or approved by the court, or <sup>V of</sup> 1908.

(2) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator General or the Official Trustee,

13. Notwithstanding anything contained in the deed or instrument creating any trust, every manager may pay from the income of the trust property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 5 or section 6 or in respect of the preparation or audit of the annual accounts for the purpose of this Act. Trustees entitled to pay costs of audit, etc., from trust funds.

14. Any person who in the opinion of the Registrar has an interest in any public trust shall, on payment of the prescribed fee, be entitled to inspect in the prescribed manner or to obtain a copy of any statement of particulars or any other document furnished to the Registrar under section 5 or section 6 or any statement of accounts furnished to him under section 12 (4) or any audit report made on an audit under section 12 (2) relating to such trust. Inspection and copies.

15. Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Parsi Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed: Annual contribution from Parsi Public Trusts.

Provided that the contributions prescribed under this section shall be fixed at rates in proportion to the gross income of the public trust but in accordance with a progressively diminishing scale.

*Explanation.*—Progressively diminishing scale shall, for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

16. For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Parsi Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area, namely:— Parsi Public Trusts Administration Fund.

(a) any fees which may be levied under section 5, 8 or 14,

(b) contributions under section 15,

(c) any sums received by the Parsi Public Trusts Administration Fund from private sources,

(d) any sums allotted by <sup>1</sup>[the Provincial Government] or by any local authority to the Parsi Public Trusts Administration Fund.

*Explanation.*—For the purposes of this section the City of Bombay shall be deemed to be a district.

<sup>1</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Application of Parsi Public Trusts Administration Fund.

17. The Parsi Public Trusts Administration Fund of a district or any area as created under section 16 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

Special audit.

18. It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order the cost of such audit to be paid by the trustee or manager from the income of the property of the public trust or out of the Parsi Public Trusts Administration Fund.

Publication of list of Parsi Public Trusts.

19. Every Registrar shall publish annually under his signature, in the <sup>1</sup>[*Official Gazette*] and in a newspaper published in the principal vernacular of, and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Parsi Public Trusts Administration Fund, in such form and on such date as <sup>2</sup>[the Provincial Government] may prescribe.

Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.

20. (1) If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits a statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.

(2) If any manager fails or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

Penalty for failure to comply with the order of Registrar.

(3) If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act, such person shall on conviction be punishable with fine which may extend to Rs. 100.

Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.

(4) Any Court may, in passing an order of conviction and sentence for any of the offences under sub-section (1), (2) or (3), specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified :

<sup>1</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failure to do so and applies for extension of the period specified under this section, the Court may, if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

21. (1) No prosecution under this Act shall be instituted except on the complaint of the Registrar within whose jurisdiction the whole or a substantial portion of the property of the public trust in respect of which the offence is committed is situate or within whose jurisdiction the property or funds of such trust or any substantial portion thereof are for the time being administered. Cognizance of offences.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence under this Act.

22. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Registrar to be deemed a public servant.

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23. No action for damages and no prosecution shall lie against any person for anything which is in good faith done or intended to be done under this Act. Bar of prosecution of persons acting in good faith.

24. All sums due under this Act shall be recoverable as arrears of land revenue. Recovery of sums due under this Act.

25. (1) <sup>1</sup>[The Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act. Power of Provincial Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely:—

(a) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5 (1).

(b) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5 (1), clause (e).

(c) Prescribing the manner in which the statement furnished to the Registrar shall be verified under section 5 (4).

(d) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(e) Prescribing the form of Register of Parsi Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8 (3).

<sup>1</sup>The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(f) Prescribing the form of the statement reporting a change and the fee payable along with such statement under section 8.

(g) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12 (I).

(h) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (2) and 18.

(i) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12 (4).

(j) Prescribing the fee payable for the inspection of the Register of Parsi Public Trusts under section 14.

(k) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such inspection under section 14.

(l) Prescribing the fee payable for obtaining certified copies of entries in the Register of Parsi Public Trusts and of documents filed with the Registrar under section 14.

(m) Prescribing the amount of contribution payable by a Public Trust and the date and the manner of such payment under section 15.

(n) Prescribing the objects in addition to those specified in section 17, to which the Parsi Public Trusts Administration Fund shall be applied under the said section.

(o) Any other matter not specifically provided for in this Act, but which in the opinion of <sup>1</sup>[the Provincial Government] is necessary for carrying into effect the provisions of this Act :

Provided that the rules made under clauses (a), (f), (j) and (m) shall provide for such adjustment from time to time of the rates of fees payable under sections 5, 8 and 14 and the contributions payable under section 15 in respect of the public trusts in any district or area as not ordinarily to leave any surplus in the Parsi Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of <sup>1</sup>[the Provincial Government] for payment of the charges and expenses referred to in section 17.

(3) The rules made under this section shall be subject to the condition of previous publication in the <sup>2</sup>[*Official Gazette*].

<sup>1</sup>The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(4) Rules made under this section shall be laid <sup>1</sup>[before each Chamber of the Provincial Legislature] at the session <sup>2</sup>[thereof], next following and shall be liable to be modified or rescinded by a statutory motion <sup>3</sup>[carried in both the Chambers] and such rules shall, after notification in the <sup>4</sup>[*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of <sup>5</sup>[the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, <sup>6</sup>[the Provincial Government] may, by notification in the <sup>6</sup>[*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

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<sup>1</sup> The words "before each Chamber of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The word "thereof" was substituted for the words "of the said Council" by *ibid.*

<sup>3</sup> The words "carried in both the Chambers" were substituted for the words "of the said Council" by *ibid.*

<sup>4</sup> The words "*Official Gazette*" were substituted for the words "local official Gazette" by *ibid.*

<sup>5</sup> The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

<sup>6</sup> The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

**THE BOMBAY LEGISLATURE MEMBERS (REMOVAL OF  
DISQUALIFICATIONS) ACT, 1937.**

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3. Act to come into force on 1st April 1937.

**SCHEDULE.**

## BOMBAY ACT No. I OF 1937<sup>1</sup>.

[THE BOMBAY LEGISLATURE MEMBERS (REMOVAL OF DISQUALIFICATIONS) ACT, 1937.]

[18th October, 1937.]

**An Act to provide for the removal of certain disqualifications for being chosen as and for being a member of the Bombay Legislative Assembly and the Bombay Legislative Council.**

WHEREAS by the Government of India Act, 1935, provision has been made for declaring by Act of the Provincial Legislature any office of profit under the Crown in India not to disqualify its holder for being chosen as and for being a member of a Provincial Legislature; and whereas it is expedient to make such declaration; It is hereby enacted as follows:—

1. This Act may be called the Bombay Legislature Members (Removal of Disqualifications) Act, 1937. Short title.

2. A person shall not be disqualified for being chosen as, or for being a member of, the Bombay Legislative Assembly or the Bombay Legislative Council merely by reason of the fact that he holds any of the offices specified in the Schedule appended hereto. Removal of certain dis-qualifications.

3. The provisions of this Act shall be deemed to have come into force on the 1st day of April 1937. Act to come into force on 1st April 1937.

### SCHEDULE.

1. The office of Parliamentary Secretaries to the Ministers of the Government of Bombay.

2. The office of Part-time Professors or Lecturers in a Government College.

3. Any office in the service of a State Railway, when such office is held by a person standing for election, or elected as a member of the Bombay Legislative Assembly by Railway Unions Labour Constituency.

4. Any office in the Indian Territorial Force.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1937, Part V, p. 30; for Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1937, Vol. I, pp. 294-316; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1937, Vol. I, pp. 169-176.



**THE BOMBAY LEGISLATIVE COUNCIL (PRESIDENT AND  
DEPUTY PRESIDENT) AND THE BOMBAY LEGISLATIVE  
ASSEMBLY (SPEAKER AND DEPUTY SPEAKER)  
SALARIES ACT, 1937.**

CONTENTS.

PREAMBLE.

Sections.

1. Short title.
2. Definitions.
3. Sums to be paid to President and Speaker.
4. President or Speaker not to practise any profession or engage in any trade, etc.
5. Salary of Deputy President and Deputy Speaker.
6. Deputy President and Deputy Speaker not debarred from receiving salaries and allowances as Members of the Legislature.

**BOMBAY ACT No. II OF 1937.<sup>1</sup>**

[THE BOMBAY LEGISLATIVE COUNCIL (PRESIDENT AND DEPUTY PRESIDENT) AND THE BOMBAY LEGISLATIVE ASSEMBLY (SPEAKER AND DEPUTY SPEAKER) SALARIES ACT, 1937.]

[22nd October, 1937.]

An Act to provide for the salaries of the President and the Deputy President of the Bombay Legislative Council and of the Speaker and the Deputy Speaker of the Bombay Legislative Assembly and certain other matters.

WHEREAS by the Government of India Act, 1935, provision has been made for the determination of the salaries of the President and the Deputy President of the Bombay Legislative Council and of the Speaker and the Deputy Speaker of the Bombay Legislative Assembly by Act of the Provincial Legislature; and whereas it is expedient to determine such salaries and to provide for other matters as hereinafter specified; It is hereby enacted as follows:—

1. This Act may be called the Bombay Legislative Council (President and Deputy President) and the Bombay Legislative Assembly (Speaker and Deputy Speaker) Salaries Act, 1937. Short title.

2. In this Act—

Definitions.

(1) "Assembly" means the Bombay Legislative Assembly constituted under the Government of India Act, 1935.

(2) "Council" means the Bombay Legislative Council constituted under the Government of India Act, 1935.

(3) "Deputy President" means the Deputy President of the Council.

(4) "Deputy Speaker" means the Deputy Speaker of the Assembly.

(5) "President" means the President of the Council.

(6) "Speaker" means the Speaker of the Assembly.

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1937, Pt. V, p. 28; for Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1937, Vol. I, pp. 281 to 289; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1937, Vol. I, pp. 167-168.

316 *The Bombay Legislative Council (President and Deputy President) and the Bombay Legislative Assembly (Speaker and Deputy Speaker) Salaries Act, 1937* [BOM. II OF 1937]

Sums to be paid to President and Speaker.

3. There shall be paid to the President and the Speaker each—

(a) a salary at the rate of Rs. 500 per month ;

(b) a house allowance at the rate of Rs. 100 per month, provided that such allowance shall not be paid to the President or the Speaker if such President or Speaker is provided by the Government with a house without payment of rent, or any assessment, tax, rate or cess due to Government or any local authority ; and

(c) an allowance for the maintenance of a motor car at the rate of Rs. 150 per month.

President or Speaker not to practise any profession or engage in any trade, etc.

4. The President and the Speaker shall not practise any profession or engage in any trade or undertake for remuneration any employment other than their duties as President and Speaker respectively.

Salary of Deputy President and Deputy Speaker.

5. There shall be paid to the Deputy President and the Deputy Speaker each a salary at the rate of Rs. 100 per month.

Deputy President and Deputy Speaker not debarred from receiving salaries and allowances as Members of the Legislature.

6. Nothing in this Act shall be deemed to debar the Deputy President or the Deputy Speaker from being entitled to receive any salary or allowances as a Member of the Legislature under section 72 of the Government of India Act, 1935, or any Act which may be made in that behalf by the Provincial Legislature.

**THE BOMBAY LEGISLATURE MEMBERS' SALARIES AND  
ALLOWANCES ACT, 1937.**

**CONTENTS.**

**PREAMBLE.**

**Sections.**

1. Short title.
2. Definitions.
3. Salaries and allowances to be paid to Members.
4. Minister, President or Speaker or Parliamentary Secretary not entitled to salary or allowances under this Act.
5. Power of Provincial Government to make rules.

## BOMBAY ACT No. III OF 1937.<sup>1</sup>

[THE BOMBAY LEGISLATURE MEMBERS' SALARIES AND ALLOWANCES  
ACT, 1937.]

[23rd October, 1937.]

### An Act to provide for the salaries and allowances of Members of the Bombay Legislature.

WHEREAS it is expedient to provide for the salaries and allowances of Members of the Bombay Legislature ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Legislature Members' Salaries Short title. and Allowances Act, 1937.

2. In this Act—

Definitions.

(1) "Assembly" means the Bombay Legislative Assembly constituted under the said Act.

(2) "Chamber" means the Assembly or the Council as the case may be.

(3) "Council" means the Bombay Legislative Council constituted under the said Act.

(4) "Member" means the Member of a Chamber.

(5) "Minister" means a Minister chosen and for the time being holding the office of a Minister under section 51 of the said Act.

(6) "Parliamentary Secretary" means the Parliamentary Secretary to the Minister.

(7) "President" means the President of the Council.

(8) "Speaker" means the Speaker of the Assembly.

(9) "The said Act" means the Government of India Act, 1935.

3. There shall be paid to each Member—

Salaries and  
allowances to  
be paid to  
Members.

(a) a salary at the rate of Rs. 75 per month ;

<sup>1</sup>For Statement of Objects and Reasons. see *Bombay Government Gazette*, 1937, Pt. V, p. 36 ; for Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1937, Vol. I, pp. 1016-1043, 1045-1066, 1253-1261 ; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1937, Vol. I, pp. 218-237.

(b) a daily allowance at the rate of Rs. 3 for each day of the period of residence for the purpose of attending the session of a Chamber or the meeting of a Committee of such Chamber at the place where such session or meeting is held; and

(c) a travelling allowance for journey undertaken for the said purpose to such place and for return journey from such place—

(i) at such rate not exceeding double the fare of such class provided on a railway or steamer, as may be prescribed by the Provincial Government, and

(ii) at such rate per mile for journey by road, sea or river in addition to the journey by railway or steamer, as may be prescribed by the Provincial Government:

Provided that nothing in this section shall entitle a member to daily and travelling allowances, if such member ordinarily resides or carries on business at the place where the session of the Chamber or the meeting of the Committee is held.

Minister,  
President or  
Speaker or  
Parlia-  
mentary  
Secretary not  
entitled to  
salary or  
allowances  
under this  
Act.  
Power of  
Provincial  
Government  
to make  
rules.

4. Notwithstanding anything contained in this Act, a Minister, the President or Speaker or a Parliamentary Secretary shall not be entitled to any salary or travelling allowance under this Act by reason of the fact that such Minister, President or Speaker, or a Parliamentary Secretary is a Member.

5. (1) As respects all matters for which no express provision has been made in this Act the Provincial Government may make rules for the purpose of carrying out the purposes of this Act.

(2) Rules made under this Section shall have effect as if enacted in this Act.

**THE BOMBAY MINISTERS' SALARIES ACT, 1937.****CONTENTS.****PREAMBLE.****Sections.**

1. Short title.
2. Sums to be paid to Ministers.

## BOMBAY ACT No. IV OF 1937.<sup>1</sup>

[THE BOMBAY MINISTERS' SALARIES ACT, 1937.]

[28th October, 1937.]

**An Act to provide for the salaries of the Ministers of the Government of Bombay and certain other matters.**

WHEREAS provision has been made in sub-section (3) of section 51 of the Government of India Act, 1935, for the determination of the salaries of the Ministers by Act of the Provincial Legislature; and whereas it is expedient to provide for the determination of such salaries and other matters as hereinafter specified; It is hereby enacted as follows:—

1. This Act may be called the Bombay Ministers' Salaries Act, 1937. Short title.
2. There shall be paid to the Prime Minister and each of the other Ministers of the Government of Bombay, chosen under section 51 of the Government of India Act, 1935:— Sums to be paid to Ministers.
  - (a) a salary at the rate of Rs. 500 per month;
  - (b) a house allowance at the rate of Rs. 100 per month, provided that such allowance shall not be paid to any Minister if such Minister is provided by the Government with a house without payment of rent or any assessment, tax, rate or cess due to Government or any local authority; and
  - (c) an allowance for the maintenance of a motor car at the rate of Rs. 150 per month.

26 Geo.  
5, c. 2.

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<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1937, Pt. V, p. 25; for Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1937, Vol. I, pp. 244-280; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1937, Vol. I, pp. 156-167.



**THE INDIAN LIMITATION (BOMBAY AMENDMENT)  
ACT, 1937.**

**CONTENTS.**

**PREAMBLE.**

**Sections.**

1. Short title.
2. Amendment of First Schedule to Act IX of 1908.
3. Period of limitation for pending suits.

## BOMBAY ACT No. VI OF 1937.<sup>1</sup>

[THE INDIAN LIMITATION (BOMBAY AMENDMENT) ACT, 1937.]

[15th January, 1938]

**An Act to amend the Indian Limitation Act, 1908, in its application to the Province of Bombay.**

IX of 1908. WHEREAS it is expedient to amend the Indian Limitation Act, 1908, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Limitation (Bombay Amend- Short title. ment) Act, 1937.

IX of 1908. 2. In the First Schedule to the Indian Limitation Act, 1908, here- Amendment inafter called "the said Schedule"— of First Schedule to Act IX of 1908.

(i) Article 5 shall be repealed; and

(ii) After Article 64, the following new Article shall be inserted, namely:—

V of 1908.	<p>“64A.—Under the summary procedure referred to in section 128 (2) (f) of the Code of Civil Procedure, 1908, where the provision of such summary procedure does not exclude the ordinary procedure in such suits and under Order XXXVII of the said Code.</p>	<p>Three years. When the debt or liquidated demand becomes payable or when the property becomes recoverable.”</p>
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3. Notwithstanding anything contained in section 2 of this Act, every suit of the nature specified in the said section pending at the date of the commencement of this Act either in a Court of first instance or of appeal shall be deemed to be governed by Article 5 in the said Schedule as if it had not been repealed. Period of limitation for pending suits.

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<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1937, Pt. V, pp. 32-33; for Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1937, Vol. I, pp. 1014-1016; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1937, Vol. I, pp. 176-177.

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