



Government of Bombay
Legal Department

Second Supplement

to

The Bombay Code

containing

The Acts passed by the Bombay Legislature during the year 1939, including an Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation issued under Section 93 of the Government of India Act, 1935, and two Ordinances promulgated by the Governor of Bombay under Section 88 of the same Act and the Chronological Table of Enactments reproduced in this Supplement

FIFTH EDITION, 1938

BOMBAY

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P R E F A C E

THIS supplement contains all the Acts passed by the Bombay Legislature during the year 1939 including an Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation issued under section 93 of the Government of India Act, 1935, and also two Ordinances promulgated by the Governor of Bombay under section 88 of the same Act. The arrangement adopted in this Supplement is the same as that in the First Supplement to the Bombay Code, Fifth Edition, 1938.

J. R. DHURANDHAR.

LEGAL DEPARTMENT :

14th June 1940.

CHRONOLOGICAL TABLE OF ACTS OF THE BOMBAY LEGISLATURE, 1939, INCLUDING AN ACT MADE BY THE GOVERNOR OF BOMBAY IN EXERCISE OF THE POWERS OF THE SAID LEGISLATURE VESTED IN HIM BY VIRTUE OF THE PROCLAMATION ISSUED UNDER SECTION 93 OF THE GOVERNMENT OF INDIA ACT, 1935, AND TWO ORDINANCES PROMULGATED BY THE GOVERNOR OF BOMBAY.

Year.	Act No.	Short Title or Subject.	References to the Acts affected by Volume and Page of the Bombay Code, 5th Edition.	Page.
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Year.	Act No.	Short Title or Subject.	References to the Acts affected by Volume and Page of the Bombay Code, 5th Edition.	Page.
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BOMBAY ACT No. I OF 1939.¹

[THE BOMBAY WEIGHTS AND MEASURES (AMENDMENT) ACT, 1939.]

[15th March 1939.]

An Act to amend the Bombay Weights and Measures Act, 1932.²

WHEREAS it is expedient to amend the Bombay Weights and Measures Act, 1932, for the purpose hereinafter appearing : It is hereby enacted as follows :—

1. This Act may be called the Bombay Weights and Measures (Amendment) Act, 1939. Short title.
2. In section 34, of the Bombay Weights and Measures Act, 1932, hereinafter called the said Act— ² Amendment of section 34 of Bom. XV of 1932.
- (i) after the word “verified” the words “or reverified” shall be inserted ; and
- (ii) to the said section the following explanation shall be added, namely :—
- “*Explanation.*—When any such weight or measure or weighing or measuring instrument is found in the possession of any trader or of any employee or agent of such trader, such trader shall be presumed, until the contrary is proved, to have had it in his possession for use for trade.”
3. Section 36 of the said Act shall be deleted. Deletion of section 36 of Bom. XV of 1932.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 38 or Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3901 or Bombay Legislative Council Debates, 1939, Vol. 6, p. 648. For Proceedings in Assembly, see Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 63-73 and 4485 and for Proceedings in Council, see Bombay Legislative Council Debates, 1939, Vol. 6, pp. 31-34.

² See Bombay Code, Vol. 6, p. 47.

BOMBAY ACT No. II OF 1939.¹

[THE BOMBAY SMALL HOLDERS RELIEF (AMENDMENT) ACT, 1939.]

[23rd March 1939.]

An Act to amend the Bombay Small Holders Relief Act, 1938.²

Bom. VIII of 1938. WHEREAS it is expedient to amend the Bombay Small Holders Relief Act, 1938, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Small Holders Relief (Amendment) Act, 1939. Short title and commencement.

(2) It shall come into force on the 31st March 1939.

Bom. VIII of 1938. 2. In sub-section (3) of section 1 of the Bombay Small Holders Relief Act, 1938,² hereinafter called "the said Act" for the figures "1939" the figures "1940" shall be substituted. Amendment of section 1 of Bom. VIII of 1938.

3. In sub-section (2) of section 3 of the said Act, for the words "one year" where they occur at both places, the words "two years" shall be substituted. Amendment of section 3 of Bom. VIII of 1938.

4. In sub-section (1) of section 4 of the said Act, for the figures "1939", the figures "1940" shall be substituted. Amendment of section 4 of Bom. VIII of 1938.

5. In sub-section (1) of section 9 of the said Act, for the figures "1938" where they occur at both the places, the figures "1939" shall be substituted. Amendment of section 9 of Bom. VIII of 1938.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 42 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3507 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 642. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 400-412 and 1485 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 27-28.

² See *Bombay Code*, 1st Supplement, p. 43.

BOMBAY ACT No. III OF 1939.¹

[THE BOMBAY DISTRICT POLICE (AMENDMENT) ACT, 1939.]

[23rd March 1939.]

An Act to amend the Bombay District Police Act, 1890.²

Bom.
IV of
1890. WHEREAS it is expedient to amend the Bombay District Police Act,
1890, for the purpose hereinafter appearing; It is hereby enacted as
follows :—

1. This Act may be called the Bombay District Police (Amendment) Short title.
Act, 1939.

Bom.
IV of
1890. 2. After paragraph 2 of sub-section (I) of section 6 of the Bombay Amendment
District Police Act, 1890,² the following shall be inserted, namely :— of section 6
of Bom. IV
1890. “The District Superintendent of Police may, with the previous of 1890.
permission of the Provincial Government, delegate any of the powers
conferred upon him by or under this Act to an Assistant Superintendent
or Deputy Superintendent of Police.”

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 2 or Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 2940 or Bombay Legislative Council Debates, 1939, Vol. 6, p. 647. For Proceedings in Assembly, see Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 61-63 and 1485 and for Proceedings in Council, see Bombay Legislative Council Debates, 1939, Vol. 6, pp. 29-31.

² See Bombay Code, Vol. III, p. 451.

BOMBAY ACT No. IV OF 1939.¹

[THE BOMBAY FINANCE (AMENDMENT) ACT, 1939.]

[30th March 1939.]

An Act to amend the Bombay Finance Act, 1932.²

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Finance (Amendment) Act, 1939. Short title and commencement.

(2) It shall come into force on the 31st March 1939.

Bom. 11 of 1932. 2. For sub-section (3) of section 2 of the Bombay Finance Act, 1932 (hereinafter called "the said Act"), the following shall be substituted, namely :— Amendment of section 2 of Bom. II of 1932.

"(3) This Act shall remain in operation for eight years from the date on which it comes into force :

Bom. 11 of 1926. Provided that the expiration of this Act shall not revive the provisions of the Indian Stamp (Bombay Amendment) Act, 1926, hereby repealed."

3. In Part II of the said Act—

Amendment of Part II of Bom. II of 1932.

(1) In the proviso to section 5—

(i) after the word "undertaking" the word "or" shall be inserted ; and

(ii) the words "or class of persons" shall be deleted ;

(2) After sub-section (3) of section 6 the following new sub-section shall be inserted, namely :—

"(4) Every person other than a licensee who generates energy for his own use shall pay to the Provincial Government at the time and in the manner prescribed the proper electricity duty payable under this Part on the units of energy consumed by him.

Nothing in this sub-section shall apply to any person who generates energy for the purpose of supplying it for the use of vehicles or vessels."

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, pp. 93-95 or Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3517-3518 or Bombay Legislative Council Debates, 1939, Vol. 6, pp. 659-660 ; For Proceedings in Assembly, see Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 1082-1264, 1320-1341 and 1398-1420, and for Proceedings in Council, see Bombay Legislative Council Debates, 1939, Vol. 6, pp. 148-206 and 210-279.

² See Bombay Code, Vol. 6, p. 7.

(3) In section 7, after the word "licensee" the following words shall be inserted, namely :—

"and every other person who is liable to pay electricity duty under sub-section (4) of section 6."

(4) In section 8 for the words "of licensees" the words and figure "kept under section 7" shall be substituted ;

(5) In section 9 for the words, figures and brackets commencing with the words "at the option of Government" and ending with the words "land revenue" the following shall be substituted, namely :—

"either through a civil court or as an arrear of land revenue—

(a) if the sum was payable under sub-section (1) of section 6, either from the consumer, or, subject to the proviso to the said sub-section from the licensee, at the option of the Provincial Government, and

(b) if the sum was payable under sub-section (4) of section 6 from the person who generates energy for his own use";

(6) In the First Schedule—

(i) for clause (a) substitute the following :—

"(a) In respect of all premises not falling under clause (b) and not exempted under the proviso to section 5 and the Second Schedule.

(1) In the City of Bombay.

(i) For each unit of energy consumed for the use of a cinema house or theatre .. ¾ anna per unit.

(ii) For each unit of energy consumed for any other purpose—

(a) where the total consumption per month does not exceed 12 units .. 1 anna per unit.

(b) where the total consumption per month exceeds 12 units .. 1½ annas per unit.

(2) In other areas .. Such rate for each unit of energy consumed, not exceeding the rates prescribed in clause (1), as the Provincial Government may by notification in the Official Gazette specify."

(ii) in clause (b)—

(a) for the words "Annas per mensem" the words "Such rate as may be prescribed by Government not exceeding annas per mensem", shall be substituted;

(b) for the figures 2, 3, 4, 6 and 1, the following shall respectively be substituted:—

5, 7½, 10, 15 and 2½; and

(c) the "Explanation" shall be deleted.

(7) In the Second Schedule—

(i) exemption (7),

(ii) in explanation (1), the figure and brackets "(1)", and

(iii) explanation (2),

shall be deleted.

4. (1) After sub-section (2) of section 15 of the said Act, the following new sub-section shall be inserted, namely:—

Amendment
of section 15
of Bom. II of
1932.

"(2A) To section 17, the following proviso shall be added, namely:—

'Provided that a clearance list described in Article 20A of Schedule I may be stamped at any time but not later than two months after it is submitted by a member of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925, to the clearing house of such stock exchange.'

Bom.
VIII
of
1925.

(2) The amendment made by this section shall be deemed to have been made on and to have had effect from the 31st March 1938.

5. In clause (c) of sub-section (5) of section 15 of the said Act—

Amendment
of section 15
of Bom. II
of 1932.

(1) in entry (d) in the "Exemptions" under Article 5 relating to "Agreement or Memorandum of an Agreement", for the words, figures and letter "an entry relating to which is made in a clearance list which is duly stamped under Article 20A", the words and figures "an entry relating to which is required to be made in a clearance list in accordance with the rules of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925" shall be substituted; and

Bom.
VIII
of
1925.

(2) in the "Exemption" under Article 43 relating to Note or Memorandum sent by a Broker or Agent to his principal, for the words, figures and letter "an entry relating to which is made in a clearance list which is duly stamped under Article 20A" the words and figures "an entry relating to which is required to be made in a clearance list in accordance with the rules of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925" shall be substituted.

Bom.
VIII
of
1925.

Amendment
of Part V of
Bom. II of
1932.

6. In Part V of the said Act—

(1) in the heading for the word “cities” the words “cities and urban areas” shall be substituted;

(2) in section 16, for the words “Karachi only” the words “such other cities and urban areas, as the Provincial Government may, by notification in the Official Gazette, specify in this behalf” shall be substituted;

(3) in section 17—

(i) in clause (a) for the words commencing with the words “municipal district” and ending with the word “Sabarmati” the words “the limits of the municipal borough of Ahmedabad, the Cantonment of Ahmedabad and the notified area of Sabarmati” shall be substituted; and

(ii) for clause (c) the following clauses shall be substituted, namely :—

“(c) ‘City’ [when used in connection with any city other than those mentioned in clauses (a) and (b) above] means any urban area which the Provincial Government may, by notification in the Official Gazette, declare as being included in the said city; and

(d) ‘Urban area’ means any area within the limits of a municipality, cantonment or notified area committee”;

(4) in section 18—

(i) for the words “to the Cities of Bombay, Ahmedabad, Poona and Karachi” the following words, brackets, letters and figures shall be substituted, namely :—

“(a) to the City of Bombay,

(b) to the Cities of Ahmedabad, Poona and any other city to which this Part has been extended under section 16, and

(c) to any urban area [other than those to which clause (a) or (b) applies] to which this Part has been extended under section 16”;

(ii) after the words “within the said cities” the words “and urban areas” shall be inserted;

(iii) for the entries against Article 23, the following entries shall be substituted, namely :—

The City of Bombay.		The Cities of Ahmedabad and Poona and any other city.		Urban areas other than those mentioned in columns 1 and 2.		
1		2		3		
		Rs. a. p.		Rs. a. p.	Rs. a. p.	
23. Conveyance [as defined by section 2 (10)] so far as it relates to immovable 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 ..	10 0 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 ..	7 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 ..	4 8 0
	Where it exceeds Rs. 300 but does not exceed Rs. 400 ..	14 0 0	exceeds Rs. 300 but does not exceed Rs. 400 ..	10 8 0	exceeds Rs. 300 but does not exceed Rs. 400 ..	6 0 0
	Where it exceeds Rs. 400 but does not exceed Rs. 500 ..	18 0 0	exceeds Rs. 400 but does not exceed Rs. 500 ..	13 8 0	exceeds Rs. 400 but does not exceed Rs. 500 ..	7 8 0
	Where it exceeds Rs. 500 but does not exceed Rs. 600 ..	22 0 0	exceeds Rs. 500 but does not exceed Rs. 600 ..	16 8 0	exceeds Rs. 500 but does not exceed Rs. 600 ..	9 0 0
	Where it exceeds Rs. 600 but does not exceed Rs. 700 ..	26 0 0	exceeds Rs. 600 but does not exceed Rs. 700 ..	19 8 0	exceeds Rs. 600 but does not exceed Rs. 700 ..	10 8 0
	Where it exceeds Rs. 700 but does not exceed Rs. 800 ..	30 0 0	exceeds Rs. 700 but does not exceed Rs. 800 ..	22 8 0	exceeds Rs. 700 but does not exceed Rs. 800 ..	12 0 0
	Where it exceeds Rs. 800 but does not exceed Rs. 900 ..	34 0 0	exceeds Rs. 800 but does not exceed Rs. 900 ..	25 8 0	exceeds Rs. 800 but does not exceed Rs. 900 ..	13 8 0
	Where it exceeds Rs. 900 but does not exceed Rs. 1,000 ..	38 0 0	exceeds Rs. 900 but does not exceed Rs. 1,000 ..	28 8 0	exceeds Rs. 900 but does not exceed Rs. 1,000 ..	15 0 0
	and for every Rs. 500 or part thereof in excess of Rs. 1,000 ..	20 0 0	and for every Rs. 500 or part thereof in excess of Rs. 1,000 ..	15 0 0	and for every Rs. 500 or part thereof in excess of Rs. 1,000 ..	10 0 0

and

(*it*) after the entry relating to Article 33 "Gift" the following entry shall be inserted, namely :—

"

1

2

35. Lease.—

- (b) (i) Where the lease is granted for money advanced and where no rent is reserved. The same duty as is leviable on a conveyance [No. 23, as it stood before its amendment by the Bombay Finance (Amendment) Act, 1932] for a consideration equal to the amount of such advance as set forth in the lease.
- (b) (ii) Where the lease is granted for a fine or premium and where no rent is reserved. 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 such fine or premium as set forth in the lease.
- (c) (i) Where the lease is granted for money advanced in addition to rent reserved. Same duty as is leviable on a conveyance [No. 23, as it stood before its amendment by the Bombay Finance (Amendment) Act, 1932] for a consideration equal to the amount of advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no advance had been paid or delivered :
- Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
- (c) (ii) Where the lease is granted for a fine or premium in addition to rent reserved. 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 such fine or premium as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium had been paid or delivered :
- Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.

Insertion of new Part VI in Bom. II of 1932.

7. After Part V of the said Act, the following part shall be added, namely :—

PART VI.

Urban Immoveable Property Tax.

Extent of Part VI.

20. This Part extends to—

- (i) the City of Bombay,
- (ii) the limits of the municipal boroughs of Thana, Kurla, Bandra and Ahmedabad,

(iii) the limits of the municipal districts of Ville Parle, Ghatkopar-Kiroi and Juhu in the Bombay Suburban District,

(iv) the notified areas of Malad, Kandivali, Borivali, Chembur and Mulund in the Bombay Suburban District, Bhayandar in the District of Thana and Sabarmati in the District of Ahmedabad, and

(v) the limits of the Cantonment of Ahmedabad.

21. Unless there is anything repugnant in the subject or context,— Definitions

(1) "Annual letting value" means—

(a) in the City of Bombay, the rateable value of buildings or lands as determined in accordance with the provisions of the City of Bombay Municipal Act, 1888 ;

Bom.
III of
1888.

(b) in other Municipal areas, the annual letting value of buildings or lands as determined in accordance with the provisions of section 78 of the Bombay Municipal Boroughs Act, 1925, or section 63 of the Bombay District Municipal Act, 1901, as the case may be ;

Bom.
XVIII
of
1925.

(c) in the area of the Cantonment of Ahmedabad, the annual value as defined by section 64 of the Cantonments Act, 1924 :

Bom.
III of
1901.

II of
1924.

Provided that if in any case the property tax is assessed on any building or land on its capital value, such percentage of the capital value as may be determined by the Provincial Government shall be deemed to be the annual letting value.

(2) "Buildings" and "lands" have the same meanings as they have in the City of Bombay Municipal Act, 1888, the Bombay Municipal Boroughs Act, 1925, the Bombay District Municipal Act, 1901, or the Cantonments Act, 1924, as the case may be ;

Bom.
III of
1888.
Bom.
XVIII
of
1925.

(3) "Urban Immoveable Property tax" means a tax leviable under the provisions of section 22 ;

Bom.
III of
1901.
II of
1924.

(4) "Municipality" includes a Notified Area Committee ;

(5) "Municipal area" means an area within the limits of a municipality ;

(6) "Prescribed" means prescribed by rules ;

(7) "Property tax" means in the City of Bombay the general tax levied under section 143 of the City of Bombay Municipal Act, 1888, and in other Municipal areas and in the area of the Cantonment of Ahmedabad, a tax or rate on buildings or lands, or a tax or rate in the form of such tax or rate on buildings or lands levied under the Bombay Municipal Boroughs Act, 1925, or the Bombay District municipal Act, 1901, or the Cantonments Act, 1924, as the case may be ; and

Bom.
III of
1888.

Bom.
XVIII
of
1925.

Bom.
III of
1901.

(8) "Rules" means rules made under section 29,

Levy of
Urban
Immoveable
Property
tax.

22. There shall, subject to the provisions of section 23, be levied ^{II of} and paid to the Provincial Government a tax on buildings and lands, ^{1924.} hereinafter called the "Urban Immoveable Property tax" at ten per cent. of the annual letting value of such buildings or lands :

Provided that such tax shall be levied and paid to the Provincial Government at the rate of five per cent. of the annual letting value—

(a) in the City of Bombay on the buildings and lands the annual letting value of which does not exceed Rs. 2,000, and

(b) in other areas on the buildings and lands the annual letting value of which does not exceed such amount as the Provincial Government may, by notification in the Official Gazette, declare.

Provided further that if any building consists of more than one tenement and such tenements are separately assessed to the property tax, the urban immoveable property tax shall be assessed on the annual letting value of the building as a whole.

Exemption
of certain
buildings and
lands from
the levy of
Urban
Immoveable
Property tax.

23. The Urban Immoveable Property tax shall not be leviable in respect of the following :—

(a) buildings and lands or portions thereof exclusively occupied for public worship or for charitable purposes ;

(b) buildings and lands vesting in His Majesty for purposes of the Central Government ;

(c) buildings and lands vesting in His Majesty for purposes of the Provincial Government or belonging to a Municipality or a local board or a Cantonment Board and used solely for public purposes and not used or intended to be used for purposes of profit ; and

(d) (i) buildings and lands vesting in the trustees of the Port of Bombay and not used or intended to be used for purposes of profit ; and

(ii) wharves, docks, piers, Railways and light-houses (as defined in the Bombay Port Trust Act, 1879) vesting in the Trustees of the Port of Bombay, and used as such and such other properties vesting ^{Bom. VI of} in the said Trustees as the Provincial Government may notify in this ^{1879.} behalf.

Explanation.—For the purposes of this section—

(1) the following buildings and lands or portions thereof shall not be deemed to be exclusively occupied for public worship, or for charitable purposes, namely :—

(a) those in which trade or business is carried on ; and

(b) those in respect of which rent is derived, whether rent is or is not applied exclusively to religious or charitable purposes ;

(2) where any portion of any building or land is exempt from the Urban Immoveable Property tax by reason of its being exclusively occupied for public worship or for charitable purposes, such portion shall be deemed to be a separate property.

24. (1) The Urban Immoveable Property tax shall be levied and collected—

- (a) in the areas within the limits of a municipality to which this Part extends under section 20, by the municipality concerned,
- (b) in the area of the Cantonment of Ahmedabad, by the Collector of Ahmedabad.

Authorities competent to levy and collect Urban Immoveable Property tax and the manner of such levy and collection.

(2) The levy and collection of the Urban Immoveable Property tax shall be made—

- (a) in any area within the limits of a municipality in the same manner in which the property tax is levied and collected in the said area, and
- (b) in the area of the Cantonment of Ahmedabad, as an arrear of land revenue :

Provided that if in any area within the limits of a municipality no property tax is levied by the municipality concerned, the Urban Immoveable Property tax shall be levied and collected in such manner as may be prescribed.

25. A Municipality required to levy and collect the Urban Immoveable Property tax under this Part shall be entitled for its cost of collection to such rebate as may be prescribed.

Municipality entitled to rebate for cost of collection.

26. (1) The Urban Immoveable Property tax shall be leviable primarily on the actual occupier of the buildings or lands upon which the said tax is assessed, if he is the owner of the buildings or lands, or holds them on a building or other lease granted by or on behalf of Government, or on a building or other lease from any person or local authority.

Primary responsibility for the Urban Immoveable Property tax.

(2) In other cases the Urban Immoveable Property tax shall be primarily leviable as follows :—

- (a) if the property is let, upon the lessor ;
- (b) if the property is sublet, upon the superior lessor ;
- (c) if the property is unlet, upon the person in whom the right to let vests.

(3) On failure to recover any sum due on account of the Urban Immoveable Property tax from the person primarily liable, there may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion of the sum due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of the annual letting value thereof.

(4) An occupier who makes any payment for which he is not primarily liable under this section shall be entitled to be reimbursed by the person primarily liable for the payment and may deduct the amount so paid

from the amount of any rent from time to time becoming due from him to such person.

Remission
and refund.

27. (1) Where any building or land assessed to Urban Immoveable Property tax—

(a) has been vacant and unproductive of rent for any period of not less than sixty consecutive days;

(b) consists of separate tenements, one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid;

(c) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value, the municipality concerned or the Collector of Ahmedabad, as the case may be, shall remit or refund such portion of the Urban Immoveable Property tax as may be prescribed.

Explanation.—For the purpose of this section a building or land shall be deemed to be productive of rent if let to a lessee who has a continuing right of occupation thereof, whether it is actually occupied by such lessee or not.

(2) The burden of proving facts entitling any person to claim relief under this section shall be upon him.

Default of
municipality.

28. (1) If any municipality makes default in the levy, collection or payment to the Provincial Government of any sum due in respect of the Urban Immoveable Property tax, the Provincial Government may, after holding such inquiry as it thinks fit, fix a period for the levy, collection or payment of such sum.

(2) If the levy, collection or payment of such amount is not made within the period so fixed, the Provincial Government may direct any bank in which any moneys of the municipality are deposited or the person in charge of the Government treasury or of any other place of security in which the moneys of the municipality are deposited to pay such sum from such moneys as may be standing to the credit of the municipality in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit by such bank or person; and such bank or person shall be bound to obey such order.

(3) Every payment made pursuant to an order under sub-section (2) shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum so paid by it or him out of the moneys of the municipality so deposited with such bank or person.

Rules.

29. (1) The Provincial Government may make rules for carrying out the purposes of this Part.

(2) Without prejudice to the generality of the foregoing provision such rules shall provide for the following matters :—

(a) the manner in which the Urban Immoveable Property tax shall be levied and collected in any municipal area in which no property tax is levied ;

(b) the amount of rebate to which a municipality or other authority would be entitled under section 25 for the cost of collection of the Urban Immoveable Property tax ;

(c) the time at and the manner in which the amount of the Urban Immoveable Property tax collected shall be paid to the Provincial Government ;

(d) the portion of the Urban Immoveable Property tax which shall be refunded or remitted, and the manner in which, and the conditions subject to which, such remission or refund shall be granted ;

(e) such other matters which in the opinion of the Provincial Government are required to be prescribed by rules.

(3) The rules made under this section shall be subject to the condition of previous publication.'

THE BOMBAY SALES TAX ACT, 1939.

CONTENTS.

PREAMBLE.

Sections.

1. Short title, extent and commencement.
2. Definitions.
3. Levy of tax.
4. Assessment of the tax.
5. Government may grant refund of tax in certain cases.
6. Traders to take out licence.
7. Expiry and removal of licence.
8. No trader to carry on business without a licence.
9. Penalty for contravention of section 8.
10. Traders and other persons to keep and maintain accounts.
11. Penalty for failure to keep accounts or submit returns.
12. Power of officers to enter places where any trade is carried on, etc.
13. Suspension or cancellation of licence.
14. Power of entry and search.
15. Searches how made.
16. Power of investigation.
17. Offences to be bailable.
18. Power to compound offences.
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20. The Collector to delegate the power.
21. Officers to be public servants.
22. Protection of persons acting in good faith and limitation of suits and prosecutions.
23. Appeal and revision.
24. Power of Government to exempt certain traders from the Act.
25. Power to make rules.
26. Licence fee and other dues to be recoverable as arrears of land revenue.

Schedule.

BOMBAY ACT No. V OF 1939.¹

[THE BOMBAY SALES TAX ACT, 1939.]

[14th April 1939.]

An Act to provide for the levy of a tax on sales of certain goods.

WHEREAS it is expedient to provide for the levy of a tax on sales of certain goods ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Sales Tax Act, 1939. Short
extent
comm-
ment.
- (2) It shall extend to the whole of the Province of Bombay.

(3) This section shall come into force at once. The Provincial Government may, by notification in the Official Gazette, direct that all or any of the remaining provisions of this Act in respect of all or any of the items in the Schedule shall come into force on such date as may be specified in the notification.

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

(1) “ Consumer ” means a person who purchases goods for the purpose of consumption and not for resale.

(2) “ Importer ” means a person who carries on the trade of importing goods into the Province.

(3) “ Licence ” means a licence granted or renewed under this Act.

(4) “ Prescribed ” means prescribed by rules made under this Act.

(5) “ Retail Sale ” means a sale of goods for the purpose of consumption by the person by whom or on whose behalf such goods are or may be purchased.

(6) “ Retail trader ” means a trader who sells goods for the purpose of consumption by the person by whom or on whose behalf they are or may be purchased.

(7) “ Schedule ” means the schedule appended to this Act.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 104, or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3588, or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 733. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 2161-2189, 2214-2267, 2269-2304 and 2325-2377, and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 344-375.

(5) "Trader" means a person who carries on any business of buying or selling for the purpose of gain or profit and includes—

(a) a manufacturer,

(b) a producer, or

(c) an importer,

who carries on such business, and

(d) a broker or commission agent working in connection with such business.

The words "trade" or "trading" shall be construed accordingly.

(9) "Wholesale trader" means a person who carries on trade for the purpose of resale of any goods and not for consumption.

Levy of tax. 3. (1) There shall be levied and collected a tax on the sale of any kind of goods specified in the Schedule, at such stage between their manufacture, production or import, as the case may be, and their consumption, as may be prescribed :

Provided that such tax shall not be levied on the sale of any goods at more than one such stage :

Provided further that such tax shall not be levied on the sale of any goods by a manufacturer, producer or importer except on retail sale of such goods.

(2) Subject to the provisions of section 4, the tax under sub-section (1) shall be levied by the Collector at the prescribed time, in the prescribed manner and at a prescribed rate not exceeding $6\frac{1}{4}$ per cent. on the value of the sale of such goods.

(3) If any tax payable under sub-section (1) is not paid within the prescribed time, the Collector may, in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Collector may think it reasonable to recover.

Explanation.—For the purposes of this section, a sale of goods by any trader who has purchased them from another trader shall be deemed to be a sale of such goods although such goods may have been subjected to any manufacturing or other process before such sale provided such process does not in substance alter the form of such goods.

Assessment of the tax. 4. (1) In cases where accounts are kept and maintained and statements submitted in the manner and at the period prescribed under section 10, the tax leviable under section 3 shall be assessed by the Collector on the value of sales as disclosed in such accounts and statements.

(2) In cases where no such accounts are kept and maintained or where no such statements are submitted, or where such accounts or statements are in the opinion of the Collector false or incorrect, the Collector shall make the assessment to the best of his judgment.

5. Where any goods, on the sale of which to a wholesale trader the tax is levied and collected under section 3, are exported outside the Province, the wholesale trader concerned shall, subject to such conditions as may be prescribed and upon an application made in this behalf, be entitled to a refund of the tax levied and collected in respect of such goods.

Government may grant refund of tax in certain cases.

6. (1) Every trader carrying on business in the sale or purchase of any kind of goods specified in the Schedule, shall, within two months of the date on which this section comes into force or of his starting business in respect of such goods after such date obtain a licence from the Collector for carrying on such trade.

Traders to take out licence.

(2) Where a trader has more than one shop or place of business whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each shop or place of business.

(3) Notwithstanding anything contained in this section, a hawker shall be liable to obtain one licence, whatever may be the area of his operation.

(4) Every trader shall get his licence renewed before the date on which it expires.

7. (1) Every licence shall be in such form and subject to such conditions as may be prescribed and shall expire on the last day of the year for which it was granted, but may be renewed from year to year :

Expiry and renewal of licence.

Provided that in case of any licence given to a manufacturer, producer or importer the conditions of such licence may provide that the holder of the licence shall not sell the kind of goods for trading in which the licence is given, except to a wholesale trader or a consumer.

(2) The Collector may impose for the grant or renewal of every licence such fee not exceeding Rs. 2 as may be prescribed.

Explanation.—In this section “year” means the financial year.

8. No trader shall carry on business in the sale or purchase of any kind of goods specified in the Schedule without holding a licence under section 6.

No trader to carry on business without a licence.

9. Whoever contravenes the provisions of section 8 shall, on conviction, be punishable with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Penalty for contravention of section 8.

10. Every trader carrying on business in the sale or purchase of any kind of goods specified in the Schedule shall keep and maintain accounts in the form prescribed of the value of goods (manufactured, produced

Traders and other persons to keep and

maintain
accounts.

or imported), sold or purchased by him and shall submit to the officer authorised in this behalf by the Collector statements in such form and at such period as may be prescribed.

Penalty for
failure to
keep accounts
or submit
returns.

11. If any trader liable under section 10 to keep accounts or to submit statements fails to keep or submit the same in the manner and at the period prescribed, he shall on conviction, be punishable with fine which may extend to Rs. 500 and in the case of a continuing failure with an additional fine which may extend to Rs. 50 for every day during which such failure continues after conviction for the first such failure.

Power of
officers to
enter places
where any
trade is
carried on,
etc.

12. Any officer empowered by the Provincial Government in this behalf may, for the purposes of this Act at all reasonable times,—

- (a) require any trader carrying on business in the sale or purchase of any kind of goods specified in the Schedule to produce before him accounts or other documents or to furnish any other information ; or
- (b) inspect the accounts of any such trader.

Suspension
or cancella-
tion of
licence.

13. Subject to such conditions as may be prescribed, the Collector may suspend or cancel a licence given under section 6—

- (a) if any tax payable under section 3 is not duly paid by the holder of such licence ; or
- (b) if there is any breach of any of the conditions subject to which the licence is granted ; or
- (c) if the holder of such licence contravenes any of the provisions of section 10.

Power of
entry and
search.

14. Any officer specially empowered by the Provincial Government in this behalf may enter and search, at any time, by day or by night any building, vessel, vehicle or place in which he has reason to believe that any kind of goods specified in the Schedule is kept for the purposes of sale.

Searches
how made.

15. All searches made under section 14 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

V. c
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Power of
investiga-
tion.

16. (1) Every officer not below such rank as may be prescribed shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(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. 189

Offences to be
bailable.

17. All offences punishable under this Act shall be bailable.

Power to
compound
offences.

18. (1) The Collector may accept from any person who has committed an offence punishable under this Act or the rules thereunder, by way of composition of such offence, a sum of money not exceeding five

hundred rupees or a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, whichever is greater.

(2) On the payment of such sum of money to the Collector the accused person shall be discharged, and no further proceedings shall be taken against such person in respect of such offence.

19. No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act. Jurisdiction to try offences.

20. Subject to the general or special orders of the Provincial Government the Collector may delegate any of the powers conferred upon him by or under this Act to any officer not below the rank of a Mamlatdar or Mahalkari. The Collector to delegate the power.

NLV of 1860. 21. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Officers to be public servants.

22. (1) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Crown 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 and prosecutions.

(2) No suit shall be instituted against the Province and no prosecution or suit shall be instituted against any officer of the Crown in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

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

(a) to the Commissioner or to such officer as the Provincial Government may appoint in this behalf, if such order is passed by a Collector, and

(b) to the Collector, if such order is passed by any officer other than the Collector.

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

(3) The Provincial Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

24. The Provincial Government may, by rules made in this behalf, exempt any class of traders from all or any of the provisions of this Act. Power of Government to exempt certain traders from the Act.

Power to
make rules.

25. (1) The Provincial Government may, for the purposes of carrying out the provisions of this Act, make rules.

(2) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules for the following matters:—

(a) the stage at which, the rate and the time at which and the manner in which the tax shall be levied and collected under section 3;

(b) the conditions subject to which a wholesale trader shall be entitled to refund under section 5;

(c) the form and conditions of the licence under section 7 and the fee for the grant or renewal thereof;

(d) the form of accounts to be maintained, and of statements to be submitted and the periods at which such statements are to be submitted under section 10;

(e) the conditions subject to which a licence may be suspended or cancelled under section 13;

(f) the rank of officer empowered to investigate offences to be prescribed under section 16; and

(g) the conditions subject to which any class of traders shall be exempted from all or any of the provisions of this Act under section 24.

(3) Any rule made under this section may provide that any person contravening any such rule shall be liable on conviction to a fine which may extend to Rs. 50.

(4) Rules made under this section shall be subject to the condition of previous publication and shall be published in the Official Gazette.

Licence fee
and other
dues to be
recoverable
as arrears of
land revenue.

26. All sums payable as taxes, fees or penalties under section 3 or 7 shall be recoverable as arrears of land revenue.

SCHEDULE.

1. Motor spirit.

2. Manufactured cloth including cloth, made wholly or partly of artificial silk, whether manufactured in the Province or imported into the Province.

Explanation.—For the purposes of this Schedule—

(a) "Motor spirit" means any liquid or admixture of liquids which is capable of providing reasonably efficient motive power for any form of motor vehicle and which has a flashing point below 76° F; and

(b) "Manufactured cloth" means cloth which is manufactured by any process carried on by means of any form of energy which is mechanically transmitted and is not generated by human or animal agency.

BOMBAY ACT No. VI OF 1939.¹

[THE BOMBAY ABKARI (AMENDMENT) ACT, 1939.]

[2nd May 1939.]

An Act to amend the Bombay Abkari Act, 1878.²

Bom. WHEREAS it is expedient to amend the Bombay Abkari Act, 1878,
V of for the purposes hereinafter appearing; It is hereby enacted as
1878. follows:—

1. (1) This Act may be called the Bombay Abkari (Amendment) Short title and commencement.
Act, 1939.

(2) It shall come into force on such date as the Provincial Govern-
ment may by notification in the *Official Gazette* appoint.

Bom. 2. After Part IX of the Bombay Abkari Act, 1878, hereinafter Insertion of
V of referred to as "the said Act", the following new Parts shall be inserted, Parts IX-A and IX-B in Bom. V of 1878.
1878. namely:—

"IX-A.—SPECIAL PROVISIONS FOR CERTAIN AREAS.

42-A. This Part shall apply to such areas only as the Provincial Application of Part.
Government may, from time to time, by notification in the *Official Gazette*, specify.

42-B. A Commissioner or Collector, or any other Abkari Officer Power to open packages and examine goods.
duly empowered in this behalf may open any package and examine any goods within any area to which this Part applies.

42-C. A Commissioner or Collector, or any other Abkari Officer Power to stop vessels, etc. and search for intoxicants.
duly empowered in this behalf may stop and search for any intoxicant any vessel, vehicle or other means of conveyance within any area to which this Part applies.

42-D. (1) The unloading and carrying of goods, the bringing of Owner to pay expenses incidental to compliance with above provisions.
them to the place appointed under sub-section (2) for examination, the opening and re-packing of them, where such operations are necessary for searches made under sections 42-B and 42-C, and the removing of goods to and the placing of them in, the place appointed under sub-section (2) for deposit, shall be performed by or at the expense of the owner of such goods.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1938, Part V, p. 591 or Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3624 or Bombay Legislative Council Debates, 1939, Vol. 6, p. 645. For Proceedings in Assembly, see Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 2532-2551 and 3214 and for Proceedings in Council, see Bombay Legislative Council Debates, 1939, Vol. 6, pp. 28, 280-284 and 378.

² See Bombay Code, Vol. II, p. 237.

(2) The owner of goods shall, if so required by an officer conducting the search, take the goods to a place appointed by the Commissioner for the purpose of examination and deposit.

(3) Expenses incurred under sub-section (1) for the purpose of the removing of goods to and the placing of them in the place appointed under sub-section (2) may be recovered as an arrear of land revenue.

IX-B.—PROHIBITION OF CERTAIN ADVERTISEMENTS.

Prohibition
of certain
advertisements.

42-E. (1) No person shall print or publish in any newspaper, book, leaflet, booklet or any other single or periodical publication or otherwise display or distribute any advertisement or other matter—

(a) which commends, solicits the use of or offers any intoxicant ;

or

(b) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of or to evade the provisions of any rule or order made thereunder, or the conditions of any licence, permit or pass obtained thereunder.

(2) Save as otherwise provided in sub-section (3) nothing in this section shall apply to—

(a) catalogues or price lists which may be generally or specially approved by the Commissioner in this behalf ;

(b) any advertisement or other matter contained in any newspaper, book, leaflet, booklet or other publication printed and published outside the Province of Bombay ;

(c) any advertisement or other matter contained in any newspaper printed and published in the Province of Bombay before such date as the Provincial Government may by notification in the *Official Gazette* specify ; and

(d) any other advertisement or matter which the Provincial Government may by notification in the *Official Gazette* generally or specially exempt from the operation of this section.

(3) Notwithstanding anything contained in sub-section (2), the Provincial Government may, by notification in the *Official Gazette*, prohibit within the Province of Bombay the circulation, distribution or sale of any newspaper, book, leaflet, booklet or other publication printed and published outside the Province which contains any advertisement or matter—

(a) which commends, solicits the use of or offers any intoxicant ;

or

(b) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of or to evade the provisions of any rule or

order made thereunder, or the conditions of any licence, permit or pass obtained thereunder.

(4) Where any newspaper, book, leaflet, booklet or other publication wherever printed or published appears to the Provincial Government to contain any advertisement or matter commending, soliciting the use of, or offering any intoxicant, the Provincial Government may, by notification in the *Official Gazette*, declare every copy of the issue of the newspaper, and every copy of such book, leaflet, booklet or other publication to be forfeited to His Majesty, and thereupon any police officer may seize the same wherever found in the Province of Bombay, and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book, leaflet booklet, or other publication may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898.”

V of
1898.

3. After section 43 of the said Act, the following new section shall be inserted, namely :—

“43A. Whoever prints, publishes, displays or distributes any advertisement or other matter which commends, solicits the use of or offers any intoxicant, or which is calculated to encourage or incite any individual or class of individuals or the public generally to commit a breach of or to evade the provisions of any rule or order made thereunder, or the conditions of any licence, permit or pass obtained thereunder in contravention of the provisions of sub-section (1) or circulates, distributes or sells any newspaper, book, leaflet, booklet or other publication, in contravention of the provisions of sub-section (3) of section 42E shall, on conviction, be punishable with fine which may extend to Rs. 1,000.”

Insertion
of new
section 43A
in Bom.
V of 1878.

Penalty for
publishing,
etc., adver-
tisements.

BOMBAY ACT No. VII OF 1939.¹

[THE CITY OF BOMBAY MUNICIPAL (AMENDMENT) ACT, 1939.]

[13th May 1939.]

An Act to amend the City of Bombay Municipal Act, 1888.*

WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the City of Bombay Municipal (Amendment) Act, 1939. Short title.
2. In clause (b) of sub-section (1) of section 16 of the City of Bombay Municipal Act, 1888, after the words "for an offence" the words "involving moral turpitude and" shall be inserted. Amendment of section 16 of Bom. III of 1888.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 106 or *Bombay Legislative Assembly Debates*, 1939 Vol. 5, p. 3686 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 773. For Proceedings in Assembly see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3191-3193 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 621-622.

* See *Bombay Code*, Vol. III, p. 1.

BOMBAY ACT No. VIII OF 1939.¹

[THE BOMBAY DISTRICT MUNICIPAL AND MUNICIPAL BOROUGHS
(AMENDMENT) ACT, 1939.]

[15th May 1939.]

An Act to amend the Bombay District Municipal Act, 1901², and the Bombay Municipal Boroughs Act, 1925³.

Bom. WHEREAS it is expedient to amend the Bombay District Municipal
III of Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for the
1901. purposes hereinafter appearing; It is hereby enacted as follows :—
Bom. XVIII
of 1925.

1. This Act may be called the Bombay District Municipal and Short title.
Municipal Boroughs (Amendment) Act, 1939.

Bom. 2. In the Bombay District Municipal Act, 1901,—
III of 1901.

Amendment
of sections
15 and 23 of
Bom. III of
1901.

(a) in section 15,—

(i) in sub-section (2), after the words "he shall" the words, brackets and figure "subject to the provisions of sub-section (3)," shall be inserted;

(ii) for sub-section (3), the following shall be substituted, namely :—

“(3) In every case, the authority competent to decide whether a vacancy has occurred under this section shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion. Until the Collector decides that the vacancy has arisen, the councillor shall not be disabled under sub-section (2) from continuing to be a councillor. An appeal shall lie against every such decision of the Collector to the Provincial Government in the case of city municipalities and to the Commissioner in other cases and the orders passed by the Provincial Government or the Commissioner in such appeal shall be final :

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard ”.

¹For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, pp. 173-174 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3629-3630 or *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 754-755. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 2552-2603 and 3458 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 499-501 and 574-578.

²See *Bombay Code*, Vol. IV, p. 5.

³See *Bombay Code*, Vol. V, p. 221.

(b) in section 23,—

(i) the proviso to sub-section (7A) shall be deleted ;

(ii) for sub-sections (7B) to (10) the following shall be substituted, namely :—

“(8) In the case of a municipality the president of which is elected under clause (c) of sub-section (2), when a new municipality is constituted after a general election or otherwise, the Collector, or such other officer as the Collector may by order in writing authorise in this behalf, shall call a meeting for the election of a new president and vice-president. Such meeting shall be called within twenty-five days from the date on which the names of the councillors of the new municipality are published in the *Official Gazette* under section 20, but shall not be held on a date prior to the date on which the term of office of the retiring councillors prescribed or extended, as the case may be, under sub-section (1) of section 17 expires, or which is fixed for the dissolution of the municipality under sub-section (2) of section 179, or on which the municipality is re-established under sub-section (5) of section 179 after its supersession, as the case may be.

(9) The meeting called under sub-section (8) shall, until the municipality elects its own chairman for that meeting, be presided over by one of the persons appointed by the Collector in the manner hereinafter provided if the meeting is called by the Collector or, by one of the persons appointed by an officer authorised in this behalf by the Collector if the meeting is called by such officer.

(10) For the purposes of sub-section (9), the Collector or the officer authorised by the Collector to call the meeting, as the case may be, shall select three persons who shall be councillors of the new municipality after obtaining their consent in writing to the selection, and shall arrange their names in a list in order of preference. The retiring president, if any, and the retiring vice-president, if any, shall, if they consent, be among the persons selected and shall, if both of them consent, be placed respectively first and second in the list. If either the retiring president or the retiring vice-president alone consents, he shall be placed first in the list. The person whose name is placed first in the list shall preside at the meeting called under sub-section (8), but if such person is absent or is unable or fails for any reason to preside, the person whose name is placed second in the list shall preside. If the persons whose names are placed first and second in the list are both absent or are unable or fail for any reason to preside, the person whose name is placed third shall preside. If none of the three persons named in the list is present or able or willing to preside the meeting shall not be held, and the Collector, or the

officer authorised by the Collector to call the meeting, as the case may be, shall as soon as may be, call a fresh meeting and shall select three other persons in the manner prescribed above, one of whom shall preside thereat in the order specified above.

(11) If in the election of a chairman for the meeting called under sub-section (8) there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the person presiding in such manner as he may determine. As soon as a chairman is elected he shall take the chair, and the meeting shall then proceed to elect the new president. The president shall take the chair as soon as he is elected and the meeting shall then proceed to elect the new vice-president.

(12) In the case of a municipality the president of which is appointed under clause (a) or (b) of sub-section (2) when a new municipality is constituted after a general election or otherwise the municipality shall elect a vice-president at the first meeting held of such municipality.

(13) In the event of the non-acceptance of office, death, resignation or removal from office of a president, other than an *ex-officio* president, or of a vice-president, or of his election being void or of his becoming incapable of acting in such office or having ceased to be a president or a vice-president under sub-section (5), or a councillor under sub-section (2) of section 15, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up within twenty-five days from the occurrence of the vacancy by the election or appointment, as the case may be, of some other councillor thereto. The provisions of sub-sections (8), (9), (10) and (11) shall be applicable so far as may be, to the calling of a meeting and the procedure to be followed at such meeting for the election of a president under this sub-section".

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3. In the Bombay Municipal Boroughs Act, 1925,—

(a) in section 12,—

(i) in sub-section (4), after the words "his seat shall" the words, brackets and figure "subject to the provisions of sub-section (5)" shall be inserted;

(ii) for sub-section (5), the following shall be substituted, namely:—

"(5) In every case, the authority competent to decide whether a vacancy has occurred under this section shall be the Collector. The Collector may give his decision either on an application made to him or on his own motion. Until the Collector decides that the vacancy has arisen, the seat of the person elected or nominated shall not, under sub-section (4), be deemed to have become vacant. An appeal shall lie against every such decision

Am
of sections
12, 19, 23
and 28 of,
insertion of
new section
19A in, and
deletion of
section 23A
of Bom.
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of the Collector to the Provincial Government and the orders passed by the Provincial Government in such appeal shall be final :

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard."

(b) in section 19—

(i) in sub-section (2), the words, brackets and figures commencing with the words "Provided that" and ending with the words "the new vice-president", and

(ii) sub-section (3)
shall be deleted ;

(c) after section 19, the following new section shall be inserted, namely :—

Election of
president
and vice-
president.

"19A. (1) When a new municipality is constituted after a general election the Collector shall call a meeting for the election of a president and vice-president. The meeting shall be called within twenty-five days from the date on which the names of the councillors of the new municipality are published in the *Official Gazette* under section 17, but shall not be held on a date prior to the date on which the term of office of the retiring councillors prescribed or extended, as the case may be, under sub-section (1) of section 25 expires, or on which the municipality is re-established under sub-section (3) of section 219 after dissolution or under sub-section (5) of section 219 after supersession, as the case may be.

(2) The meeting called under sub-section (1) shall, until the municipality elects its own chairman for that meeting, be presided over by one of the persons appointed by the Collector in the manner hereinafter provided.

(3) For the purposes of sub-section (2) the Collector shall select three persons who shall be councillors of the new municipality after obtaining their consent in writing to the selection, and shall arrange their names in a list in order of preference. The retiring president, if any, and the retiring vice-president, if any, shall, if they consent, be among the persons selected and shall, if both consent, be placed respectively first and second in the list. If either the retiring president or the retiring vice-president alone consents, he shall be placed first in the list. The person whose name is placed first in the list shall preside at the meeting called under sub-section (1), but if such person is absent or is unable or fails for any reason to preside, the person whose name is placed second in the list shall preside. If the persons whose names are placed first and second in the list are both absent or are unable or fail for any reason to preside, the person whose name is placed third shall preside. If none of the three persons named in the list is present or able or willing to preside, the

meeting shall not be held and the Collector shall, as soon as may be, call a fresh meeting, and shall select three other persons in the manner prescribed above, one of whom shall preside thereat in the order specified above.

(4) If in the election of a chairman for the meeting called under sub-section (1) there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the person presiding in such manner as he may determine. As soon as a chairman is elected, he shall take the chair, and the meeting shall proceed to elect the new president. The new president shall take the chair as soon as he is elected and the meeting shall then proceed to elect the new vice-president”.

(d) for sub-section (2) of section 23, the following shall be substituted, namely :—

“(2) The provisions of section 19A shall be applicable, so far as may be, to the calling of a meeting and the procedure to be followed at such meeting for the election of a president under sub-section (1)”.

(e) section 23A shall be deleted ; and

(f) in section 28,—

(i) in sub-section (1), after the words “he shall”, the words, brackets and figure “subject to the provisions of sub-section (2)”, shall be inserted ; and

(ii) for sub-section (2), the following shall be substituted, namely :—

“(2) In every case, the authority competent to decide whether a vacancy has arisen shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion. Until the Collector decides that the vacancy has arisen, the councillor shall not be disabled under sub-section (1) from continuing to be a councillor. An appeal shall lie against every such decision of the Collector to the Provincial Government and the orders passed by the Provincial Government in such appeal shall be final :

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard.”

THE BOMBAY GAS SUPPLY ACT, 1939.

CONTENTS.

PREAMBLE.**Sections.**

1. Short title, extent and commencement.
2. Definitions.
3. Company to prepare and render accounts annually.
4. Audit of accounts.
5. Advisory Committee.
6. Rules to prescribe limits of prices.
7. Price in excess of limit not to be charged or recovered.
8. Penalty.
9. The principal officer to be liable for default made by the company.
10. Extension of the Act to persons manufacturing or supplying gas.
11. Rules.

BOMBAY ACT No. IX OF 1939.¹

[THE BOMBAY GAS SUPPLY ACT, 1939.]

[17th May 1939.]

An Act to provide for the regulation of the prices for supply of gas in the Province of Bombay.

WHEREAS it is expedient to provide for the regulation of prices for the supply of gas in the Province of Bombay and for certain other matters; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Gas Supply Act, 1939.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of the Province of Bombay.

(3) It shall come into force on such date as the Provincial Government may by notification in the Official Gazette appoint.

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

Definitions.

(1) "company" means the Bombay Gas Company, Limited, governed by the Gas Companies Act, 1863, or any other person to whom the provisions of this Act may, for the time being, be extended under section 10 and includes the successors and assigns of such company or person;

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1863.

(2) "consumer" means any person who is supplied with gas by the company;

(3) "prescribed" means prescribed by rules made under this Act.

3. (1) The company shall prepare and render to the Provincial Government or to such officer as the Provincial Government may appoint in this behalf, on or before the prescribed date in each year, a statement of accounts of its undertaking for such period, made up to such date, in such form and containing such particulars, as may be prescribed in this behalf.

Company to
prepare and
render
accounts
annually.

(2) The company shall keep copies of such statement of accounts at its office and sell the same to any applicant at a price not exceeding that which may be prescribed.

1. For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 165 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3688 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 780. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3193-3201 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 626-627.

Audit of
accounts.

4. (1) The Provincial Government may direct that the statement of accounts of the undertaking shall, before being rendered under section 3, be examined and audited by such person as the Provincial Government may appoint or approve in this behalf.

(2) The remuneration of the auditor shall be such as the Provincial Government may direct and his remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the Provincial Government shall approve, shall be paid by the company on demand.

(3) The company shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.

(4) The audit shall be made and conducted in such manner as the Provincial Government may direct.

(5) If the company fails to pay the amount of the auditor's remuneration and the expenses incurred by him within the time fixed by the Provincial Government in this behalf, the same may be recovered from it as an arrear of land revenue.

Advisory
Committee.

5. (1) The Provincial Government may by notification in the Official Gazette constitute an Advisory Committee.

(2) The Advisory Committee shall consist of a Chairman and not less than two other members.

(3) The Provincial Government may by general or special order,—

(i) define the powers, and duties and regulate the procedure of the committee,

(ii) determine the tenure of office of the members of the committee, and

(iii) give directions as to the payment of fees to, and the travelling expenses incurred by, any of the members of the committee in the execution of his duty.

Rules to
prescribe
limits of
prices.

6. The Provincial Government may, from time to time in accordance with the recommendations of the Advisory Committee, make rules prescribing the limits of prices which the company may charge for the supply of gas to any consumer or class of consumers, in the whole of the province or in any specified area.

Price in
excess of
limit not to
be charged or
recovered.

7. Notwithstanding any contract or law, the company shall not, at any time, charge or recover from any consumer price for supply of gas to him in excess of the limit prescribed in this behalf by rules made under section 6.

8. Whoever contravenes any of the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees. Penalty.

9. Where anything is required to be done by the company by or under any provision of this Act, the principal officer of the company shall be bound to do the same and shall be personally liable if made in the doing of any such thing. The principal officer to be liable for default made by the company.

Explanation.—For the purposes of this section, the principal officer of the company shall mean the director, secretary, treasurer, manager or agent of the company.

10. The Provincial Government may, by notification in the Official Gazette, extend the provisions of this Act to any person who manufactures or supplies gas in any area within the Province of Bombay. Extension of the Act to persons manufacturing or supplying gas.

11. (1) The Provincial Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Rules.

(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 matters :—

(a) the date on or before which the statement of accounts of its undertaking shall be rendered by the company to the Provincial Government under sub-section (1) of section 3 ; the date up to which such statement shall be made and the particulars which it shall contain ; and

(b) the maximum price at which copies of statement of accounts shall be sold, under sub-section (2) of section 3.

THE BOMBAY LIFTS ACT, 1939.

CONTENTS.

PREAMBLE.**Sections.**

1. Short title.
2. Extent and commencement.
3. Definitions.
4. Permission to erect a lift.
5. Licence to use a lift.
6. Applications for licence in case of existing lifts.
7. Lift not to be operated without a licence.
8. (i) Right to enter any building for inspection of lifts and lift installation, and
(ii) Order for repairs, alterations to and discontinuance of lifts in an unsafe condition.
9. Report of accidents.
10. Delegation of the powers of Government.
11. Inspection of lifts.
12. Power to make rules.
13. Penalty.
14. Savings.

BOMBAY ACT No. X OF 1939.¹

[THE BOMBAY LIFTS ACT, 1939.]

[17th May 1939.]

An Act to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the Province of Bombay.

WHEREAS it is expedient to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the Province of Bombay in manner hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Lifts Act, 1939. Short title.
2. (1) This Act shall extend to the whole of the Province of Bombay. Extent and commencement.
 (2) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, appoint.
3. In this Act, unless there is anything repugnant in the subject or context.— Definitions.
 - (a) "Inspector of Lifts" means an officer appointed as such by the Provincial Government.
 - (b) "License" means a license granted under section 5.
 - (c) "Lift" means a hoisting mechanism equipped with a cage which moves in a substantially vertical direction, is worked by power and is designed or is actually used to carry passengers.
Explanation.—For the purposes of this clause a lift operator shall not be deemed to be a passenger.
 - (d) "Lift cage" means the car or cage of a lift used for the conveyance of passengers.
 - (e) "Lift installation" includes the lift cage, the lift way, the lift way enclosure, and the operating mechanism of the lift and all ropes, cables, wires and plant directly connected with the operation of the lift.

1. For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1938, Part V, p. 665 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3465 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 777. For Report of the Select Committee, see *Bombay Government Gazette*, 1939, Part V, pp. 179-182. For Proceedings in Assembly see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 73-75, 2269, 3075 and 3201-3203 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 622-626.

(f) "Lift way" means the shaft in which the lift cage travels.

(g) "Lift way enclosure" includes any permanent substantial structure surrounding or enclosing the lift way.

(h) "Power" means any form of energy which is not generated by human or animal agency.

(i) "Prescribed" means prescribed by rules.

(j) "Rules" means rules made under section 12.

Permission
to erect
a lift.

4. Every owner of a place intending to install a lift in such place after the commencement of this Act, shall make an application to such officer as the Provincial Government may authorize in this behalf for permission to erect such lift. Such application shall be in writing and in such form as may be prescribed. Such application shall specify—

(1) the type of the lift.

(2) the rated maximum speed of the lift,

(3) the maker's or designer's rated capacity in weight,

(4) the maximum number of passengers in addition to the lift operator which the lift can carry,

(5) the total weight of the lift cage carrying the maximum load,

(6) the weight of the counterweight,

(7) the number, description, weight and size of the supporting cables,

(8) the depth of the pit from the lowest part of the cage when at the lowest floor,

(9) such details of the construction of the overhead arrangement with the weight and sizes of the beams as may be prescribed, and

(10) such other particulars as may be prescribed.

On receipt of such application the officer authorised under this section shall, after making such enquiry and requiring the applicant to furnish such information as may be necessary, forward the application with his remarks to the Provincial Government. The Provincial Government may thereupon either grant or refuse the permission. Such permission shall be valid only for a period of six months from the date on which it is granted.

Licence to
use a lift.

5. (1) Every owner of a place who is permitted to install a lift under section 4, shall, within one month after the completion of the erection of such lift deliver or send or cause to be delivered or sent to such Officer as the Provincial Government may authorise in this behalf notice in writing of such completion and shall make an application to him for a licence for working the lift.

(2) An application for a licence made under sub-section (1) shall be in such form as may be prescribed.

(3) On receipt of such application such officer as may be authorised in this behalf by the Provincial Government after making such enquiry as may be necessary forward the application with his remarks to the Provincial Government. The Provincial Government may, thereupon, either grant or refuse the licence.

(f) A fee of Rs. 20 shall be paid along with such application.

6. (1) Notwithstanding anything contained in sections 4 and 5 every owner of a place in which a lift has been installed before the date of the commencement of this Act, shall within two months from such date apply for a licence for the working of such lift. Applications for licence in case of existing lifts.

(2) The provisions of sub-sections (2) to (f) of section 5 shall, so far as may be, apply to such application.

7. Subject to such rules as may be made in this behalf no lift shall be worked except under and in conformity with the terms of the licence granted in respect of the same : Lift not to be operated without a licence.

Provided that nothing in this section shall apply to a lift installed at the date of the commencement of this Act, for a period of two months from such date or if an application for license is made within that period in accordance with the provisions of section 6, until such application is finally disposed of under the said section.

8. (1) An officer authorized in this behalf by the Provincial Government may at any time after giving reasonable notice to the occupant enter upon any building in which a lift is installed or is being installed or in connection with which an application for a license has been received, for the purpose of inspecting the lift or the lift installation or the site thereof. Right to enter any building for inspection of lifts and lift installation.

(2) If on such inspection the Officer is of the opinion that any lift in any building is in an unsafe condition, he may issue an order on the owner of the building requiring such repairs or alterations to be made to such lift as he may deem necessary within the time specified therein and may also, if necessary, order the use of such lift to be discontinued until such repairs or alterations are made or such unsafe condition is removed. An appeal shall lie from such order to the Provincial Government and any order passed by the Provincial Government in such appeal shall be final. Order for repairs, alterations to and discontinuance of lifts in an unsafe condition.

9. (1) Where any accident occurs in the operation of any lift resulting in injury to any person the owner of the building in which the lift is working or if such owner has appointed an agent and has communicated his name to the Inspector of Lifts under sub-section (3), such agent shall as soon as may be after such accident give notice with full details of the accident to the Inspector of Lifts and also in the City of Bombay to the Commissioner of Police and elsewhere to the District Magistrate and the working of such lift shall not be resumed except with Report of accidents.

the written permission of the officer authorised in this behalf by the Provincial Government.

(2) For the purposes of sub-section (1), the owner of every building in which a lift has been installed may and if such owner does not reside in such building, shall appoint an agent who shall be a resident in the town or village in which the building is situate to give notice of any accident occurring in the operation of the lift.

(3) The name of every agent appointed under sub-section (2) shall be communicated to the Inspector of Lifts.

Delegation
of the powers
of Govern-
ment.

10. The Provincial Government may delegate any of the powers conferred on it by or under this Act to such officer as it thinks fit.

Inspection
of lifts.

11. Every lift shall be inspected at least once in six months by an officer authorised in this behalf by the Provincial Government. An annual fee of Rs. 15 shall be charged for such inspection and such fee shall include the charges for the inspection of the motor.

Power to
make rules.

12. (1) The Provincial Government may, from time to time by notification in the Official Gazette, make rules to carry out the purposes of this Act.

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

- (a) specifications for lifts,
- (b) the manner in which erection plans of lifts shall be submitted,
- (c) the manner in which the lifts may be tested,
- (d) the form of application for the erection of a lift or a licence for working the same,
- (e) the terms and conditions subject to which and the form in which the licenses may be granted for the working of a lift under section 7,
- (f) the manner in which and the terms subject to which the lifts shall be worked under section 7,
- (g) the manner in which notice of accidents shall be given and the form of such notice, and
- (h) the form of notice to be given under section 8.

Penalty.

13. Whoever contravenes any of the provisions of this Act, rules or conditions of a license or a direction given by the Inspector of Lifts under this Act or the rules shall, on conviction, be punishable with a fine which may extend to five hundred rupees and, in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

Savings.

14. Nothing contained in this Act shall affect the provisions of the Indian Electricity Act, 1910, or any rules made thereunder.

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1910.

THE BOMBAY PRIZE COMPETITION TAX ACT, 1939.

CONTENTS.

PREAMBLE.

Sections.

1. Short title and extent.
2. Definitions.
3. Levy of tax on prize competitions.
4. Licence for promotion of prize competitions.
5. Expiry and renewal of licence.
6. Penalty for contravention of section 4.
7. Promoters of prize competition to keep and maintain accounts.
8. Penalty for failure to keep accounts.
9. Power of Collector to require production of accounts or to inspect accounts.
10. Suspension or cancellation of licence.
11. Power of entry and search.
12. Searches how made.
13. Power of investigation.
14. Offences to be bailable.
15. Jurisdiction to try offences.
16. Government may authorise certain officers to perform functions of Collector.
17. Officers to be public servants.
18. Protection of persons acting in good faith and limitation of suits and prosecutions.
19. License fee and other dues to be recoverable as arrears of land revenue.
20. Appeal and revision.
21. Exemption.
22. Rules.
23. Section 294A of Indian Penal Code not to apply to a person who has obtained a licence under this Act.
24. Savings.

BOMBAY ACT No. XI OF 1939.¹

[THE BOMBAY PRIZE COMPETITION TAX ACT, 1939.]

[26th May 1939.]

**An Act to regulate and levy a tax on prize competitions in the
Province of Bombay.**

WHEREAS it is expedient to regulate and levy a tax on prize Competitions in the Province of Bombay ; It is hereby enacted as follows :—

1. (1) This Act may be called the **Bombay Prize Competition Tax Act, 1939.** Short title
and extent.

(2) It extends to the whole of the Province of Bombay.

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

(1) “ Coupon ” in relation to a prize competition includes any document in which the solution to the competition is submitted by any person.

(2) “ Prize competition ” includes—

(a) crossword prize competition, missing words competition, picture prize competition, number prize competition, or any other competition, for which the solution is prepared beforehand by the promoters of the competition or for which the solution is determined by lot ;

(b) any competition in which prizes are offered for forecasts of the results either of a future event or of a past event the result of which is not yet ascertained or not yet generally known ; and

(c) any other competition success in which does not depend to a substantial degree upon the exercise of skill,

but does not include a prize competition contained in a newspaper or periodical printed and published outside the Province of Bombay.

(3) “ Promoter ” means the person having the control or directing the conduct of a prize competition and in the case of a prize competition

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, pp. 196-197 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3708 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 760. For Proceedings in Assembly, see, *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3238-3258 and 3458 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 578-593.

conducted by or through a newspaper or periodical includes the publisher of such newspaper or periodical and the expressions "promote" and "promoting" shall be construed accordingly.

(4) "Quarter" means a period of three months beginning from 1st January to 31st March, from 1st April to 30th June, from 1st July to 30th September and from 1st October to 31st December in each year.

(5) "Year" means the financial year.

Levy of tax
on prize
competitions.

3. (1) There shall be levied in respect of every prize competition a tax at the rate of 12½ per cent. of the total sum received in respect of such competition. The tax shall be collected from the promoter of such competition.

(2) The amount of tax to be levied in respect of a prize competition under sub-section (1) shall be calculated by the Collector on the total sum received in respect of the prize competition as disclosed in the accounts maintained and statements submitted by him under section 7.

(3) In cases where no such accounts are maintained or where no such statements are submitted or where such accounts or statements are in the opinion of the Collector false or incorrect the Collector shall make the calculation to the best of his judgment.

(4) The tax leviable under sub-section (1) shall be paid within 30 days of the end of each quarter.

(5) If any tax payable under sub-section (1) is in arrear the Collector may in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Collector may think it reasonable to recover.

(6) Notwithstanding anything contained in sub-section (1), the Provincial Government may, by notification in the Official Gazette, direct that the tax to be levied in respect of a prize competition shall be at such rate not exceeding 25 per cent. of the total sum received in respect of such competition as may be specified in the notification.

Licence for
promotion of
Prize
competitions.

4. No prize competition shall be conducted unless a licence in respect of such competition has been obtained by the promoter thereof from the Collector:

Provided that a licence may be granted for more than one such competition conducted by the same person.

Expiry and
renewal of
licence.

5. (1) Every licence shall be in such form and subject to such conditions as may be prescribed and shall expire on the last day of the year for which it was granted and may be renewed from year to year.

(2) The Collector may impose for the grant or renewal of every such licence such fee not exceeding Rs. 10 as may be prescribed.

6. Whoever contravenes the provisions of section 4 shall, on conviction, be punishable with imprisonment of either description which may extend to 3 months or with fine or with both.

Penalty for contravention of section 4.

7. Every person promoting a prize competition of any kind shall keep and maintain accounts relating to such competitions and shall submit to the Collector statements in such form and at such period as may be prescribed.

Promoters of prize competition to keep and maintain accounts.

8. If any promoter of a prize competition liable under section 7 to keep accounts or to submit statements fails to keep the accounts or to submit the statements in the manner and at the period prescribed, he shall, on conviction, be punishable with fine which may extend to Rs. 500.

Penalty for failure to keep accounts.

9. The Collector may, for the purposes of this Act, at all reasonable times—

Power of Collector to require production of accounts or to inspect accounts.

(i) require any promoter of prize competitions to produce before him accounts or other documents or to furnish any other information ; or

(ii) inspect the accounts of any such promoter.

10. The Collector may suspend or cancel a licence given under section 4 ;

Suspension or cancellation of licence.

(1) if any tax payable under section 3 is not duly paid by the promoter of the prize competition ; or

(2) if there is any breach of any of the conditions subject to which the licence is granted ; or

(3) if the holder of such licence contravenes any of the provisions of section 7 ; or

(4) for any other reason for which the suspension or cancellation of the licence is, in the opinion of the Provincial Government, necessary in the public interest.

11. Any officer specially empowered by the Provincial Government in this behalf may enter and search at any time, by day or by night, any building, vessel, vehicle or place in which he has reason to believe that any operation in connection with a prize competition is carried on by a promoter or on his behalf.

Power of entry and search.

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

Searches how made.

V of 1898.

13. (1) Every officer not below the rank of sub-inspector of police shall have power to investigate all offences punishable under this Act.

Power of investigation.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers, (except the power to arrest without warrant)

conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

Offences to be bailable.

14. All offences punishable under this Act shall be bailable.

Jurisdiction to try offences.

15. No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act.

Government may authorise certain officer to perform functions of Collector.

16. The Provincial Government may, by general or special order, authorise any officer to perform the functions to be performed by the Collector under any of the provisions of this Act.

Officers to be public servants.

17. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV
of
1860.

Protection of persons acting in good faith and limitation of suits and prosecutions.

18. (1) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Crown for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit shall be instituted against the Province and no prosecution or suit shall be instituted against any officer of the Crown in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

License fee and other dues to be recoverable as arrears of land revenue.

19. All sums payable as taxes or fees under sections 3 and 5 shall be recoverable as arrears of land revenue.

Appeal and revision.

20. (1) Any person aggrieved by any order under this Act may appeal to the Commissioner or to such officer as the Provincial Government may appoint in this behalf from any order passed by the Collector under this Act.

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

(3) The Provincial Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

Exemption.

21. The Provincial Government may exempt from all or any of the provisions of this Act any prize competition the net proceeds of which are to be devoted to charitable purpose.

22. (1) The Provincial Government may, by notification in the Official Gazette, make rules for the purposes of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision the Provincial Government may make rules for the following matters:—

(i) the form of the licence and the conditions subject to which, it will be granted and the fees which will be imposed for its grant and renewal under section 5;

(ii) the manner in which the accounts shall be kept and maintained and the form in which, and the period at which, the statements of accounts are to be submitted under section 7.

(3) Any rule made under this section may provide that any person contravening any such rule shall, on conviction, be liable to fine which may extend to Rs. 50.

(4) Rules made under this section shall be subject to the condition of previous publication.

XLV
of
1860.

23. Nothing in section 294A of the Indian Penal Code shall apply to any person who holds a licence under section 4.

Section 294A
of Indian
Penal Code
not to apply
to a person
who has
obtained a
licence under
this Act.

Bom.
III of
1912.

24. Nothing in this Act shall apply to the owner, lessee or occupier of any race course to whom a licence has been granted for horse racing on a race course under section 4 of the Bombay Race Courses Licensing Act, 1912, or to any person who carries on the business or vocation of or acts as a book-maker or turf commission agent under a licence or permit issued by such owner, lessee or occupier to enable him to carry on his business or vocation under the said Act as specified in the licence or permit or to any entries in respect of any stake or bet received by such person.

THE BOMBAY REVENUE TRIBUNAL ACT, 1939.

CONTENTS.

PREAMBLE.**Sections.**

1. Short title, extent and commencement.
2. Definitions.
3. Constitution of Tribunal.
4. Powers and functions of the Tribunal.
5. The Tribunal to exercise all powers which Provincial Government could have exercised.
6. No appeal to lie.
7. Review of the orders of the Tribunal.
8. Appeal and application for revision in cases under this Act to lie direct to the Tribunal.
9. Abolition of the Bombay Revenue Tribunal constituted by Government Notification (Revenue Department), No. 4877/33, dated the 1st April 1937 and disposal of pending cases.
10. Manner of executing orders passed by Tribunal.
11. Exemption from court-fees.
12. Rules.
13. Regulations for the business and procedure of the Tribunal.

BOMBAY ACT No. XII OF 1939. ¹

[THE BOMBAY REVENUE TRIBUNAL ACT, 1939.]

[29th May 1939.]

An Act to provide for the constitution of a Revenue Tribunal for the Province of Bombay.

WHEREAS it is expedient to provide for the constitution of a Revenue Tribunal for the Province of Bombay by an Act of the Provincial Legislature ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the **Bombay Revenue Tribunal Act, 1939.** Short title, extent and commencement.

(2) It extends to the whole of the Province of Bombay.

(3) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, appoint.

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

(1) "Commissioner" includes a Commissioner appointed as such under the Bombay Abkari Act, 1878, for the purposes of that Act.

(2) "Prescribed" means prescribed by rules made under this Act.

(3) "Schedule" means the Schedule to this Act.

(4) "Tribunal" means the Bombay Revenue Tribunal constituted under section 3.

CHAPTER II.

CONSTITUTION, POWERS AND FUNCTIONS OF THE BOMBAY REVENUE TRIBUNAL.

3. (1) The Provincial Government shall constitute a tribunal to be called the **Bombay Revenue Tribunal.** The Tribunal shall consist of such number of members, possessing such qualifications, as may be prescribed. Constitution of Tribunal.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, pp. 76-77 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3678-79 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 772. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3091-3104 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 610-621.

(2) Any vacancy in the membership of the Tribunal shall be filled up in the manner prescribed.

Powers and functions of the Tribunal.

4. (1) The Tribunal shall exercise such jurisdiction to entertain appeals and revise decisions in revenue cases as was vested in the Provincial Government immediately before the first day of April 1937 under any law for the time being in force.

(2) In particular and without prejudice to the generality of the foregoing provision the Tribunal shall have jurisdiction to entertain appeals and revise decisions—

(a) in all revenue cases, arising under the provisions of the enactments specified in the Schedule in which such jurisdiction was vested in the Provincial Government immediately before the first day of April 1937, and

(b) in all cases specified in section 9.

(3) Save as expressly provided in any enactment for the time being in force, the Provincial Government may, by notification in the Official Gazette, direct by general or special order that the Tribunal shall also have jurisdiction to entertain and decide appeals and applications for revision in any case in which the Provincial Government may have jurisdiction to entertain and decide such appeals and applications. The Provincial Government may, at any time, by like notification cancel any direction issued by it under this sub-section.

The Tribunal to exercise all powers which Provincial Government could have exercised.

5. In the exercise of the jurisdiction conferred upon it under section 4 in any case, the Tribunal shall have and may exercise all the powers which the Provincial Government had or could have exercised in such case.

No appeal to lie.

6. No appeal shall lie against any order passed by the Tribunal in the exercise of its powers of appeal or revision under section 4.

Review of the orders of the Tribunal.

7. (1) The Tribunal may, either on its own motion or on the application of any party interested, review its own decision or order in any case and pass in reference thereto such order as it thinks fit :

Provided that no such application made by any party shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party or could not be produced by him at the time when its decision was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason :

Provided further that no such decision or order shall be varied or revised unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) An application for review under sub-section (1) by any party shall be made within 90 days from the date of the decision or order of the Tribunal :

IX of 1908. Provided that in computing the period of limitation, the provisions of the Indian Limitation Act, 1908, applicable to applications for review of a judgment or order of a civil court shall, so far as may be, apply to applications for review under this section.

8. Notwithstanding anything to the contrary contained in any law for the time being in force, no appeal or application for revision shall lie to the Commissioner in any case in which an appeal or application for revision lies to the Tribunal under this Act.

Appeal and application for revision in cases under this Act to lie direct to the Tribunal.

9. From the date on which this Act comes into force, the Bombay Revenue Tribunal constituted by Government Notification in the Revenue Department, No. 4877/33, dated the 1st day of April 1937, shall be deemed to have been abolished and all appeals and applications for revision pending before the said Tribunal on the said date shall be deemed to have been instituted before the Tribunal and shall be decided by it as if they were instituted before it.

Abolition of the Bombay Revenue Tribunal constituted by Government Notification (Revenue Department) No. 4877/33, dated the 1st April 1937 and disposal of pending cases.

10. All orders passed by the Tribunal shall be executed in the same manner in which similar orders, if passed by the Provincial Government or other competent authority, as the case may be, could have been executed.

Manner of executing orders passed by Tribunal.

CHAPTER III.

MISCELLANEOUS.

VII of 1870. 11. Notwithstanding anything contained in the Court-fees Act, 1870, no court-fee shall be levied on any application made under this Act.

Exemption from court fees.

12. (1) The Provincial Government may, by notification in the Official Gazette, make rules consistent with the provisions of this Act for carrying out the purposes of this Act, save in regard to the matters specified in section 13.

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

(a) the number and qualifications of members constituting the Tribunal and

(b) the manner in which any vacancy in the Tribunal shall be filled.

(3) Such rules shall be subject to the condition of previous publication.

Regulations
for the
business and
procedure
of the
Tribunal.

13. (1) Subject to the previous sanction of the Provincial Government, the Tribunal shall frame regulations consistent with the provisions of this Act and rules made under section 12 for regulating its procedure and the disposal of its business. Such regulations may provide for the disposal of any case or class of cases by one or more of its members.

(2) The regulations made under sub-section (1) shall be published in the Official Gazette.

Schedule.

Serial No.	Act.	Jurisdiction.
1	2	3
1	The Bombay Rent-free Estates Act, 1852 (XI of 1852).	Appeals or revisions which lie to the Tribunal under Rule 2 of Schedule A to the Act.
2	The Exemptions from Land-revenue (No. 1) Act, 1863 (II of 1863).	Appeals in revenue cases made under section 13 of the Act.
3	The Exemptions from Land-revenue (No. 2) Act, 1863 (VII of 1863).	Appeals in revenue cases made under section 28 of the Act.
4	The Bombay Hereditary Offices Act, 1874 (Bom. III of 1874).	Revision of decisions in revenue cases under section 79 of the Act.
5	The Bombay City Land-revenue Act, 1876 (Bom. II of 1876).	Revision of the Collector's orders in revenue cases under sections 8 and 12 of the Act.
6	The Bombay Abkari Act, 1878 (Bom. V of 1878).	Appeals in revenue cases under section 60 of the Act.
7	The Bombay Land Revenue Code, 1879 (Bom. V of 1879).	Appeals and revision in revenue cases under sections 204 and 211 of the Code.
8	The Khoti Settlement Act, 1880 (Bom. I of 1880).	Appeals in revenue cases under section 20 (2) of the Act.
9	The Matadars Act, 1887 (Bom. VI of 1887).	Revision of decisions in revenue cases under section 4 of the Matadars Act 1887 (Bom. VI of 1887), read with section 79 of the Bombay Hereditary Offices Act, 1874 (Bom. III of 1874).

Schedule—contd.

Serial No.	Act.	Jurisdiction.
1	2	3
10	The Gujarat Taluqdars' Act, 1888 (Bom. VI of 1888).	Appeals and revision in revenue cases specified against the Bombay Land Revenue Code, 1879, read with section 33 of the Gujarat Taluqdars' Act, 1888 (Bom. VI of 1888).
11	The Indian Mines Act, 1923 (IV of 1923).	Revision in revenue cases under section 47 of the Act and appeals and revisions under Government Notification, Revenue Department, No. 1191, dated 5th February 1918.
12	The Indian Forests Act, 1927 (XVI of 1927).	Revision in revenue cases under sections 18 and 22 of the Act.
13	The Bombay (District) Tobacco Act, 1933 (Bom. II of 1933).	Appeals and revision in revenue cases under section 26 of the Act.

THE BOMBAY CHARGED EXPENDITURE ACT, 1939.

CONTENTS.

PREAMBLE.**Sections.**

1. Short title and commencement.
2. Repeal of section 63 of Bom. V of 1878.
3. Amendment of section 9 of Bom. XXXIV of 1935.
4. Amendment of section 7 of Bom. XIX of 1936.

BOMBAY ACT No. XIII OF 1939.¹

[THE BOMBAY CHARGED EXPENDITURE ACT, 1939.]

[15th June 1939.]

An Act to amend certain enactments and to provide that certain expenditure shall be charged on the revenues of the Province.

WHEREAS it is expedient to amend certain enactments and to provide that certain expenditure incurred by the Provincial Government shall be charged on the revenues of the Province; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Charged Expenditure Act, 1939. Short title and commencement.

(2) It shall come into force on the 31st March 1939.

am.
of
178.

2. Section 63 of the Bombay Abkari Act, 1878, shall be repealed. Repeal of section 63 of Bom. V. of 1878.

am.
XXIV
1935.

3. For section 9 of the Bombay Motor Vehicles Tax Act, 1935, the following shall be substituted, namely:— Amendment of section 9 of Bom. XXXIV of 1935.

“9. (1) The Provincial Government shall 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 vehicles and trailers a sum determined by the 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. Utilization of the proceeds of the tax.

(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 Provincial Government, after consulting the local authorities concerned, may determine.

(3) If, in any year, the proceeds of the tax collected under this Act, after deducting such sum as expenses of collection of the tax as the Provincial Government may determine in this behalf, exceed the sum

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, pp. 45-46 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3581 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 726. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 2128-2161, and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 341-344.

of Rs. 26,57,000 the excess amount shall be entered in a separate account and shall be expended in such manner as the Provincial Government may determine solely on the construction, improvement and maintenance of new and existing roads including roads vesting in, belonging to, or managed by, any local authority :

Provided that such expenditure shall be a supplement to and not in substitution for any funds which would otherwise be expended on roads by the Provincial Government or by local authorities.

(f) The contributions made under sub-section (2) and the expenditure incurred under sub-section (3) shall be charged on the revenues of the Province.

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.”

Amendment
of section 7
of Bom. XIX
of 1936.

4. In section 7 of the Bombay Famine Relief Fund Act, 1936, after Bom. sub-section (2) the following new sub-section shall be inserted, XIX of 1936, namely :—

“(3) The expenditure incurred by the Provincial Government under sub-section (2) shall be charged on the revenues of the Province.”

**THE TRANSFER OF PROPERTY AND THE INDIAN REGISTRATION
(BOMBAY AMENDMENT) ACT, 1939.**

CONTENTS.

PREAMBLE.

Sections.

1. Short title.
2. Application of Act.
3. Amendment of section 52 of Act IV of 1882.
4. Amendment of sections 18 and 28 of Act XVI of 1908.

BOMBAY ACT No. XIV OF 1939.¹

**THE TRANSFER OF PROPERTY AND THE INDIAN REGISTRATION
(BOMBAY AMENDMENT) ACT, 1939.**

[15th June 1939.]

**An Act to amend the Transfer of Property Act, 1882,² and the Indian
Registration Act, 1908,³ in their application to the Province
of Bombay.**

WHEREAS it is expedient to amend the Transfer of Property Act, 1882, and the Indian Registration Act, 1908, in their application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Transfer of Property and the Indian Short title. Registration (Bombay Amendment) Act, 1939.

2. This Act shall apply to notices in respect of suits or proceedings which relate to immoveable properties situate wholly or partly in the City of Bombay with effect from such date as may be directed by the Provincial Government in this behalf by notification in the Official Gazette: Application of Act.

Provided that the Provincial Government may by similar notification direct that the provisions of this Act shall apply to such notices relating to immoveable properties situate wholly or partly in such other area as may be specified in the said notification.

IV of 1882. 3. Section 52 of the Transfer of Property Act, 1882, shall be renum- Amendment of section 52 of Act IV of 1882.
bered as sub-section (I) of section 52 of the said Act and

XVI of 1908. (i) in sub-section (I) so renumbered after the word "question", the words and figures "if a notice of the pendency of such suit or proceeding is registered under section 18 of the Indian Registration Act, 1908." and after the word "property" where it occurs for the second time, the words "after the notice is so registered", shall be inserted; and

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 67 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3683, or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 767. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3108-3111; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 600-638.

² Central Acts, Vol. III.

³ Central Acts, Vol. V.

(ii) after the said sub-section (1) so renumbered the following shall be inserted, namely :—

“ (2) Every notice of pendency of a suit or proceeding referred to in sub-section (1) shall contain the following particulars, namely :—

(a) the name and address of the owner of immovable property or other person whose right to the immovable property is in question ;

(b) the description of the immovable property, the right to which is in question ;

(c) the court in which the suit or proceeding is pending ;

(d) the nature and title of the suit or proceeding ; and

(e) the date on which the suit or proceeding was instituted.”

Amendment
of sections 18
and 28 of
Act XVI of
1908.

4. In the Indian Registration Act, 1908,—

(1) in section 18—

(i) the word “ and ” after clause (e) shall be deleted ; and

(ii) after clause (e) the following shall be inserted, namely :—

“ (ee) notices of pending suits or proceedings referred to in section 52 of the Transfer of Property Act, 1882 ; and ”: IV of
 and 1882.

(2) in section 28 for the brackets, letters and word “ (b) and (c) ”, the brackets, letters and word “ (b), (c) and (ee) ”, shall be substituted.

**THE PRESIDENCY-TOWNS INSOLVENCY AND THE PROVINCIAL
INSOLVENCY (BOMBAY AMENDMENT) ACT, 1939.**

CONTENTS.

PREAMBLE.

Sections.

1. Short title.
2. Amendment of sections 9 and 112 of Act III of 1909 and insertion of new sections 9A and 101A therein.
3. Amendment of sections 6 and 79 of Act V of 1920 and insertion of new section 6A therein.

BOMBAY ACT No. XV OF 1939.¹

[THE PRESIDENCY-TOWNS INSOLVENCY AND THE PROVINCIAL
INSOLVENCY (BOMBAY AMENDMENT) ACT, 1939.]

[19th June 1939.]

**An Act to amend the Presidency-towns Insolvency Act, 1909,² and
the Provincial Insolvency Act, 1920,³ in their application to
the Province of Bombay.**

WHEREAS it is expedient to amend the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, in their application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Presidency-towns Insolvency and the Provincial Insolvency (Bombay Amendment) Act, 1939. Short title.

2. In the Presidency-towns Insolvency Act, 1909,—

(a) In section 9 after clause (h), the following new clause shall be inserted, namely:—

“(i) if, after a creditor has served an insolvency notice on him in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not within the period specified in the notice which shall not be less than one month comply with the requirements of the notice:

Provided that the debtor shall not be deemed to have committed an act of insolvency for not complying with the requirements of the notice, if he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him.”;

(b) after section 9, the following new section shall be inserted, namely:—

“9A. (1) An insolvency notice under this Act shall be in the prescribed form and shall be served in the prescribed manner. Insolvency notice.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1938, Part V, pp. 595-596, or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3681 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 724. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3104-3108; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 309-339.

² Central Acts, Vol. III.

³ Central Acts, Vol. VII.

Amendment of sections 9 and 112 of Act III of 1909 and insertion of new sections 9A and 101A therein.

It shall require the debtor to pay the amount due under the decree or order, or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent and shall state the consequences of non-compliance with the notice.

(2) Such notice shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement; but if the debtor does not give such notice, he shall be deemed to have complied with the insolvency notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein”;

(c) after section 101, the following new section shall be inserted, namely :—

Limitation.

“101A. Where an order of adjudication has been annulled under this Act, in computing the period of limitation prescribed for any suit or application for the execution of a decree (other than a suit or application in respect of which leave of the Court was obtained under section 17) which might have been brought or made but for the making of an order of adjudication under this Act, the period from the date of the order of adjudication to the date of the order of annulment shall be excluded :

Provided that nothing in this section shall apply to a suit or application in respect of a debt provable but not proved under this Act” ; and

(d) in sub-section (2) of section 112, after clause (a) the following clause shall be inserted, namely :—

“(aa) the form of insolvency notice and the manner in which it may be served :”.

Amendment of sections 6 and 79 of Act V of 1920 and insertion of new section 6A therein.

3. In the Provincial Insolvency Act, 1920,—

V of 1920.

(a) in section 6, after clause (b), the following new clause shall be inserted, namely :—

“(i) if after a creditor has served an insolvency notice on him in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not within the period specified in the notice which shall not be less than one month comply with the requirements of the notice :

Provided that the debtor shall not be deemed to have committed an act of insolvency for not complying with the requirements of the notice, if he has a counter-claim or set off which equals or exceeds

the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him”;

(b) after section 6, the following new section shall be inserted, namely—

“ 6A. (1) An insolvency notice under this Act shall be in the prescribed form and shall be served in the prescribed manner. It shall require the debtor to pay the amount due under the decree or order, or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent and shall state the consequences of non-compliance with the notice. ^{Insolvency notice.}

(2) Such notice shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement; but if the debtor does not give such notice, he shall be deemed to have complied with the insolvency notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein.”; and .

(c) in sub-section (2) of section 79, after clause (a) the following clause shall be inserted, namely :—

“(aa) the form of insolvency notice and the manner in which it may be served;”.

THE BOMBAY RENT [RESTRICTION] ACT, 1939.

CONTENTS.

PREAMBLE.**Sections.**

1. Short title, extent and operation.
2. Application of the Act.
3. Court competent to decide questions under the Act.
4. Definitions.
5. Restriction on raising rent.
6. Increase of rent on account of improvements excepted.
7. Cases where rent to be deemed and not to be deemed to be increased.
8. Increase of rent on account of payment of rates excepted.
9. Rent not to be increased on account of payment of urban immoveable property tax.
10. Fine or premium not to be charged for grant, renewal or continuance of tenancy.
11. No order for ejection ordinarily to be made if rent paid at allowable rate.
12. Consequences of non-user or non-occupation of premises of which possession has been restored to landlord.
13. In City of Bombay distress warrants barred.
14. Rent which should not have been paid may be recovered.
15. Court may determine standard rent in certain cases.
16. Rules.

BOMBAY ACT No. XVI OF 1939.¹

[THE BOMBAY RENT RESTRICTION ACT, 1939.]

[19th June 1939.]

An Act to restrict the increase of rents of certain premises in consequence of the levy of the urban immoveable property tax in the Province of Bombay.

WHEREAS it is expedient to restrict the increase of rents of certain premises in consequence of the levy of the urban immoveable property tax in the Province of Bombay; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Rent Restriction Act, 1939. Short title,
extent and
operation.

(2) It shall extend to—

(i) the City of Bombay,

(ii) the limits of the municipal boroughs of Thana, Kurla, Bandra and Ahmedabad,

(iii) the limits of the municipal districts of Ville Parle, Ghatkopar-Kirol and Juhu in the Bombay Suburban District,

(iv) the notified areas of Malad, Kandivali, Borivali, Chembur and Mulund in the Bombay Suburban District, Dhayandar in the District of Thana and Sabarnati in the District of Ahmedabad, and

(v) the limits of the Cantonment of Ahmedabad.

(3) It shall remain in force up to and inclusive of the 31st day of March 1940 :

Provided that the expiration of this Act shall not render recoverable any rent which during the continuance thereof was irrecoverable or affect the right of a tenant to recover any sum which during the continuance thereof was under this Act recoverable by him.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 299 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, p. 3714 or *Bombay Legislative Council Debates*, 1939, Vol. 6, p. 565. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3258-3280, 3331-36, 3454; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 593-600.

Application of the Act. 2. The provisions of this Act shall apply to premises, the standard rent of which does not exceed rupees eighty per month :

Provided that the Provincial Government may direct that all or any of the provisions of this Act shall not apply to any particular premises or class of such premises.

Court competent to decide questions under the Act. 3. When under the provisions of this Act, any question arises for the determination of a Court or any order is to be made by a Court, such question shall be determined or such order made by the Court having cognizance of the suit or proceeding, if any, in relation to which such question arises or such order is to be made.

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

(1) The expression “landlord” means any person for the time being entitled to receive rent in respect of any premises whether on his own account or on account or on behalf or for the benefit of any other person or as a trustee, guardian or receiver for any other person. It includes a tenant who sub-lets any premises and every person from time to time deriving title under a landlord.

(2) The expression “premises” means—

(a) any building or part of a building let separately for any purpose whatever, including any land let therewith, or

(b) any land let separately for the purpose of being used principally for business or trade,

but does not include a room in a hotel or a boarding house.

(3) The expression “standard rent” in relation to any premises means—

(a) the rent at which the premises were let on the first day of January 1939; or

(b) where they were not let on the first day of January 1939 the rent at which they were last let before that date; or

(c) where they were or shall be first let after the first day of January 1939, the rent at which they were or shall be first let; or

(d) in any of the cases specified in section 15 the rent fixed by the Court.

(4) The expression “tenant” means any person by whom or on whose account rent is payable for any premises, and includes every person from time to time deriving title under a tenant.

5. (1) Subject to the provisions of this Act, where the rent of any premises has been or is hereafter during the continuance of this Act, increased above the standard rent, the amount by which the rent payable exceeds the amount which would have been payable had the increase not been made shall, notwithstanding any agreement to the contrary, be irrecoverable :

Provided that nothing in this section shall apply—

(a) to any rent which accrued due before the first day of January 1939,

(b) to any periodical increment of rent accruing due under any agreement entered into before the first day of January 1939, or

(c) to rent payable under any lease entered into before the first day of January 1939, which has not expired on the said date.

(2) For the purposes of this section the rent shall be deemed to have accrued from day to day.

6. Where the landlord has since the first day of January 1939, incurred, or during the continuance of this Act incurs expenditure on any improvement or structural alterations of any premises, (not including expenditure on decoration or ordinary repairs) an increase of rent at a rate not exceeding 6 per centum per annum on the amount so expended shall not be deemed to be an increase for the purposes of section 5.

7. (1) Where, as the result of any alteration in the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Act, whether the sum payable as rent is increased or not.

(2) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Act, whether the sum payable as rent is increased or not.

8. Where a landlord pays any municipal rate, cess, or tax in respect of any premises, any increase of the rent thereof shall not be deemed to be an increase for the purposes of section 5, if the amount of the increase does not exceed any increase in the amount for the time being payable by the landlord in respect of such rate, cess or tax over the amount paid in the period of assessment which included the first day of January 1939.

9. Notwithstanding anything contained in section 8 or any law for the time being in force, or any contract, no landlord shall recover from his tenant the amount of the urban immovable property tax or any portion thereof levied under section 22 of the Bombay Finance Act, 1932, in respect of any premises occupied by such tenant by any increase in the amount of the rent payable or otherwise.

Fine or premium not to be charged for grant, renewal or continuance of tenancy.

10. (1) It shall not be lawful for any person, in consideration of the grant, renewal or continuance of a tenancy of any premises, to require the payment of any fine, premium or any other like sum in addition to the rent.

(2) Where any such payment has been made after the first day of January 1939, the amount shall be recoverable by the tenant by whom it was made from the landlord, and may without prejudice to any other method of recovery be deducted from any rent payable by him to the landlord.

(3) Nothing in this section shall apply to any payment under any agreement entered into before the first day of January 1939.

No order for ejectment ordinarily to be made if rent paid at allowable rate.

11. (1) No order for the recovery of possession of any premises shall be made so long as the tenant pays or is ready and willing to pay rent to the full extent allowable by this Act and performs the other conditions of the tenancy :

Provided that nothing in this section shall apply where the tenant has committed any act contrary to the provisions of clause (o) or clause (p) of section 108 of the Transfer of Property Act, 1882, or has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring occupiers, or where the premises are reasonably and *bona fide* required by the landlord either for the erection of buildings or for his own occupation or for the occupation of any person for whose benefit the premises are held, or where the landlord can show any cause which may be deemed satisfactory by the court. ^{IV of 1882.}

(2) Where any order of the kind mentioned in sub-section (1), has been made on or after the first day of January 1939 but not executed before the commencement of this Act, the court by which the order was made may, if it is of opinion that the order would not have been made if this Act had been in operation at the date of the making of the order, rescind or vary the order in such manner as the court may think fit for the purpose of giving effect to this Act.

Consequences of non-user or non-occupation of premises of which possession has been restored to landlord.

12. When any order for the recovery of possession of any premises has been made, under the proviso to sub-section (1) of section 11, on the ground that the premises are reasonably and *bona fide* required by the landlord either for the erection of buildings or for his own occupation or for the occupation of any person for whose benefit the premises are held and the premises are not used for the erection of buildings or occupied by the aforesaid persons within three months of the date when possession has been obtained or are re-let within the same period to any person other than the original tenant, the court by which the order was made may on an application of the original tenant made within six months of such date place him in occupation of the premises on the original terms and conditions and if in the opinion of the court the premises were not reasonably and *bona fide* required by the landlord for the aforesaid purposes, direct payment to him by the landlord of such compensation as the court may think fit.

13. No distress warrant shall be issued under chapter VIII of the In City of
 XV. of Presidency Small Cause Courts Act, 1882, Bombay
 1882. distress
 warrants
 barred

(a) for any rent which is under the provisions of this Act irrecoverable, or,

(b) unless the person applying for a warrant under the said chapter of the said Act shall, when making his application for the same, swear or affirm that none of the rent, in respect of which the warrant is applied for, is irrecoverable under this Act.

14. (1) Where any sum has, whether before or after the commencement of this Act, been paid on account of rent, being a sum which is by reason of the provisions of this Act irrecoverable, such sum shall at any time within a period of six months after the date of the payment, or, in the case of a payment made before the commencement of this Act, within six months after the commencement thereof be recoverable by the tenant by whom it was paid from the landlord who received the payment or his legal representative, and may without prejudice to any other method of recovery be deducted by such tenant from any rent payable within such six months by him to such landlord. Rent which should not have been paid, may be recovered.

(2) In this section the expression "legal representative" has the same meaning as in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member. V of 1908.

15. (1) In any of the following cases the Court may fix the standard rent at such amount as, having regard to the provisions of this Act and the circumstances of the case, it deems just— Court may determine standard rent in certain cases.

(a) where, by reason of any premises having been let at one time as a whole and at another time in parts, or where a tenant has sub-let or sub-lets a part of any premises let to him, or where for any reason any difficulty arises in giving effect to this Act; or

(b) where, in the case of any premises let furnished, it is necessary to distinguish, for the purpose of giving effect to this Act, the amount payable as rent from the amount payable as hire of furniture; or

(c) where any premises have been or are let rent-free or at a nominal rent or for some consideration in addition to rent.

(2) In the case of any such sub-letting as is referred to in clause (a) of sub-section (1), the Court shall have regard to the standard rent of the premises a part of which has been or is sub-let.

16. (1) The Provincial Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act. Rules.

(2) Rules made under this section shall be subject to the condition of previous publication.

BOMBAY ACT No. XVII OF 1939.¹

[THE BOMBAY FINANCE (SECOND AMENDMENT) ACT, 1939.]

[11th September 1939.]

An Act to amend the Bombay Finance Act, 1932.²

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Bom.
II of
1932.

1. This Act may be called the Bombay Finance (Second Amendment) Act, 1939. Short title.

Bom.
II of
1932.

2. In clause (a) of sub-section (1) of section 24 of the Bombay Finance Act, 1932, hereinafter called the said Act after the word "concerned," the words "notwithstanding any law under which such municipality is constituted," shall be inserted. Amendment of section 24 of Bom. II of 1932.

3. After section 24 of the said Act the following new sections shall be inserted, namely:— Insertion of new sections 24A and 24B in Bom. II of 1932.

"24A. (1) If any person, on being served either before or after the coming into force of the Bombay Finance (Second Amendment) Act, 1939, with a notice of demand in the levy and collection of the Urban Immoveable Property tax in the manner provided in sub-section (2) of section 24, fails to pay within the period mentioned in the notice, any amount due from him on account of the said tax, the municipality or the Collector of Ahmedabad, as the case may be, may, subject to the general or special orders of the Provincial Government, recover from him as a penalty a sum not exceeding one-fourth of the amount of the tax so unpaid, in addition to the amount of such tax payable by him: Penalty for default in payment of the Urban Immoveable Property tax.

Provided that the municipality or the Collector, as the case may be, is satisfied that the person liable to pay the Urban Immoveable Property tax has wilfully failed to pay the amount of such tax.

¹For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 439, or *Bombay Legislative Assembly Debates*, 1939, Vol. 6, p. 1442 or *Bombay Legislative Council Debates*, 1939, Vol. 7, p. 119. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 6, pp. 1027-76, 1120-82, 1223-70, 1274-1319; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 7, pp. 66-106.

²See *Bombay Code*, Vol. VI, p. 9.

90 *The Bombay Finance (Second Amendment) Act, 1939.* [BOM. XVII
OF 1939]

(2) Notwithstanding anything contained in sub-section (1), if the notice of demand in the levy and collection of the Urban Immoveable Property tax has been served on any person before the coming into force of the Bombay Finance (Second Amendment) Act, 1939, no sum shall be recovered as a penalty under sub-section (1) unless the person on whom such notice has been served wilfully fails to pay the amount of the tax due within a period of 15 days from the date of the coming into force of the said Act or within the period mentioned in the notice, whichever period expires later.

(3) Sums recoverable under this section shall be recovered in the manner provided in section 24 for the recovery of the Urban Immoveable Property tax.

The Urban Immoveable Property tax to be a first charge on premises on which it is leviable.

24B. Notwithstanding anything contained in any law and notwithstanding any rights arising out of any contract or otherwise howsoever, all sums due on account of the Urban Immoveable Property tax levied under section 22 or as a penalty imposed under section 24A for failure to pay such tax, in respect of any building or land, shall, subject to the prior payment of the land revenue, if any, due to the Provincial Government thereon, be a first charge upon the said building or land and upon the moveable property, if any, found within or upon such building or land and belonging to the person liable for such tax or penalty."

Amendment of section 28 of Bom. II of 1932.

4. In sub-section (2) of section 28 of the said Act, after the words "the Provincial Government may" the words, "notwithstanding any law relating to the funds vesting in such municipality or any other law for the time being in force," shall be inserted.

Act to come into force on 31st March 1939.

5. The provisions of this Act shall be deemed to have come into force on 31st March 1939.

BOMBAY ACT No. XVIII OF 1939.¹

[THE BOMBAY VILLAGE PANCHAYATS (AMENDMENT) ACT, 1939.]

[18th September 1939.]

An Act to amend the Bombay Village Panchayats Act, 1933.²

Bom. VI of 1933. WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1939. Short title.

2. In section 3 of the Bombay Village Panchayats Act, 1933, hereinafter called "the said Act":— Amendment of section 3 of Bom. VI of 1933.

(i) At the beginning, the following new clause shall be inserted, namely:—

“(1) ‘Backward tribe’ means a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936.”

(ii) Clause (1) shall be renumbered as clause (1A).

(iii) In clause (3), for the words, brackets and figures “sub-section (d) of section 37” the word, figures and letter “section 37A” shall be substituted;

(iv) For clause (5) the following shall be substituted, namely:—

“(5) ‘Harijan’ means a person belonging to any of the Scheduled Castes as defined in the Government of India (Scheduled Castes) order, 1936.”

(v) In clause (17), the words, brackets and figure “sub-section (I) of” shall be deleted.

¹For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1938, Part V, pp. 349-52, or *Bombay Legislative Assembly Debates*, 1939, Vol. 4, pp. 4511-13. For Report of the Select Committee, see *Bombay Government Gazette*, 1939, Part V, pp. 3-12 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3465-3471. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 4, pp. 434-43, 456-510, 547-60, 617-38, 682-712, 746-88, 4313 and Vol. 5, pp. 110, 412-34, 454-77, 511-64, 565-92, 614-77, 705-58, 780-805, 2380-2417, 3336-38; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 6, pp. 378-417, 419-77, 479-98, 574.

²See *Bombay Code*, Vol. VI, p. 97.

Amendment
of section 4
of Bom. VI
of 1933.

3. For section 4 of the said Act the following shall be substituted namely :—

Declaration
of village.

“ 4. (1) Whenever the Provincial Government after making such inquiry as may be prescribed is satisfied that any local area comprising a revenue village or a group of revenue villages or hamlets forming part of a revenue village has a population of not less than 2,000, it shall, by notification in the *Official Gazette*, declare such local area to be a village :

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that any local area having a population of less than 2,000 shall be declared a village under this section.

(2) The Provincial Government may after consultation with the district local board by like notification at any time—

(a) include within any village or exclude from any village any local area or otherwise alter the limits of any village, or

(b) declare that any local area shall cease to be a village.”

Amendment
of section 6
of Bom. VI
of 1933.

4. For section 6 of the said Act, the following shall be substituted, namely :—

Constitution
of Pancha-
yats.

“ 6. (1) A panchayat shall consist of such number of elected members, not being less than seven or more than eleven in number, as the Collector after consultation with the district local board may determine.

In any such panchayat such number of seats shall be reserved for the representatives of women, Muhammadans, Harijans or backward tribes as may be prescribed by the Provincial Government under clause (b) of sub-section (1) of section 108 :

Provided that no such seat shall be reserved for the representatives of Muhammadans, Harijans or backward tribes in any panchayat unless the Provincial Government is of the opinion that the reservation of such seats is necessary having regard to the population of such community, class or tribe in the village.

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

(3) If for any reason the election does not result in the return of the required number of qualified persons willing to take office, the district local board shall, within four weeks from the date on which the names of elected members are published in the *Official Gazette* under section 7, appoint the required number of persons, being persons who would have been qualified to be elected. If the

district local board fails to make all or any of such appointments within the time specified, the Collector shall make such appointments; and the persons so appointed shall be deemed to have been duly elected under sub-section (1)."

5. In section 7 of the said Act—

Amendment
of section 7
of Bom. VI
of 1933.

(i) in sub-section (1), the word "elected" shall be deleted; and

(ii) in sub-section (2), after the words "prescribed manner" the words "and the names of members elected shall be published by the Collector in the *Official Gazette*" shall be inserted.

6. In section 8 of the said Act—

Amendment
of section 8
of Bom. VI
of 1933.

(i) the words "elected or nominated" shall be deleted;

(ii) in clause (c), after the word "offence" the words "which involves moral turpitude and which is" shall be inserted; and the words and figures "or has been ordered to furnish security for good behaviour under the Code of Criminal Procedure, 1893" the words "or so long as such order is in force", and the words "or order" at both the places where they occur, shall be deleted;

(iii) after clause (h) the following clauses shall be inserted, namely:—

"or

(i) fails to pay any tax or fee due to the panchayat within three months from the date on or before which the amount of such tax or fee is required to be paid in the bill presented to the person under sub-section (1) of section 91 or

(j) is a servant of the Crown or a servant of any local authority; "

(iv) the proviso shall be deleted.

7. After section 9 of the said Act, the following shall be inserted, namely:—

Insertion of
new section
9A in Bom.
VI of 1933.

"9A. If at any time the Collector, after such inquiry as he considers necessary and after giving an opportunity to the member concerned to be heard is satisfied that—

Declaration
if disquali-
fication is
incurred.

(a) a member appointed under sub-section (3) of section 6 was subject to any of the disqualifications mentioned in section 8 at the time of his appointment, or

(b) any member whether elected or appointed has incurred any of the disqualifications mentioned in section 8 after his election or appointment, as the case may be,

the Collector shall declare the appointment of such member invalid or that such member shall not continue to be the member of the panchayat, as the case may be.

Such declaration shall be final."

- Amendment of section 10 of Bom. VI of 1933. 8. In section 10 of the said Act, for the words and figure " of any member invalid under section 9, a fresh election ", the words figures and letter " or appointment of any member invalid or that any member shall not continue to be the member of a panchayat under section 9 or 9A, as the case may be a fresh election or appointment " shall be substituted.
- Amendment of section 11 of Bom. VI of 1933. 9. In section 11 of the said Act the word " elected " shall be deleted.
- Amendment of section 12 of Bom. VI of 1933. 10 (1) For sub-section (1) of section 12 of the said Act the following shall be substituted, namely :—
 " (1) The term of office of the members elected at a general election or appointed under sub-section (3) of section 6 shall be deemed to commence on the date of the first meeting of the panchayat. The first meeting of the panchayat shall be held on a day fixed by the President of the district local board within four weeks from the date on which the names of elected members are published under section 7. If the President fails to fix such date within the time so specified the Collector shall fix such date."
 (2) Sub-sections (3) and (4) of the said section shall be deleted.
- Amendment of section 13 of Bom. VI of 1933. 11. In section 13 of the said Act, the words " elected or nominated " shall be deleted.
- Amendment of section 14 of Bom. VI of 1933. 12. In section 14 of the said Act the brackets and figure " (1) " and sub-section (2) shall be deleted.
- Amendment of section 15 of Bom. VI of 1933. 13. For section 15 of the said Act, the following shall be substituted, namely :—
 " 15. Save as otherwise provided in this Act, a sarpanch and a deputy sarpanch shall hold office for the term of a panchayat."
- Term of office of sarpanch and deputy sarpanch. " 15. Save as otherwise provided in this Act, a sarpanch and a deputy sarpanch shall hold office for the term of a panchayat."
- Amendment of section 17 of Bom. VI of 1933. 14. In section 17 of the said Act—
 (i) In sub-section (1) after the word " called " the words, figures and brackets " on the date fixed under sub-section (1) of section 12 " shall be inserted.
 (ii) In sub-section (2)—
 (a) the words and figures commencing with the words " or on the expiry of the period " and ending with the figures " 15 " shall be deleted ; and
 (b) after the word " convene " the words, figures and brackets " on the date fixed under sub-section (1) of section 12 " shall be inserted.

(iii) For the proviso the following shall be substituted, namely :—

“ Provided that when no meeting for the election of a sarpanch has been called by the retiring sarpanch on the date fixed under sub-section (1) of section 12 or if a meeting called by him for this purpose on the aforesaid date has not been attended by him, the president of the district local board shall proceed to convene a meeting of the panchayat in the manner described in sub-section (1) and a new sarpanch shall be elected accordingly.

If the president of the district local board fails to convene such meeting within a period of 15 days from the date fixed under sub-section (1) of section 12, the Collector himself shall convene such meeting. The President of the district local board or the Collector, as the case may be, shall nominate one of the members to preside at the meeting so convened. If the person so nominated fails to preside at the meeting the members present shall elect one of them to preside.”

15. In section 21 of the said Act—

Amendment
of section 21
of Bom. VI
of 1933.

(i) for the words “ in its opinion is unfit to be member or sarpanch or deputy sarpanch as the case may be ” the words “ has been guilty of misconduct, or neglect of or incapacity to perform his duty ” shall be substituted ;

(ii) the words “ unless he is an *ex-officio* member of the panchayat ” shall be deleted ; and

(iii) the words beginning with the words “ The Panchayat may ” and ending with the words “ for similar reasons ” shall be deleted.

16. In section 22 of the said Act, the words “ elected or nominated ” shall be deleted.

Amendment
of section 22
of Bom. VI
of 1933.

17. In sub-section (1) of section 23 of the said Act,—

Amendment
of section 23
of Bom. VI
of 1933.

(i) for the words “ an elected or nominated ” the letter “ a ” shall be substituted ;

(ii) the words “ the election or nomination of ” shall be deleted ; and

(iii) the words “ or nominated ” where they occur for the second time shall be deleted.

18. In the proviso to section 29 of the said Act, for the word “ seven ” the word “ three ” shall be substituted.

Amendment
of section 29
of Bom. VI
of 1933.

Amendment
of section 33
of Bom. VI
of 1933.

19. For section 33 of the said Act the following shall be substituted, namely :—

Secretary of
panchayat.

“33. (1) For every panchayat there shall be a Secretary. He shall be appointed by the Provincial Government, and his powers, duties, remuneration and conditions of service shall be subject to the provisions of sub-section (2) be as may be prescribed.

(2) The Secretary of a panchayat shall be forthwith removed by the Provincial Government from office, if at a meeting of the panchayat specially called for the purpose not less than two-thirds of the total number of members of the panchayat vote in favour of such removal. The Secretary may also be removed from office by the Provincial Government at any time if it shall appear to the Provincial Government that he is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient.”

Amendment
of section 36
of Bom. VI
of 1933.

20. In section 36 of the said Act, for sub-sections (3) and (4), the following shall be substituted, namely :—

“(3) The Secretary appointed under section 33 shall keep the accounts of the panchayat in such form as may be prescribed. He shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat. The annual statements of such accounts together with the annual report as approved shall be sent to the district local board on or before such date and in such form as may be prescribed.

(4) A panchayat shall convene in a manner and at a time prescribed, a meeting of all adult residents of the village and the statements of the accounts together with a report on the administration for the preceding year and the programme of the work proposed for the year following shall be read out and explained at such meeting.”

Amendment
of section 37
of Bom. VI
of 1933.

21. For section 37 of the said Act, the following shall be substituted, namely :—

Election of
village
bench.

“37. (1) Every panchayat shall at its first meeting elect out of its members in the manner prescribed five persons for the purpose of constituting a village bench.

(2) The five persons so elected shall constitute a village bench and the Provincial Government shall direct that such bench may exercise all or any of the judicial powers which may be conferred on the bench under this Act : Provided that the Provincial Government may at any time, by notification in the *Official Gazette*, withdraw all or any of the judicial powers conferred on a village bench if, in the opinion of the Provincial Government, such bench has been incompetent in the exercise of or has been guilty of the abuse of the said powers.

(3) Save as herein provided the term of office of the members of such bench shall be co-extensive with the term of their office as the members of the panchayat.

(4) If any vacancy arises in the office of any of the members of such bench, it shall be filled by election in the manner prescribed. The member so elected shall hold office so long only as the member in whose place he had been elected would have held office if the vacancy had not occurred.

(5) Out of the members so elected three members shall form a quorum.

(6) Save as provided in this Act, the Provincial Government may make rules to regulate—

(a) the conduct and distribution of business and practice before a village bench,

(b) the times and places at which the village bench shall sit,

(c) any other matter which in the opinion of the Provincial Government may be necessary for the conduct of proceedings before a village bench.

37A. Every village bench shall have a Chairman. The Chairman shall be elected by the bench from amongst the members of the bench and the term of office of the Chairman of such bench shall be co-extensive with the term of the bench.

Chairman
of village
bench.

37B. The Secretary of a panchayat shall act as the Judicial Clerk of the village bench for the purpose of recording its proceedings and decisions and doing such other duties as may be prescribed.

Judicial
Clerk of
panchayat.

37C. (1) The Provincial Government if it thinks fit, may remove any member elected on the village bench after giving him an opportunity of being heard and after such inquiry as the Provincial Government deems necessary, if in the opinion of the Provincial Government such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or neglects or refuses to perform or has been incapable of performing any of the duties as a member of the village bench.

Removal
of a member
from the
village bench.

(2) If any inquiry is held under sub-section (1), the Provincial Government may suspend such member from being on the village bench for such period as it thinks fit.

(3) The removal or suspension of such member under sub-section (1) or (2) shall not by reason of that fact alone disqualify him from being a member of a panchayat.

(4) A person removed from a village bench under sub-section (1) shall not be eligible for re-election on such bench."

Amendment
of section 39
of Bom. VI
of 1933.

22. In section 39 of the said Act, for the words "the village bench shall have power to try the following suits," the words and figures "power to try all or any of the following suits may be conferred on a village bench under section 37," shall be substituted.

Amendment
of section 41
of Bom. VI
of 1933.

23. For section 41 of the said Act the following shall be substituted, namely :—

Offences
cognizable
by village
benches.

"41. Power to take cognizance of and try all or any of the following offences may be conferred on a village bench under section 37, namely :—

(a) Under the Indian Penal Code—

	Section.	XLV of 1860.
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	
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. 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	
Intentional insult, with intent to provoke a breach of the peace	504	

(b) Under the Cattle-trespass Act, 1871—

Forcibly opposing the seizure of cattle or rescuing the same	24	I of 1871.
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(c) Breaches of by-laws made punishable under this Act :

Provided that no offence of theft shall be cognizable by any village bench, unless an accused person has been either apprehended or recognized and named."

24. In section 52 of the said Act, for the words "omits to sue in respect of or intentionally" the words "intentionally omits to sue in respect of or" shall be substituted.

Amendment of section 52 of Bom. VI of 1933.

25. In section 57 of the said Act, for the words "the District Judge or the Collector", the words "the District Court or the District Magistrate as the case may be" shall be substituted.

Amendment of section 57 of Bom. VI of 1933.

26. In section 58 of the said Act,—

(a) after the figure "14" the figures and word "15 and 16" shall be inserted; and

Amendment of section 58 of Bom. VI of 1933.

(b) the words, figure and brackets "sub-section (1) of" shall be deleted.

27. After section 58 of the said Act, the following shall be inserted, namely:—

Insertion of a new section 58A in Bom. VI of 1933.

"58A. A village bench newly constituted on the expiry of the term of office of the members of another bench or a village bench newly constituted on the dissolution of another bench under section 106, shall hear and dispose of all suits, cases and proceedings pending before the latter at the date of the expiry of such term or at the date of such dissolution :

Pending cases before village bench, when term of office has expired.

Provided that the hearing of such suits, cases and proceedings shall commence anew before the village bench newly constituted, as if such suits, cases and proceedings were instituted before it."

28. In section 68 of the said Act, the words and figures "or in any inquiry under section 87" and the words "or the District Judge or Collector" shall be omitted.

Amendment of section 68 of Bom. VI of 1933.

29. In sub-section (3) of section 69 of the said Act, after the word "equitable" the following words shall be added:—

Amendment of section 69 of Bom. VI of 1933.

"Such decree or order shall state the finding and a brief statement of the reasons thereof."

30. For section 73 of the said Act, the following shall be substituted, namely:—

Amendment of section 73 of Bom. VI of 1933.

"73. (1) Where it is proved to its satisfaction that a suit has been adjusted wholly or in part by oath or by any lawful agreement, compromise or satisfaction, the village bench shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relates to the suit.

Compromise of suits and compounding of cases.

(2) A village bench may permit any case to be compounded :

Provided that when a village bench does not pass a decree in accordance with the agreement, compromise or satisfaction under sub-section (1) or does not permit a case to be compounded under sub-section (2), it shall record its reasons in writing."

Amendment
of section 77
of Bom. VI
of 1933.

31. In section 77 of the said Act—

(1) in sub-section (1)—

(a) for the words "the District Judge or any officer not below the rank of Subordinate Judge who may be authorised by the District Judge in that behalf" the words "the District Court" shall be substituted ;

(b) for the words "the Collector or any officer not below the rank of Mamlatdar who may be authorised by the Collector in this behalf" the words "the District Magistrate" shall be substituted ; and

(c) the word "his" shall be deleted.

(2) in sub-section (2) for the words "the District Judge or Collector or such authorised officer" and in sub-section (3) for the words "the District Judge or Collector or the authorised officer", the words "the District Court or District Magistrate as the case may be" shall be substituted, and for the word "he" the words "such Court or Magistrate" shall be substituted.

Amendment
of section 78
of Bom. VI
of 1933.

32. For section 78 of the said Act the following shall be substituted, namely :—

Appeals.

"78. (1) An appeal shall lie to the District Court against a decree passed by a village bench in any suit and to the District Magistrate against an order in any case.

(2) The period for filing such appeals shall be thirty days from the date of the decree or order as the case may be."

Amendment
of section 79
of Bom. VI
of 1933.

33. For section 79 of the said Act, the following shall be substituted namely :—

Finality of
decrees and
orders.

"79. Every order passed under section 77, 78, 87 or 87A, by a District Court or by a District Magistrate shall be final and shall not be subject to any appeal, revision or review."

Amendment
of section 87
of Bom. VI
of 1933.

34. In section 87 of the said Act,

(1) In sub-section (1) for the words "District Judge" the words "District Court", for the word "Collector" the words "District Magistrate" and for the words "of his own motion or on the

application of an aggrieved party", the words "on the application of an aggrieved party or otherwise" shall be substituted; and the words "cancel the jurisdiction of a village bench or" shall be deleted.

(2) In sub-section (2) for the words "District Judge" the words "District Court" shall be substituted.

(3) In sub-section (3) for the word "Collector" the words "District Magistrate" shall be substituted.

35. After section 87 of the said Act, the following shall be inserted, namely:—

Insertion of new sections 87A and 87B in Bom. VI of 1933.

"87A. (1) The District Court in any suit and the District Magistrate in any case may at any time on the application of an aggrieved party or otherwise by order in writing transfer any suit or case, as the case may be, to a civil or criminal Court competent to try the same.

Transfer of suit or case by the District Court or District Magistrate.

(2) On the transfer of such suit or case, the Court to which it is transferred shall hear such suit or case anew as if such suit or case was instituted before it.

87B. Subject to the provisions of this Act in regard to all proceedings under this Act, District Courts and District Magistrates shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to proceedings in connection with decrees or orders of courts subordinate to them in their ordinary jurisdiction."

Procedure in proceedings before District Court and District Magistrate.

36. In section 89 of the said Act,—

Amendment of section 89 of Bom. VI of 1933.

(a) for sub-section (1) the following shall be substituted, namely:—

"(1) Every panchayat shall levy a tax upon the owners or occupiers of houses and lands which are not subject to payment of agricultural assessment within the limits of the village in such manner and at such rates as may be prescribed. The rules made for the levy of such tax may provide that the payment of such tax may be made either in cash or by the rendering of work and labour."

(b) in sub-section (2)—

(i) for the words, figures and brackets "(2) Taxes or fees which are leviable by a panchayat under sub-section (1) are:—" the following shall be substituted, namely:—

"(2) It shall be competent to a panchayat to levy all or any of the following taxes or fees at such rates and in such manner as may be prescribed, namely:—"

(ii) clause (i) shall be deleted.

(c) in sub-section (4), the words, brackets and figure "referred to in sub-section (1)" shall be deleted.

Amendment
of section 91
of Bom. VI
of 1933.

37. In section 91 of the said Act—

(1) in sub-section (2) after the word “demand” the words “in the prescribed form” shall be inserted;

(2) in sub-section (3) after the word “defaulter” the words “in the prescribed manner” shall be inserted;

(3) for sub-section (4) the following shall be substituted, namely:—

“(4) Fees for—

(a) every distress made under sub-section (3),

(b) every writ of demand issued under sub-section (2), and

(c) the costs of maintaining any livestock, seized under sub-section (3),

shall be chargeable at such rates as may be prescribed.

(4.4) Notwithstanding anything contained in the foregoing sub-sections, any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.”

(4) in sub-section (5) for the words “mamlatdar or mahalkari may” the words “mamlatdar or mahalkari shall” shall be substituted; and

(5) in sub-section (6)

(a) for the words “one year” the words “two years” shall be substituted;

(b) for the words “Collector may” the words “Collector shall” shall be substituted; and

(c) after the words “land revenue” the words and figures “unless such sum is not under section 92 directed to be written off” shall be added.

Amendment
of section 93
of Bom. VI
of 1933.

38. In section 93 of the said Act—

(a) in sub-section (1) the figure and brackets “(1)” shall be deleted and in clause (i) for the word “one-fifth” the word “one-fourth” shall be substituted; and

(b) sub-section (2) shall be deleted.

Amendment
of section 95
of Bom. VI
of 1933.

39. In sub-section (3) of section 95 of the said Act after the words “duties of a Collector” the words “and if the district local board has been superseded the duties of a district local board” shall be inserted.

40. In section 101 of the said Act,

(1) after sub-section (2), the following shall be inserted, namely:—

“(2A) If at any time it appears to the Provincial Government or any Officer authorised by the Provincial Government in this behalf that a panchayat has made default in the performance of any duty specified in section 26 and that the district local board has failed or neglected to take action under sub-section (1), the Provincial Government or the Officer authorised, as the case may be, may take such action as could have been taken by the district local board under sub-sections (1) and (2).”

(2) in sub-section (3), after the words “district local board”, where they occur for the first time, the words “or the Officer authorised, as the case may be,” shall be inserted.

Amendment
of section
101 of Bom.
VI of 1933.

41. In sub-section (1) of section 102 of the said Act, after the words “for the time being in force”, the words and figures “or persistently disobeys any of the orders of the Collector or Commissioner under section 99” shall be inserted.

Amendment
of section
102 of Bom.
VI of 1933.

42. In section 103 of the said Act—

(1) in sub-section (1) for the word “Commissioner” the word “Collector” shall be substituted.

(2) in sub-section (2) the word “nominated” shall be deleted and for the word “Commissioner” the word “Collector” shall be substituted.

(3) in sub-section (3) for the word “Commissioner” the word “Collector” shall be substituted.

Amendment
of section 103
of Bom. VI
of 1933.

43. After section 104 of the said Act, the following shall be inserted, namely:—

Insertion of
new section
104A in
Bom. VI
of 1933.

“104A. Where by a notification under section 4 any local area forming part of a village is excluded from such village and such area is not included in or declared to be a village, so much of the village fund and other property vesting in the panchayat of the village of which such area formed part, as the Commissioner may by order in writing direct, shall vest in the district local board to be utilised for the benefit of the area as the district local board may think fit.”

Effect of
area being
excluded
from village.

44. In section 106 of the said Act,

(1) in sub-section (1),—

(a) after the word “established”, the words, figures and brackets “or where all the judicial powers of a village bench have been withdrawn under the proviso to sub-section (2) of section 37 such bench” shall be inserted; and

Amendment
of section 106
of Bom. VI
of 1933.

(b) after the word "supersession" the words "or the withdrawal of judicial powers" shall be inserted;

(2) in sub-section (2) for the words "the District Judge or the Collector", the words "the District Court or District Magistrate" shall be substituted; and

(3) after sub-section (2) the following shall be added, namely:—

"(3) If any local area is excluded from a village and no panchayat is constituted for the area so excluded the provisions of sub-section (2) shall, so far as may be, apply in respect of any suits, cases, proceedings or applications which may be pending before the village bench in respect of the said area, as if so far as such suits, cases, proceedings and applications are concerned, the village bench had been dissolved."

Amendment of section 107 of Bom. VI of 1933.

45. Section 107 of the said Act shall be numbered as sub-section (1) of the said section 107 and after the sub-section (1) so numbered, the following shall be added, namely:—

"(2) In all matters connected with this Act, the Provincial Government and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration."

Insertion of new section 107A in Bom. VI of 1933.

46. After section 107 of the said Act, the following section shall be inserted, namely:—

Provincial Government may call for proceedings.

"107A. The Provincial Government may call for and examine, the record of proceedings of any officer (except the proceedings of the District Court or the District Magistrate in judicial proceedings in appeal, revision or reference from the proceedings of a village bench) for the purpose of satisfying itself as to the legality or propriety of any order passed and may revise or modify the order as shall seem fit."

Amendment of section 108 of Bom. VI of 1933.

47. In sub-section (1) of section 108 of the said Act,—

(a) in clause (a) for the word "Commissioner" the word "Collector" shall be substituted;

(b) in clause (b) for the words "regulating the manner in which the Collector shall nominate the holder or his representative" the words "prescribing the number of seats to be reserved for the representatives of women, Muhammadans, Harijans or backward tribes in each village panchayat" shall be substituted;

(bb) after clause (c) the following new clause shall be inserted, namely :—

“(c1) under section 33, prescribing the powers, duties, remuneration and conditions of service of the Secretary of the panchayat ;”

(c) for clause (g) the following shall be substituted, namely :—

“(g) under section 37, prescribing the manner in which the members constituting a village bench shall be elected, and regulating any of the matters specified in sub-section (6) of the said section ;

(gg) under section 37B, prescribing the other duties which the Secretary of a panchayat acting as the Judicial Clerk of that panchayat shall do ;” ;

(d) clause (k) shall be deleted ;

(dd) after clause (n) the following new clauses shall be inserted, namely :—

“(n1) under sub-section (2) of section 91 prescribing the form of the writ to be presented to the defaulter ;

(n2) under sub-section (3) of section 91, prescribing the form of warrant, the method of attachment, auction and sale of the defaulter's moveable property ;” ;

(e) in clause (o) the following shall be inserted at the beginning, namely :—

“under sub-section (4) of section 91, prescribing the rates of fees for writs of demand, distress and costs of maintaining any live-stock seized, and ” ;

(f) after clause (q) the word “ and ” shall be deleted ;

(g) in clause (r) for the words “ the District Judge or the Collector ” the words “ the District Court or the District Magistrate ” shall be substituted ;

(h) after clause (r) the following clause shall be added, namely :—

“(s) for any other matter which may be prescribed.”

48. In section 110 of the said Act,—

(1) in sub-section (2) for the word “ may ” the word “ shall ” shall be substituted ;

(2) in sub-section (4), for the word “ final ” the words “ subject to an appeal to the Commissioner ” shall be substituted.

Amendment
of section 110
of Bom. VI
of 1933.

Amendment
of section 112
of Bom. VI
of 1933.

49. In section 112 of the said Act,

(1) in sub-section (1)—

(a) after the words "or any officer", the words "including an officer" shall be inserted;

(b) the words "and village benches" shall be deleted;

(c) after the words "under this Act", the words and letters "except the powers in respect of the village benches under Chapter VI" shall be added;

(2) in sub-section (3), for the words "District Judge" where they occur for the first time, the words "District Court" and for the words, figures and brackets "the District Judge in regard to suits under sub-section (1) of section 87", the words "the District Court in regard to suits under this Act" shall be substituted;

(3) for sub-section (4), the following shall be substituted:—

"(4) Subject to rules made in this behalf, the District Magistrate may delegate to a Magistrate of the First Class exercising appellate jurisdiction under section 407 of the Criminal Procedure Code, 1898, the powers exercisable by him in regard to cases under this Act in respect of a village bench in a village within the said jurisdiction of the said Magistrate. ^{V of 1898.}

(5) Subject to the general or special orders of the Provincial Government the Collector may delegate to an officer not below the rank of an Assistant or Deputy Collector powers other than the powers under section 4 exercisable by the Collector under this Act."

Transitory
provision.

50. A panchayat established and a village bench constituted immediately before the commencement of this Act shall, notwithstanding anything contained in this Act, continue in office, but shall be dissolved on such date as the Collector may appoint in this behalf. On the date so appointed all the members of such panchayat and of such bench shall vacate office and a new panchayat and a new bench shall be constituted in the manner prescribed by the provisions of the said Act as amended by this Act.

All suits, cases and proceedings pending before a village bench at the date of its dissolution under this section shall be heard and disposed of by the new bench of the area in which such suits, cases and proceedings arose:

Provided that the hearing of such suits, cases and proceedings shall commence anew before the said bench as if such suits, cases and proceedings were instituted before the said bench.

BOMBAY ACT No. XIX OF 1939.¹

[THE CITY OF BOMBAY MUNICIPAL (SECOND AMENDMENT) ACT, 1939.]

[22nd September, 1939.]

An Act to amend the City of Bombay Municipal Act, 1888.²

Bom. 111 of 1888. WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the City of Bombay Municipal (Second Short title. Amendment) Act, 1939.

Bom. 111 of 1888. 2. In sub-section (1) of section 80B of the City of Bombay Municipal Act, 1888, hereinafter called "the said Act" after the figures "85", Amendment of section 80B of Bom. III of 1888. the words, figures and letter "and in the case of temporary appointments made under section 85A" shall be inserted.

3. After section 85 of the said Act, the following new section shall be inserted, namely :— Insertion of new section 85A in Bom. III of 1888.

"85A. Notwithstanding anything contained in the foregoing provisions, when a vacancy occurs in any of the posts referred to in sub-section (1) of section 80B, the corporation may, pending the appointment of a person in accordance with the provisions of sub-section (2) of the said section appoint any person to fill such vacancy on a monthly salary not exceeding the maximum salary of the post : Temporary appointments.

Provided that no appointment under this section shall extend beyond, or be made after a lapse of, six months from the date on which the vacancy occurs."

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, pp. 211-12, or *Bombay Legislative Assembly Debates*, 1939, Vol. 6, pp. 1440-41, or *Bombay Legislative Council Debates*, 1939, Vol. 7, p. 117. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 6, pp. 64-74, 1220; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 7, pp. 63-64.

² See *Bombay Code*, Vol. III, p. 1.

BOMBAY ACT No. XX OF 1939.¹

[THE BOMBAY LAND REVENUE CODE (AMENDMENT) ACT, 1939.]

[19th October 1939.]

An Act to amend the Bombay Land Revenue Code, 1879².

Bom. WHEREAS it is expedient to amend the Bombay Land Revenue
V of Code, 1879, for the purposes hereinafter appearing; It is hereby enacted
1879. as follows:—

1. This Act may be called the Bombay Land Revenue Code Short title.
(Amendment) Act, 1939.

Bom. 2. In section 3 of the Bombay Land Revenue Code, 1879, herein- Amendment
V of after referred to as "the said Code", after clause (2), the following of section 3
1879. shall be inserted, namely:— of Bom. V
1879.

"(3) 'Survey settlement' includes a settlement made under the
Survey settlement. provisions of Chapter VIII A."

3. In section 18 of the said Code,—

(i) after the figures "VIII" the figures and letter "VIII A" shall
be inserted;

(ii) after the word "designated", the words "Settlement
Commissioner", shall be inserted; and

(iii) after the words "Survey Settlement Officers," the words
"Settlement Officers," shall be inserted.

Amendment
of section 18
of Bom. V
of 1879.

4. In section 52 of the said Code, for the words and figures "section
102 or 106" the word, figures and letter "Chapter VIII A" shall be
substituted.

Amendment
of section 52
of Bom. V
of 1879.

5. In sub-section (7) of section 84A and sub-section (3) of section
87 of the said Code, for the words and figures "Chapter VIII or under
any Survey Settlement confirmed by section 112" the words "this
Act" shall be substituted.

Amendment
of sec-
tions 84A(7)
and 87 (3) of
Bom. V of
1879.

6. Sections 100 to 104 and 107 of the said Code shall be repealed.

Deletion of
sections 100
to 104 and
107 in Bom.
V of 1879.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 116 or Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3703 or Bombay Legislative Council Debates, 1939, Vol. 7, pp. 115-16. For Report of the Select Committee, see *Bombay Government Gazette*, 1939, Part V, pp. 318-41 and 390-93 or Bombay Legislative Assembly Debates, 1939, Vol. 6, pp. 1380-95. For Proceedings in Assembly, see Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3203-10, 3281-94, 3344-87, Vol. 6, pp. 63, 132-49, 217-71, 272-407, 456-75, 518-64 and for Proceedings in Council, see Bombay Legislative Council Debates, 1939, Vol. 7, pp. 17-63.

² See Bombay Code, Vol. II, p. 291.

- Amendment of section 105 of Bom. V of 1879. 7. In section 105 of the said Code, for the word and figures "section 102", the words "this Act" shall be substituted.
- Amendment of section 106 of Bom. V of 1879. 8. In section 106 of the said Code,—
 (a) the word "revenue", and the words and figures "but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 102" shall be omitted; and
 (b) after the words "original classification" the words "of the soil" shall be inserted.
- Amendment of section 108 of Bom. V of 1879. 9. In section 108 of the said Code, after the words "survey officer" the words "or the settlement officer" shall be inserted.
- Amendment of section 117A of Bom. V of 1879. 10. In sub-section (2) of section 117A of the said Code, for the word and figures "section 102", the words, "the provisions of this Act" shall be substituted.
- Insertion of new Chapter VIII A in Bom. V of 1879. 11. After Chapter VIII of the said Code, the following Chapter shall be inserted, namely :—

" CHAPTER VIII A.

ASSESSMENT AND SETTLEMENT OF LAND REVENUE OF
 AGRICULTURAL LAND.

- Interpretation section. 117C. In this Chapter, unless there is anything repugnant in the subject or context—
- 'Settlement.' (1) 'Settlement' means the result of the operations conducted in a taluka or part of a taluka in order to determine the land revenue assessment.
- 'Term of settlement.' (2) 'Term of a settlement' means the period for which the Provincial Government has declared that a settlement shall remain in force.
- 'Group.' (3) 'Group' means all lands in a taluka or part of a taluka which, in the opinion of the Provincial Government, are sufficiently homogeneous in respect of the factors enumerated in sub-section (2) of section 117G to admit of the application to them of the same standard rates for the purpose of assessment of land revenue.
- 'Classification value.' (4) 'Classification value' means the relative valuation of land as recorded in the survey records having regard to its soil, water and other advantages.
- 'Standard rate.' (5) 'Standard rate' means, with reference to any particular class of land in a group, the normal assessment per acre on land in that class of sixteen annas classification value.

(6) 'Class of land' means any of the following classes of land, 'Class of land,' namely, dry crop, rice or garden land.

(7) 'Rental value' means the consideration (including premia, 'Rental value.' if any, or any sum of money paid or promised, or a share of crops, or service or any other thing of value rendered periodically or on specified occasions) for which land is or could be leased for a period of one year for its most advantageous use.

(8) 'Prescribed' means prescribed by rules made under section 214. Prescribed.

117D. (1) The Provincial Government may at any time direct a settlement, hereinafter referred to as an original settlement, of the land revenue of any land of which a revenue survey has been made under section 95. Government may direct an original or revision settlement of land revenue of lands comprised in a revenue survey.

(2) The Provincial Government may also direct at any time a fresh settlement, hereinafter referred to as a revision settlement, of the land revenue of such land :

Provided that no enhancement of assessment shall take effect before the expiration of the settlement for the time being in force.

117E. A settlement shall remain in force for a period of 30 years : The term of settlement.

Provided that in the case of any particular settlement, the Provincial Government may, for reasons to be recorded, direct that the settlement shall remain in force for any period less than 30 years :

Provided further that, when in the opinion of the Provincial Government a revision settlement is inexpedient, or when the introduction of such settlement has, for any cause, been delayed, the Provincial Government may extend the term of the settlement for the time being in force for such period as it may think fit.

117F. (1) The aggregate existing assessment of lands in a taluka shall not be increased at a settlement by more than 25 per cent. Limits of enhancement of assessment.

(2) The aggregate existing assessment of lands in a group shall not be increased at a settlement by more than 25 per cent.

(3) The aggregate existing assessment of lands in a village shall not be increased at a settlement by more than 50 per cent.

(4) The existing assessment of a survey number or a sub-division thereof shall not be increased at a settlement by more than 50 per cent.

(5) Notwithstanding anything contained in this section the Provincial Government may, by notification in the official Gazette, exclude any lands from the operation of this section.

117G. (1) The land revenue assessment on all lands in respect of which a settlement has been directed under sub-section (1) or sub-section (2) of section 117D and which are not wholly exempt Assessment how determined.

from the payment of land revenue shall, subject to the limitations contained in the proviso to section 52, be determined by dividing the lands to be settled into groups and fixing the standard rates for each group :

Provided that the standard rates so fixed shall be such that the aggregate assessment on the occupied lands in any group shall not exceed thirty-five per cent. of the average of the rental values of such lands for a period of 5 years immediately preceding the year in which the settlement is directed.

(2) The groups shall be formed on a consideration of the following factors :—

- (i) physical configuration,
- (ii) climate and rainfall,
- (iii) markets,
- (iv) communications,
- (v) standard of husbandry,
- (vi) population and supply of labour,
- (vii) agricultural resources,
- (viii) The variations in the area of occupied and cultivated lands during the last 30 years.
- (ix) wages,
- (x) prices,
- (xi) yield of the principal crops,
- (xii) ordinary expenses of cultivating such crops, including the wages of the cultivator for his labour in cultivating the land,
- (xiii) rental values of lands used for the purposes of agriculture,
- (xiv) sales of lands used for the purposes of agriculture.

(3) The land revenue assessment of individual survey numbers and sub-divisions shall be based on their classification value in the manner prescribed.

Increase in value due to improvements at the expense of holders not to be taken into account.

117H. If during 30 years immediately preceding the date on which the settlement for the time being in force expires any improvements have been effected in any land by or at the expense of the holder thereof the increase in the rental value of such land due to the said improvements shall not be taken into account in fixing the revised assessment thereof.

Settlement Officer how to proceed for making a settlement.

117I. In making a settlement the Settlement Officer shall proceed as follows :—

- (1) He shall hold enquiry in the manner prescribed by rules made under this Act.
- (2) He shall divide the lands to be settled into groups.

(3) He shall ascertain in the prescribed manner the rental value of lands for the purposes of the settlement.

(4) He shall then fix standard rates for each class of land in each group on a consideration of all the factors mentioned in sub-section (2) of section 117G.

(5) He shall submit to the Collector a report, hereinafter called the settlement report, containing his proposals for the settlement.

117J. (1) After the settlement report has been submitted to the Collector, the Collector shall cause such report to be published in the prescribed manner.

Settlement report to be printed and published.

(2) There shall also be published in each village concerned in the regional language of such village a notice stating for each class of land in the village the existing standard rate and the extent of any increase or decrease proposed therein by the Settlement Officer. The notice shall also state that any person may submit to the Collector his objections in writing to the proposals contained in the settlement report within three months from the date of such notice.

117K. After taking into consideration such objections as may have been received by him, the Collector shall forward to the Provincial Government, through such officers as the Provincial Government may direct, the settlement report with his remarks thereon.

Submission to Government of settlement report with statement of objections, etc. and Collector's opinion thereon.

117KK. Any person aggrieved by the report published by the Collector under section 117J may within two months from the date of notice under sub-section (2) of section 117J apply to the Provincial Government for reference to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939. On such person depositing such amount of costs as may be prescribed the Provincial Government shall direct the report to be sent to the Revenue Tribunal for enquiry. The Revenue Tribunal after making an enquiry in the manner prescribed shall submit its own opinion on the objections raised and on such other matters as may be referred to it by the Provincial Government. The Provincial Government may make rules for the refund of the whole or any portion of the costs in such cases as it deems fit.

Reference to Revenue Tribunal.

Bom.
XII of
1939.

117L. (1) The settlement report together with the objections, if any, received thereon and the opinion of the Revenue Tribunal on a reference, if any, made to it under section 117KK shall be laid on the table of each Chamber of the Provincial Legislature and a copy thereof shall be sent to every member of each such Chamber. The said report shall be liable to be discussed by a resolution moved in each Chamber of the Provincial Legislature at its next following session.

Settlement report to be laid on table of Legislature and copies to be supplied to the members of each Chamber.

(2) After the termination of such session the Provincial Government may pass such orders as it may deem fit :

Orders on the Settlement Report.

Provided that no increase in the standard rates proposed in the settlement report shall be made unless a fresh notice as provided in section 117J has been published in each village affected by such rates and objections received, if any, have been considered by the Provincial Government. The provisions of sub-section (1) shall, so far as may be, apply to orders to be passed regarding such increase.

(3) The orders passed by the Provincial Government under sub-section (2) shall be final and shall not be called in question in any Court.

Power of Government to declare particular settlement to be made with reference to prices.

117M. (1) Notwithstanding anything contained in this Chapter the Provincial Government may, by notification published in the Official Gazette at the time of passing orders under sub-section (2) of section 117L, declare that the provisions of sub-sections (2), (3) and (4) of this section shall apply to any settlement.

(2) The settlement rates may be declared to have been fixed with reference to specified prices of specified classes of agricultural produce. When such a declaration has been made under sub-section (1), it shall be lawful for the Provincial Government to enhance or reduce the assessment in such area in any year by granting a rebate or placing a surcharge on the assessment by reference to the alteration of the prices of the classes of agricultural produce specified in the declaration.

(3) The prices of agricultural produce shall be recorded and published in the Official Gazette and shall be taken into account in granting a rebate or placing a surcharge under sub-section (2).

(4) The surcharge shall be levied or the rebate shall be granted under sub-section (2) according to the scale prescribed by rules made in this behalf.

Power to Government to exempt from assessment for water advantages.

117N. (1) The Provincial Government may at the time of passing orders under sub-section (2) of section 117L exempt any land from assessment under this Chapter for any advantage or specified kind of advantage accruing to it from water.

(2) The Provincial Government may at any time during the term of the settlement, after publishing a notice in the village concerned in the regional language of such village and after the expiry of a period of six months from the date of the publication of such notice, withdraw any exemption granted by it under sub-section (1) and direct that such land shall be assessed for such advantage.

Introduction of settlement.

117O. After the Provincial Government has passed orders under section 117L and notice of the same has been given in the prescribed manner the settlement shall be deemed to have been introduced and the land revenue according to such settlement shall be levied from such date as the Provincial Government may direct:

Provided that in the year in course of which a survey settlement, whether original or revised, may be introduced under this section, the difference between the old and the new assessment of all lands on which the latter may be in excess of the former shall be remitted and the revised assessment shall be levied only from the next following year :

Provided further that in the year next following that in which any original or revised Survey Settlement has been introduced any occupant who may be dissatisfied with the increased rate imposed by such new assessment or any of the survey numbers or sub-divisions of survey numbers held by him, shall, on relinquishing such number or sub-division in the manner prescribed by section 74 on or before the 31st March, receive a remission of the increase so imposed.

117P. Nothing in this Chapter shall be deemed to prevent the Settlement Officer from determining and registering the proper full assessment on lands wholly exempt from the payment of land revenue.

Assessment of lands wholly exempt from payment of land revenue.

117Q. Notwithstanding anything contained in this Chapter the Provincial Government may direct at the time of passing orders under sub-section (2) of section 117L that any land in respect of which a settlement is made under this Chapter shall be liable to be assessed to additional land revenue during the term of the settlement for additional advantages accruing to it from water received on account of irrigation works or improvements in existing irrigation works completed after the Provincial Government has directed the settlement under section 117D and not effected by or at the expense of the holder of the land. Such land revenue shall be leviable only when no rate in respect of such additional advantages is levied under the Bombay Irrigation Act, 1879 :

Power to Government to direct assessment for water advantages.

Bom. VII of 1879.

Provided that the Provincial Government shall, before making such direction, publish a notice in this behalf in the village concerned in the regional language of such village and shall consider the objections, if any, received to the proposal contained therein and no such direction shall be issued until after the expiry of a period of six months from the date of publication of such notice.

117R. All settlements of land revenue heretofore made and introduced and in force at the date of the commencement of the Bombay Land Revenue Code (Amendment) Act, 1939, shall be deemed to have been made and introduced in accordance with the provisions of this Chapter and shall, notwithstanding anything contained in section 117E, be deemed to continue to remain in force until the introduction of a revision settlement."

Settlements made before this Act to be deemed to be made under this Chapter.

12. In sub-section (2) of section 214 of the said Code—

(I) for clause (i) the following shall be substituted, namely :—

“(i) regulating the conduct of surveys and settlements of land revenue and prescribing the notice to be given under section 117O before the introduction of the settlement ;” and

Amendment of section 214 of Bom. V of 1879.

(2) after clause (o) the following new clauses shall be inserted, namely :—

“ (p) the manner in which the assessment of survey numbers and sub-divisions thereof shall be based on their classification value ;

(q) the manner in which enquiry is to be held under section 117I ;

(r) the manner in which the rental value of land is to be ascertained by the Settlement Officer ;

(s) the manner in which the settlement report shall be published under section 117J ;

(t) the manner in which and the places at which the notice inviting objections to the settlement proposals shall be published under sub-section (2) of section 117J ;

(u) the scale according to which the surcharge shall be levied or the rebate shall be granted under sub-section (2) of section 117M. ”

Amendment
of section 216
of Bom. V
of 1879.

13. In sub-section (1) of section 216 of the said Code, for the words and figures “ Chapters VIII to X ” the words, figures and letter “ Chapters VIII, VIIIA, IX and X ” shall be substituted.

BOMBAY ACT No. XXI OF 1939.¹

[THE CITY OF BOMBAY MUNICIPAL (THIRD AMENDMENT) ACT, 1939.]

[1st November 1939.]

An Act to amend the City of Bombay Municipal Act, 1888.²

WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the City of Bombay Municipal (Third Short title Amendment) Act, 1939.

2. Clause (5) in rule 5 in Schedule BB to the City of Bombay Municipal Act, 1888, shall be repealed.

Amendment
of Schedule
BB to Bom
III of 1888.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1938, Part V, p. 567 or *Bombay Legislative Assembly Debates*, 1939, Vol. 7, p. 2335 ; or *Bombay Legislative Council Debates*, Vol. 8, pp. 465-66. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 7, pp. 696-732 ; and or Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 53-65.

² See *Bombay Code*, Vol. III, p. 41.

THE BOMBAY AGRICULTURAL PRODUCE MARKETS ACT, 1939.

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BOMBAY ACT No. XXII OF 1939.¹

[THE BOMBAY AGRICULTURAL PRODUCE MARKETS ACT, 1939.]

[2nd November 1939.]

An Act to provide for the better regulation of buying and selling of agricultural produce and the establishment of markets for agricultural produce in the Province of Bombay.

WHEREAS it is expedient to provide for the better regulation of buying and selling of agricultural produce in the Province of Bombay and establishment of markets for agricultural produce; It is hereby enacted as follows :—

CHAPTER I.**PRELIMINARY.**

1. (1) This Act may be called the Bombay Agricultural Produce Short title Markets Act, 1939. and extent.

(2) It extends to the whole of the Province of Bombay.

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

(i) "Agricultural Produce" includes all produce of agriculture, horticulture and animal husbandry specified in the Schedule;

(ii) "Agriculturist" means a person who ordinarily by himself or who by his tenants or hired labour or otherwise is engaged in the production or growth of agricultural produce, but does not include a dealer or broker in agricultural produce although such dealer or broker may also be engaged in the production or growth of agricultural produce;

(iii) "Bye-laws" means bye-laws made under section 27;

(iv) "Director" means the Director of Rural Development for the Province of Bombay;

(v) "Market" means a market established for the purposes of this Act;

(vi) "Market Area" means any area declared to be a market area under section 4;

¹For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 471 or *Bombay Legislative Assembly Debates*, 1939, Vol. 7, p. 2372; or *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 447-48. For Report of the Select Committee, see *Bombay Government Gazette*, 1939, Part V, pp. 475-77; or *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 448-50. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 7, pp. 2141-82, 2185-90; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 12-44, 46-53, 68-71, 189-90.

- (vii) "Market committee" means a committee established under section 5 ;
 (viii) "Municipality" includes a notified area committee ;
 (ix) "Prescribed" means prescribed by rules made under section 26 ;
 (x) "Rules" means rules made under section 26 ;
 (xi) "Schedule" means Schedule to this Act.

(2) If a question arises whether any person is or is not an agriculturist for the purpose of this Act the decision of the Provincial Government on such question shall be final.

CHAPTER II.

CONSTITUTION OF MARKETS AND MARKET COMMITTEES.

Notification of intention of exercising control over purchase and sale of agricultural produce in specified area.

3. (1) The Provincial Government may, by notification in the Official Gazette, declare its intention of regulating the purchase and sale of such agricultural produce and in such area, as may be specified in the notification. Such notification may also be published in the regional languages of the area and in such other manner as the Provincial Government may deem fit.

(2) A Notification under sub-section (1) shall state that any objection or suggestion which may be received by the Provincial Government within a period of not less than one month to be specified in the notification shall be considered by the Provincial Government.

Declaration of market areas.

4. (1) After the expiry of the period specified in the notification issued under section 3 and, after considering such objections and suggestions as may be received before such expiry and after holding such inquiry as may be necessary, the Provincial Government may, by notification in the Official Gazette, declare the area specified in the notification under section 3 or any portion thereof to be a market area for the purposes of this Act in respect of all or any of the kinds of agricultural produce specified in the said notification. A notification under this section may also be published in the regional languages of the area in a newspaper circulated in the said area and may also be published in such other manner as the Provincial Government may deem fit.

(2) On and after the date of the notification issued under sub-section (1) or such later date as may be specified therein, no local authority notwithstanding anything contained in any law and no other person shall, within the market area or within a distance thereof to be notified in the Official Gazette in this behalf in each case by the Provincial Government, set up, establish, or continue or allow to be set up, established or continued any place for the purchase or sale of any agricultural produce so notified, except under a license granted by the Provincial Government and except in accordance with the provisions of this Act, rules and bye-laws and of the conditions specified in the license.

Explanation.—A local authority or any other person shall not be deemed to set up, establish, or continue or allow to be set up, established or continued a place as a place for the purchase and sale of agricultural produce within the meaning of this section if the seller is himself the producer of the agricultural produce offered for sale at such place or any person employed by such producer to transport the same and the buyer is a person who purchases such produce for his own private use.

(3) The Provincial Government may, on the report of the Director or the Collector or of the market committee or an officer appointed by the Provincial Government in this behalf and after such inquiry as it deems fit to make, suspend or cancel any license granted under sub-section (2).

(4) Subject to the provisions of section 3, the Provincial Government may at any time by notification in the Official Gazette exclude from a market area any area or any agricultural produce comprised therein or include in any market area any area or any agricultural produce included in a notification issued under section 3.

5. The Provincial Government shall establish a market committee for every market area in respect of the agricultural produce for which the said area is declared to be a market area under section 4. It shall be the duty of the market committee to enforce the provisions of this Act, the conditions of a license granted under sub-section (2) of section 4 and the rules and bye-laws made under this Act in such market area and within the distance thereof notified under sub-section (2) of section 4 and when so required by the Provincial Government to establish a market therein providing for such facilities as the Provincial Government may from time to time direct, in connection with the purchase and sale of the agricultural produce concerned.

6. (1) Every market committee shall be constituted as prescribed and shall consist of not less than 12 and not more than 15 members. Of these—

(i) not less than one-third shall be persons elected by such organizations of agriculturists in the area for which it is established, as the Provincial Government may prescribe and where no such organisations exist, by the agriculturists residing in the said area in the manner prescribed;

(ii) not less than one-third shall be persons elected by the persons licensed under sub-section (2) of section 4 and by the traders approved by the Market committee in the manner prescribed;

(iii) one shall be a person elected—

(a) by the councillors of a municipality from among themselves, in case the market area is wholly within the limits of such municipality, or

(b) by the members of a district local board from among themselves, in case the market area is wholly within the limits of the said district local board but not of a village panchayat, or

(c) by the members of a village panchayat from among themselves, in case the market area is wholly within the limits of the said village panchayat :

Provided that a person to whom a license has been granted under sub-section (2) of section 4 shall not be eligible for being elected under this clause.

Provided further that if the market area is within the limits of more than one local authority, the member shall be elected by the local authorities concerned in the manner prescribed ;

(iv) the remaining members shall be persons nominated by the Provincial Government :

Provided that the Provincial Government may, at any time, reduce the number of nominated members for any market area and increase the number of members elected under clauses (i) and (ii) in equal proportion.

(2) Notwithstanding anything contained in sub-section (1)—

(a) On the failure of any organisation, person or authority to elect a member under sub-section (1) within a period of six months from the date of the occurrence of the vacancy, the Provincial Government shall give notice in writing to the organisation, person or authority concerned to elect a member within a month from the date of such notice and on the failure of the organisation, person or authority again to elect a member within the said period, the Provincial Government shall nominate a person on behalf of such organisation, person or authority as a member of the market committee ; and

(b) Subject to the provisions of section 31, when a market committee is constituted for the first time all the members of the market committee shall be persons nominated by the Provincial Government.

(3) Every member of a market committee elected or nominated when it is first constituted shall hold office for a term of two years and every such member elected or nominated thereafter shall hold office for a term of three years :

Provided that a member elected under clause (iii) of sub-section (1) shall cease to hold office as such member if he ceases to be a member of the electorate by which he was elected or if he is granted a license under sub-section (2) of section 4.

(4) If at any time a vacancy occurs through the non-acceptance of office by a person elected or nominated or through the death, disqualification or resignation of a member before the expiry of his term of office, the vacancy shall be filled up by the election or nomination, as the case may be, of a person thereto in the manner specified above. Every such person shall hold office so long only as the member in whose place he is elected or nominated would have held it if the vacancy had not occurred.

(5) Every market committee shall elect one of its members to be its chairman.

CHAPTER III.

INCORPORATION OF MARKET COMMITTEE : ITS POWERS
AND DUTIES.

7. Every market committee shall be a body corporate by such name as the Provincial Government may specify by notification in the Official Gazette. It shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall be competent to acquire and hold, lease, sell or otherwise transfer any property and to contract and to do all other things necessary for the purposes for which it is established.

Incorporation
of market
committee.

8. The market committee may appoint one or more of its members to be a sub-committee or to be a joint committee for the conduct of any work or to report on any matter or matters and may delegate to such committee or any one or more of its members such of its powers or duties as it may think fit.

Appointment
of sub-
committees
and joint-
committees :
delegation
of powers.

9. (1) The market committee may employ such officers and servants as may be necessary for the management of the market and may pay such officers and servants such salaries as the market committee thinks fit. The market committee shall, in the case of any officer or servant of Government whom it employs, pay such pension contribution, gratuity or leave allowance as may be required by the conditions of his service under the Crown for the time being in force.

Appoint-
ment and
salaries of
servants of
the market
committee.

(2) The market committee may also, in the case of any of its officers and servants, provide for the payment to them of such leave allowances, pensions or gratuities as it deems proper, and may contribute to any provident fund which may be established for the benefit of such officers and servants.

(3) The powers conferred by this section on the market committee shall be exercised subject to any rules which may be made in this behalf by the Provincial Government.

10. (1) Every contract entered into by the market committee shall be in writing and shall be signed on behalf of the market committee by its chairman, and two other members of the committee.

Execution of
contracts.

(2) No contract other than a contract executed as provided in sub-section (1) shall be binding on the market committee.

11. The market committee may subject to the provisions of rules and subject to such maxima as may be prescribed levy fees on the agricultural produce bought and sold by licensees in the market area.

Power to
levy fees.

Certain differences regarding construction of rules, etc., about weights and measures to be decided by market committee.

12. (1) Notwithstanding anything contained in the Bombay Weights and Measures Act, 1932, if any difference arises between an inspector appointed under section 19 of the said Act 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 in any market area such difference may at the request of the person interested or by the inspector of his own accord be referred to the market committee and the decision of the market committee shall, subject to the provisions of sub-section (2), be final and shall be deemed to have been given under section 25 of the Bombay Weights and Measures Act, 1932. Bom. XV of 1932.

(2) An appeal shall lie within the time prescribed from the decision under sub-section (1) to the Provincial Government or such officer as the Provincial Government may appoint in this behalf. The decision of the Provincial Government or such officer shall be final. Bom. XV of 1932.

Market Committee Fund.

13. (1) All monies received by a market committee shall be paid into a fund to be called "the market committee fund" and all expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said fund. Any surplus remaining with the market committee after such expenditure has been met shall be invested as may be prescribed in this behalf.

(2) Every market committee shall pay to the Provincial Government the cost of any additional or special staff employed by the Provincial Government in consultation with such market committee for giving effect to the provisions of this Act in the market area for which such market committee is established.

(3) The Provincial Government shall determine the cost of such additional or special staff and shall, when the staff is employed for the purposes of more than one market committee apportion such cost among the committees concerned in such manner as it thinks fit. The decision of the Provincial Government determining the amount payable by any market committee shall be final.

Purposes for which the fund shall be expended.

14. Subject to the provisions of section 13, the market committee fund shall be expended for the following purposes, namely:—

- (1) The acquisition of a site or sites for the market;
- (2) the maintenance and improvement of the market;
- (3) the construction and repair of buildings necessary for the purposes of such market and for the health, convenience and safety of the person using it;
- (4) the provision and maintenance of standard weights and measures;
- (5) the pay, pensions, leave allowances, gratuities, compensations for injuries resulting from accidents, compassionate allowances and contributions towards leave allowances, pensions or provident fund of the officers and servants employed by it;
- (6) the expenses of and incidental to elections;

(7) the payment of interest on the loans that may be raised for the purposes of the market and the provision of sinking fund in respect of such loans ;

(8) the collection and dissemination of information regarding matters relating to crop statistics and marketing in respect of the agricultural produce notified under section 4 ;

(9) payments of the cost referred to in sub-sections (2) and (3) of section 13 ; and

(10) propaganda in favour of agricultural improvement.

15. (1) A market committee may, with the previous sanction of the Provincial Government, raise money required for carrying out the purposes for which it is established on the security of any property vested in it and of any fees leviable by it under this Act. Power to borrow.

(2) The market committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the Provincial Government.

(3) The conditions subject to which such money or loan shall raised or obtained and the time within which the same shall be repayable shall be subject to the previous sanction of the Provincial Government.

16. When any land is required for the purposes of this Act, the Provincial Government may, on the request of the market committee requiring it, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, or other law for the time being in force, and, on payment by the market committee of the compensation awarded under that Act or other law, as the case may be, and of all other charges incurred by the Provincial Government on account of the acquisition, the land shall vest in the market committee. Acquisition of land for the market committee.

I of
1894.

CHAPTER IV.

TRADE ALLOWANCES.

17. No person shall make or recover any trade allowance, other than an allowance prescribed by rules or bye-laws made under this Act, in any market area in any transaction in respect of the agricultural produce concerned and no civil court shall, in any suit or proceeding arising out of any such transaction, have regard to or recognise any trade allowance not so prescribed. No trade allowance permissible except as prescribed.

Explanation.—Every deduction other than a deduction on account of deviation from sample when the purchase is made by sample or on account of deviation from standard when the purchase is made by reference to a known standard or on account of difference between the actual weight of the container and the standard weight or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purposes of this section.

CHAPTER V.

MISCELLANEOUS.

Liability
of members
of market
committee
to removal
from office.

18. (1) The Provincial Government may, if it thinks fit, on the recommendation of the market committee supported by at least two-thirds of the whole number of members, remove any member of the market committee elected or nominated under this Act, if such member has, in the opinion of the Provincial Government, been guilty of neglect or misconduct in the discharge of his duties, or of any disgraceful conduct or has become incapable of performing his duties as a member :

Provided that no resolution recommending the removal of any member shall be passed by the market committee unless the member to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

(2) The decision of the Provincial Government under sub-section (1) shall be final.

Supersession
of market
committee.

19. (1) If, in the opinion of the Provincial Government, a market committee is not competent to perform or persistently makes default in performing the duties imposed on it by or under this Act, or abuses its powers, the Provincial Government may, by notification in the Official Gazette, supersede such market committee :

Provided that before issuing a notification under this sub-section, the Provincial Government shall give a reasonable opportunity to the market committee for showing cause why it should not be superseded and shall consider the explanations and objections, if any, of the market committee.

(2) Upon the publication of a notification under sub-section (1) superseding a market committee the following consequences shall ensue :—

(i) all the members as well as the chairman of the market committee shall as from the date of such publication be deemed to have vacated their offices ;

(ii) the Provincial Government may, at their discretion, by order, either constitute a new market committee under section 6 or make such arrangements for the carrying out of the functions of the market committee, as it may think fit ; and

(iii) all the assets vesting in the market committee shall, subject to all its liabilities vest in the Crown for purposes of the Province.

(3) If the Provincial Government makes an order under clause (ii) of sub-section (2), it shall transfer the assets and liabilities of the market committee, as on the date of such transfer, to the new market committee constituted under section 6 or to the person or persons, if any, appointed for carrying out the functions of the market committee, as the case may be.

(4) If the Provincial Government does not make such an order, it shall transfer all the assets of the market committee which remain after the satisfaction of all its liabilities, to the local authority within whose jurisdiction the market committee is situated or if there are more than one such authorities to each of such authorities any such portion of the assets as the Provincial Government may determine.

(5) A local authority to which the assets of a market committee have been transferred under sub-section (4) shall utilise such assets for such object in the area within its jurisdiction as the Provincial Government considers to be for the benefit of the agriculturists in that area.

20. Whoever contravenes the provisions of section 4 shall, on conviction, be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention with a further fine which may extend to one hundred rupees for every day during which the contravention is continued after first conviction. Penalty for contravention of section 4.

21. Whoever, in contravention of the provisions of section 17, makes or recovers any trade allowance other than an allowance prescribed by rules or bye-laws made under this Act shall, on conviction, be punishable with fine which may extend to Rs. 200. Penalty for making or recovering trade allowance other than an allowance prescribed by rules or bye-laws made under this Act.

22. (1) No suit shall be instituted against any market committee or any member, officer or servant thereof or any person acting under the direction of any such market committee, member, officer or servant for anything done or purporting to be done, in good faith as such member, officer or servant under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a market committee, delivered or left at its office, and in the case of any such member, officer, servant or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been so delivered or left. Bar of suit in absence of notice.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action.

(3) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877. I of 1877.

23. (1) No offence under this Act, or any rule or bye-law thereunder shall be tried by a Court other than that of a Presidency Magistrate or a Magistrate of the First Class or a Magistrate of the Second Class specially empowered in this behalf. Trial of offences.

(2) Prosecutions under this Act may be instituted by any person duly authorised in writing by the market committee in this behalf.

Recovery of sums due to Government from market committee.

24. Every sum due from a market committee to the Provincial Government shall be recoverable as an arrear of land revenue.

Power of the Provincial Government to delegate its powers.

25. The Provincial Government may delegate to any officer any of the powers conferred on it by or under this Act.

Rules.

26. (1) The Provincial Government may, either generally or specially for any market area or market areas, make rules for the purposes of carrying out the provisions of this Act.

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

(a) the election and nomination of members of the market committee, the manner of election, the preparation and revision of lists of voters from time to time and the payment of all expenditure in connection with or incidental to such election;

(b) the powers to be exercised by the market committee;

(c) the election of the chairman of the market committee and his term of office;

(d) the filling of casual vacancies in the office of chairman or member of the market committee;

(e) the maximum fees which may be levied by the market committee in respect of licenses granted to traders and on the agricultural produce bought and sold in the market area and the recovery of such fees;

(f) the issue of licenses to brokers, weighmen, measurers and surveyors, the form in which, and the conditions subject to which such licenses shall be issued or renewed and the conditions subject to which the licensees shall carry on their business and the fees to be charged therefor;

(g) the kind and description of the weights and measures and the weighing and measuring instruments which alone shall be used in transactions in the agricultural produce in a market area;

(h) the periodical inspection of all weights and measures and weighing and measuring instruments in use in a market area;

(i) the manner of control and supervision to be exercised by the market committee over inspectors appointed under section 19 of the Bombay Weights and Measures Act, 1932;

(j) the time within which an appeal shall lie to the Provincial Government or the Officer appointed by it in that behalf under subsection (2) of section 12;

(k) the trade allowance which may be made or received by any person in any transaction in the agricultural produce in a market area ;

(l) the provision of facilities for the settlement of any dispute between a buyer and seller of agricultural produce or their agents including disputes regarding the quality or weight of the article, the allowances for wrappings, containers, dirt or impurities or deductions from any cause ;

(m) the prohibition of brokers from acting in any transaction on behalf of both the buyer and seller of agricultural produce or as a buyer or seller ;

(n) the provision of accommodation for storing any agricultural produce brought into the market ;

(o) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of the market committee, and the grant of sanction to such plans and estimates ;

(p) the form in which the accounts of a market committee shall be kept, the audit and publication of such accounts and the charges, if any, to be made for such audit ;

(q) the preparation and submission for sanction of the annual budget and the report and returns to be furnished by a market committee ;

(r) the investment and disposal of the surplus funds of a market committee ;

(s) the regulation of advances, if any, given to agriculturists by brokers or dalals ;

(t) the prevention of adulteration of the agricultural produce ;

(u) the grading and standardisation of the agricultural produce ;

(v) the keeping of a list of prices of agricultural produce in respect of which the market is established.

(3) Any rule made under this Act may provide that any contravention thereof or of any of the conditions of any license issued or renewed thereunder shall, on conviction, be punishable with fine which may extend to Rs. 200.

(4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

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

Provided that when, in the opinion of the Provincial Government, such modification or rescission is likely to defeat or frustrate any of the

purposes of this Act, the Provincial Government may, by notification in the 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.

Bye-laws.

27. (1) Subject to any rules made by the Provincial Government under section 26 and with the previous sanction of the Director or any other officer specially empowered in this behalf by the Provincial Government, the market committee may in respect of the market area under its management make bye-laws for the regulation of the business and the conditions of trading therein.

(2) Any bye-law made under this section may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to Rs. 50.

Power of Provincial Government to call for proceedings of market committee and to pass orders thereon.

28. The Provincial Government may at any time call for and examine the proceedings of any market committee for the purpose of satisfying itself as to the legality or propriety of any decision or order passed by the market committees under the rules. If in any case, it appears to the Provincial Government that any decision or order or proceedings so called for should be modified, annulled or reversed, the Provincial Government may pass such order thereon as it thinks fit.

Power of Provincial Government to amend the schedule.

29. The Provincial Government may, by notification in the Official Gazette add to, amend or cancel any of the items of agricultural produce specified in the schedule.

Savings.

30. Nothing contained in the Markets and Fairs Act, 1862, or in any law for the time being in force relating to the establishment, maintenance or regulation of a market shall apply to any market area or affect in any way the powers of a market committee or the rights of a holder of a license granted under sub-section (2) of section 4 to set up, establish or continue or to allow to be set up, established or continued, any place for the purchase or sale of any agricultural produce notified under sub-section (1) of section 4 in such area. Bom. IV of 1862.

Repeal of Bom. XVII of 1927.

31. The Bombay Cotton Markets Act, 1927, is hereby repealed :

Provided that, notwithstanding anything contained in section 6, any local area declared to be a cotton market under section 4 of the Bombay Cotton Markets Act, 1927, shall be deemed to be a market area under this Act and the market committee constituted for the said market under section 5 of the said Act and holding office immediately prior to the date on which this Act comes into force shall be deemed to be the market committee under this Act for the said market area. All the members of such committee shall be deemed to be members nominated by the Provincial Government under sub-section (2) of section 6. Bom. XVII of 1927.

SCHEDULE.

[See SECTION 2 (I) (i).]

- I. *Fibres*—
 - (1) Cotton (ginned and unginned).
- II. *Cereals*—
 - (1) Wheat.
 - (2) Paddy (husked and unhusked).
 - (3) Jowar.
 - (4) Bajri.
 - (5) Nagli.
 - (6) Vari.
 - (7) Kodra.
 - (8) Maize.
- III. *Pulses*—
 - (1) Tur.
 - (2) Gram.
 - (3) Udid.
 - (4) Mung.
 - (5) Val.
- IV. *Oilseeds*—
 - (1) Groundnut (shelled and unshelled).
 - (2) Linseed.
 - (3) Sesamum.
 - (4) Safflower.
 - (5) Ambadi.
 - (6) Coconut.
 - (7) Cotton seed.
 - (8) Castor seed.
- V. *Narcotics*—
 - (1) Tobacco.
- VI. *Sugarcane except for chewing and Gul.*
- VII. *Fruits*—
 - (1) Mango.
 - (2) Mosambi.
 - (3) Santra.

- (4) Lemon.
- (5) Banana.
- (6) Grapes.
- (7) Pomegranate.
- (8) Fig.
- (9) Chickoo.
- (10) Strawberry.
- (11) Melons.

VIII. *Vegetables—*

- (1) Potato.
- (2) Onions.
- (3) Tomato.
- (4) Suran.
- (5) Leafy and fresh vegetables.

IX. *Animal Husbandry Products—*

- (1) Eggs.
- (2) Poultry.
- (3) Cattle.
- (4) Sheep.
- (5) Goat.
- (6) Wool.
- (7) Butter.
- (8) Ghee.
- (9) Milk.

X. *Condiments, spices and others—*

- (1) Turmeric.
- (2) Ginger.
- (3) Garlic.
- (4) Corriander.
- (5) Chillies.
- (6) Cardamom and pepper.
- (7) Variali.
- (8) Betelnuts.
- (9) Betel leaves.
- (10) Cashewnuts.

XI. *Grass and fodder.*

BOMBAY ACT No. XXIII OF 1939.¹

[THE BOMBAY LOCAL BOARDS (AMENDMENT) ACT, 1939.]

[2nd November 1939.]

An Act to amend the Bombay Local Boards Act, 1923.²

Bom. VI of 1923. WHEREAS it is expedient to amend the Bombay Local Boards Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Local Boards (Amendment) Act, 1939. Short title.

Bom. VI of 1923. 2. (1) Section 13 of the Bombay Local Boards Act, 1923, hereinafter called the said Act, shall be renumbered as sub-section (1) of that section and in the sub-section (1) so renumbered Amendment of section 13 of Bom. VI of 1923.

(i) after the words "entry in the list, or" the words, figures and brackets "subject to the provisions of sub-sections (2) to (6)" shall be inserted;

(ii) and the words "The Collector's decision shall be final and conclusive." shall be omitted; and

(2) after the sub-section so renumbered, the following sub-sections shall be added, namely :—

"(2) Before inserting in the list aforesaid the name of any person, the Collector shall publish a notice calling upon persons entered in the list to lodge within seven days from the publication of such notice any objection which they may have to the insertion of such name.

(3) Such objection shall be made in writing and shall specify the grounds on which the right of any person to be entered in the list is objected to, the evidence which the objector intends to lead, the address of the objector and his number, if any, in the list, and the area in the district in which his name is entered.

(4) An objection which is not lodged within the time specified in sub-section (2) or which is lodged by a person not entitled to lodge the same shall be rejected.

(5) The Collector shall, on receipt of an objection lodged, fix a date and place for the hearing of the same and shall give notice of such date and place to the claimant.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, pp. 535-36 or *Bombay Legislative Assembly Debates*, 1939, Vol. 7, pp. 2496 or *Bombay Legislative Council Debates*, Vol. 8, p. 673. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 7, pp. 2331-33; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 426-29.

² See *Bombay Code*, Vol. V, p. 33.

(6) The Collector, after hearing the evidence, if any, adduced, on behalf of the parties, and after such further enquiry as he may deem necessary, shall pass an order on the objection.

(7) The Collector's decision under this section shall be final and conclusive."

Amendment
of section 14
of Bom. VI
of 1923.

3. For sub-sections (2) and (3) of section 14 of the said Act, the following shall be substituted, namely :—

"(2) Every person whose name is in the revised list last published before the date of any election for any constituency shall be qualified to vote and every person whose name is not in such list shall not be qualified to vote at the election of a member for the constituency for which such list has been prepared.

(3) Every person whose name is in the revised list last published before the date of any election for any of the constituencies of any local board shall be qualified to be elected and every person whose name is not in any such list shall not be qualified to be elected at the election for any constituency of such local board.

(4) The revised lists referred to in sub-sections (2) and (3) shall be conclusive evidence for the purpose of determining under this section whether any person is qualified or is not qualified to vote or is qualified or is not qualified to be elected, as the case may be, at any election."

Act not to
apply to suits
or proceed-
ings in
respect of
elections
before this
Act.

4. Nothing in this Act shall apply to any suits or proceedings in respect of elections held prior to the date of the coming into force of this Act.

THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1939.

CONTENTS.

PREAMBLE.**Sections.**

1. Short title, extent and operation.
2. Definitions.
3. References to time of day.
4. Act not applicable to certain persons and establishments.
5. Opening and closing hours of shop.
6. Hawking prohibited after closing hour.
7. Daily hours of work in a shop.
8. Spread over of periods of works.
9. Holidays in a week.
10. Opening and closing hours of commercial establishments.
11. Monthly and daily hours of work in a commercial establishment.
12. Spread over of periods of work.
13. Holiday in a week.
14. Restaurants, eating houses not to sell goods of the kind sold in the shops after the closing hour of the shops.
15. Daily hours of work in restaurant, etc.
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17. Holiday in a week.
18. Power to Provincial Government to apply provisions of Act to other establishments.
19. No child to work in any establishment.
20. Young persons to work between 6 a.m. and 7 p.m. only.

21. Hours of work of young person limited to 42 hours in a week and 8 per day.
22. Powers and duties of local authorities.
23. Power of Provincial Government to provide for performance of duties on default by local authority.
24. Expenses of local authority to be paid out of its fund.
25. Appointment of Inspectors.
26. Powers and duties of Inspectors.
27. Inspectors to be public servants.
28. Penalty for obstructing Inspector, etc.
29. Maintenance of registers and records and display of notices.
30. Penalties for offences.
31. Exemption.
32. Wages for over-time work.
33. Rules.
34. Bye-laws.
35. Rights and privileges under other law, etc. not affected.

BOMBAY ACT No. XXIV OF 1939.¹

[THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1939.]

[2nd November 1939.]

An Act to make provision for the regulation of hours of work in shops, commercial establishments, restaurants, eating houses, theatres and other establishments.

WHEREAS it is expedient to make provision for the regulation of hours of work in shops, commercial establishments, restaurants, eating houses, theatres and other establishments and for certain other purposes hereinafter specified; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Shops and Establishments Act, 1939. Short title, extent and operation.

(2) It extends to the whole of the Province of Bombay.

(3) It shall come into force in the first instance only in the City of Bombay, the Ahmedabad Municipal Borough and Cantonment, the Poona City and Suburban Municipal Borough, the Poona Cantonment, the Sholapur Municipal Borough and the Hubli Municipal Borough; but the Provincial Government may, by notification in the Official Gazette direct that all or any of the provisions of this Act shall come into force in any other area on such date as may be specified in such notification.

CHAPTER I.**PRELIMINARY.**

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

(1) "Child" means a person who has not completed his twelfth year.

Provided that in any area for which a scheme of compulsory primary education has been sanctioned under the Bombay Primary Education Act, 1923, the expression "child" shall have the same meaning as it has in the said Act with reference to primary education.

Bom.
IV of
1923.

(2) "Closed" means not open for the service of any customer.

¹ For Statement of Objects and Reasons, See *Bombay Government Gazette* 1939, Part V, pp. 58-64 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3669-74 or *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 545-49. For Report of the Select Committee, see *Bombay Government Gazette*, 1939, Part V, pp. 401-05 or *Bombay Legislative Assembly Debates*, 1939, Vol. 6, pp. 1365-68. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 2991-3044, 3076-91, Vol. 6, p. 63, Vol. 7, pp. 2191-2252 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 374-421.

(3) "Commercial Establishment" means an establishment which is not a shop but which does the business of advertising, commission, forwarding or commercial agency, or which is a clerical Department of a factory or of any industrial or commercial undertaking or which is an insurance company, joint stock company, bank, brokers' office, exchange or such other class of establishments as the Provincial Government may by notification in the Official Gazette declare to be a Commercial Establishment for the purposes of this Act.

(4) "Day" means the period of twenty-four hours beginning at midnight :

Provided that in the case of a person employed whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight.

(5) "Employer" means a person having charge of or owning the business of an establishment to which this Act applies and includes the manager, agent or any other person acting in the general management or control of such shop, restaurant, theatre or establishment.

(6) "Establishment to which this Act applies" means a shop, commercial establishment, restaurant, eating house, theatre or any other place of public amusement or entertainment or any other establishment in respect of which a declaration is made under section 18.

(7) "Factory" means any premises which is a factory within the meaning of clause (j) of section 2 of the Factories Act, 1934, or which is declared to be a factory under section 5 of the said Act. XXV
of
1934.

(8) "Inspector" means an inspector appointed under section 25.

(9) "Local authority" means a Municipality constituted under the City of Bombay Municipal Act, 1888, the Bombay District Municipal Act, 1901, or the Bombay Municipal Boroughs Act, 1925, or a local board constituted under the Bombay Local Boards Act, 1923. Bom.
III of
1888.
Bom.
III of
1901.
Bom.
XVIII
of
1925.
Bom.
VI of
1923.

(10) "Member of family of an employer" means the husband, wife or children, father or mother, brother or sister of an employer who lives with and is dependent on such employer.

(11) "Opened" means opened for the service of any customer.

(12) "Periods of work" means the time during which a person employed is at the disposal of the employer.

(13) "Person employed" means—

(i) in the case of a shop, a person wholly or principally employed in the shop in connection with the business of the shop;

(ii) in the case of a factory, a member of the clerical staff employed in such factory;

(iii) in the case of a commercial establishment other than a factory, a person wholly or principally employed in connection with the business of the establishment and includes a peon;

(iv) in the case of a restaurant or eating house, a person wholly or principally employed in the preparation or the serving of food or drink or in attendance upon a customer or in cleaning any part of the premises or utensils used on such premises or as a clerk or cashier; and

(v) in the case of a theatre or other establishment of public entertainment, a person employed as an operator, clerk, door-keeper, usher or in similar other capacity;

but does not include the employer or a member of his family.

(14) "Prescribed" means prescribed by rules made under this Act.

(15) "Residential Hotel" means any premises in which a *bona fide* business is carried on for the supply of dwelling accommodation and means on payment of a sum of money to a traveller or any other member of the public or class of the public.

(16) "Restaurant or Eating House" means any premises in which is carried on wholly or principally the business of the supply of means or refreshments to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre.

(17) "Shop" means any premises where goods are sold either by retail or wholesale or both or where services are rendered to customers and includes offices, store rooms, godowns or ware-houses, whether in the same premises or otherwise, used in connection with such trade or business but does not include a restaurant, eating house or a commercial establishment.

(18) "Theatre" includes any place intended principally or wholly for the representation of moving pictures or for dramatic performances.

(19) "Week" means the period of seven days beginning at midnight of Saturday.

(20) "Young person" means a person who is not a child and has not completed his seventeenth year.

References to time of day. 3. References to the time of day in this Act are references to Indian standard time which is five and a half hours ahead of Greenwich mean time.

Act not applicable to certain persons and establishments.

4. (1) Nothing in this Act shall apply to—

(a) persons occupying positions of management or employed in a confidential capacity ;

(b) persons whose work is inherently intermittent such as a traveller, a canvasser, a watchman or a caretaker ;

(c) persons exclusively engaged in preparatory or complementary work, such as clearing or forwarding clerks responsible for the despatch of goods by rail or other means of communication and for customs formalities or messengers ;

(d) persons exclusively employed in the collection, delivery or conveyance of goods ;

(e) Government offices and offices of local authorities ;

(f) establishments for the treatment or the care of the sick, infirm, destitute or mentally unfit ;

(g) persons employed in such chemist's or druggist's shops as are approved by the Provincial Government by a general or special order in this behalf ;

(h) clubs and residential hotels ;

(i) stalls and refreshment rooms at railway stations, docks and wharves ;

(j) bazaars or fairs for the sale of work for charitable or other purposes from which no profit is derived ; and

(k) any other establishment or class of establishments or person or class of persons which the Provincial Government may, by notification in the Official Gazette, exempt from the operation of this Act.

(2) Notwithstanding anything contained in sub-section (1) the Provincial Government may by notification in the Official Gazette direct that any of the persons or establishments specified therein shall not be exempt from the operation of this Act.

CHAPTER II.

SHOPS.

5. (1) Save as provided by or under any other enactment for the time being in force, no shop shall on any day—

Opening and closing hours of shop.

(a) be opened earlier than such hour as may be fixed by the Provincial Government by a general or special order in this behalf, and

(b) be closed later than 9 p.m. or such other earlier hour as may be fixed by the Provincial Government by a general or special order in this behalf :

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(2) An order under sub-section (1) shall be passed by the Provincial Government after making an enquiry in the prescribed manner.

6. Save as otherwise provided in this Act or by or under any other enactment, no person shall after the closing hour fixed under sections carry on in or adjacent to a street or a public place the sale of any goods :

Hawking prohibited after closing hour.

Provided that nothing in this section shall apply to the sale of newspapers.

7. (1) Subject to the provisions of sub-section (2), no person employed in any shop shall be required or allowed to work in such shop for more than nine and a half hours in any day.

Daily hours of work in a shop.

Provided that any such person may be allowed to work in such shop for any period in excess of the limit fixed under sub-section (1), if such period does not exceed in aggregate one hundred and twenty hours in any calendar year.

(2) No person employed in any shop shall be required or allowed to work in such shop for more than seven hours in any day unless he has had an interval for rest of at least one hour :

Provided that no person so employed shall be required or allowed to work in such shop for more than five hours in any day unless he has had an interval of rest for at least half an hour.

8. The periods of work and intervals of rest of a person employed in a shop shall be so arranged that they shall not be together spread over more than twelve hours in any day :

Spread over of periods of work.

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours between the opening

and the closing time the periods of work and intervals of rest may be spread over fourteen hours in that day.

Holidays in
a week.

9. (1) Every person employed in a shop shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to any person whose total period of employment is less than six days.

(2) No deduction shall be made from the wages of any person employed in a shop on account of any holiday given to him under sub-section (1).

CHAPTER III.

COMMERCIAL ESTABLISHMENTS.

Opening and
closing hours
of commercial
establish-
ments.

10. (1) Save as provided by or under any other enactment for the time being in force, no commercial establishment shall, on any day, be opened earlier than and closed later than such hour as may be fixed by a general or special order of the Provincial Government made under sub-section (2).

(2) The Provincial Government may by general or special order fix the time at which any commercial establishment or any class of such establishments shall be opened or closed in any local area. Such order shall be passed after making an inquiry in the prescribed manner.

Monthly
and daily
hours of
work in a
commercial
establish-
ment.

11. (1) Subject to the provisions of sub-section (2), no person employed in any commercial establishment shall be required or allowed to work in such establishment for more than two hundred and eight hours in a month :

Provided that any such person may be allowed to work in such establishment for more than two hundred and eight hours in any month during stock-taking, making of accounts, settlement or other prescribed occasions :

Provided further that the total number of hours for which such person is allowed to work in excess of the maximum number of hours prescribed for every month under this section does not exceed one hundred and twenty in any calendar year.

(2) No person employed in any commercial establishment shall be required or allowed to work in such establishment for more than seven hours in any day unless he has had an interval for rest of at least one hour :

Provided that no person so employed shall be required or allowed to work in such establishment for more than four and a half hours in any day unless he has had an interval for rest of at least half an hour.

12. The periods of work and intervals of rest of a person employed in a commercial establishment shall be so arranged that they shall not together be spread over more than twelve hours in a day : Spread over of periods of work.

Provided that the Provincial Government may by rules made in this behalf fix, on not more than six days in a calendar year, any period in excess of the period prescribed under this section for which on account of stock-taking, making of accounts, settlements or other prescribed occasions the person employed may be required to work.

13. (1) Every person employed in a commercial establishment shall be given at least one day in a week as a holiday : Holiday in a week.

Provided that nothing in this sub-section shall apply to any person whose total period of employment is less than six days.

(2) No deduction shall be made from the wages of any person employed in a commercial establishment on account of any holiday given to him, under sub-section (1).

CHAPTER IV.

RESTAURANTS, EATING HOUSES, THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT AND ENTERTAINMENT.

14. After the hour fixed for closing of shops under section 5, no goods of the kind sold in such shops shall be sold in any restaurant, eating house, theatre or any other places of public amusement or entertainment except for consumption on the premises. Restaurants, eating houses not to sell goods of the kind sold in the shops after the closing hour of the shops.

15. (1) Subject to the provisions of sub-section (2), no person employed in any restaurant, eating house or theatre or any other place of public amusement or entertainment shall be required or allowed to work in such restaurant, eating house or theatre or such place for more than ten hours in any day. Daily hours of work in restaurant, etc.

(2) No such person shall be required or allowed to work in such restaurant, eating house, or theatre or place of public amusement or entertainment as the case may be, for more than eight hours in any day, unless he has had an interval for rest of at least one hour :

Provided that no person so employed shall be so required or allowed to work in such restaurant, eating house or theatre or place of public amusement or entertainment for more than six hours in any day unless he has had an interval for rest of at least half an hour.

16. The periods of work and intervals of rest of a person employed in a restaurant, eating house, theatre or any other place of public amusement or entertainment shall be so arranged that they shall not together be spread over more than fourteen hours in any day. Spread over of periods of work.

Holiday in
a week.

17. (1) Every person employed in a restaurant, eating house, theatre or any other place of public amusement or entertainment shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to any person whose total period of employment is less than six days.

(2) No deduction shall be made from the wages of any person employed in a restaurant, eating house, theatre or a place of public amusement or entertainment on account of any holiday given to him under sub-section (1).

CHAPTER V.

OTHER ESTABLISHMENTS.

Power to
Provincial
Government
to apply
provisions of
Act to other
establish-
ments.

18. (1) Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the Official Gazette, declare any establishment or class of establishments to which this Act does not for the time being apply to be an establishment or class of establishments for the purposes of this Act.

(2) On such declaration, such establishment or class of establishments shall be deemed to be an establishment or class of establishments to which this Act applies and all or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration shall apply to such establishment or class of establishments.

CHAPTER VI.

PROVISIONS FOR CHILDREN AND YOUNG PERSONS.

No child to
work in any
establish-
ment.

19. No child shall be allowed to work in any establishment to which this Act applies.

Young
persons to
work between
6 a.m. and
7 p.m. only.

20. No young person shall be allowed to work in any establishment to which this Act applies before 6 a.m. and after 7 p.m.

Hours of
work of young
person
limited to
42 hours in
a week and
8 per day.

21. (1) Notwithstanding anything contained in this Act, no young person shall be allowed to work in any establishment to which this Act applies for more than forty-two hours in a week or for more than eight hours in a day.

(2) No such person shall be allowed to work in such establishment for more than four hours in any day unless he has had an interval of rest for at least half an hour.

CHAPTER VII.

ENFORCEMENT AND PENALTIES.

22. Save as otherwise provided in this Act it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the Provincial Government as may be prescribed :

Powers and duties of local authorities.

Provided that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the Provincial Government to enforce the said provisions.

23. (1) If any local authority makes default in the performance of any duty imposed by or under this Act, the Provincial Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

Power of Provincial Government to provide for performance of duties on default by local authority.

(2) If the expense and remuneration are not so paid, the Provincial Government may notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person ; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

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

Expenses of local authority to be paid out of its fund.

25. (1) Every local authority shall appoint a sufficient number of persons with the prescribed qualifications as Inspectors for the area subject to its jurisdiction as it may deem fit for the purpose of carrying out the provisions of this Act.

Appointment of Inspectors.

(2) In areas which are not subject to the jurisdiction of any local authority, the Provincial Government shall appoint Inspectors with the prescribed qualifications.

- Powers and duties of Inspectors.** 26. Any Inspector appointed under section 25 may at all reasonable times enter into any place which is or which he has reason to believe is an establishment to which this Act applies with such assistants being persons in the service of the Crown or of the local authority, as the case may be, and make such examination of the premises and of the prescribed registers, records and notices, as may be prescribed.
- Inspectors to be public servants.** 27. Every Inspector appointed under section 25 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV
of
1860.
- Penalty for obstructing Inspector, etc.** 28. Any person who wilfully obstructs an Inspector in the exercise of any power conferred on him under this Act or who fails to comply with a lawful direction made by an Inspector shall, on conviction, be punishable with fine which may extend to Rs. 250.
- Maintenance of registers and records and display of notices.** 29. Subject to the general or special orders of the Provincial Government, an employer shall maintain such registers and records and display such notices as may be prescribed for carrying out the provisions of this Act.
- Penalties for offences.** 30. (1) Any employer who contravenes the provisions of sections 5 and 7 to 21 (both inclusive) shall, on conviction, be punishable with fine which may extend to Rs. 25 for the first offence and to Rs. 250 for every subsequent offence after his conviction for the first offence.
- (2) Whoever contravenes the provisions of section 6 shall, on conviction, be punishable with fine which may extend to Rs. 10 for the first offence and to Rs. 100 for any subsequent offence after his conviction for the first offence.

CHAPTER VIII.

MISCELLANEOUS.

- Exemption.** 31. The Provincial Government may, by notification in the Official Gazette, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any prescribed holidays or occasion.
- Wages for over-time work.** 32. Where any person employed in any establishment to which this Act applies is required to work in excess of the limit of hours of work he shall be entitled in respect of the over-time work to wages, at the rate of $1\frac{1}{4}$ times his ordinary rate of wages.

Explanation.—For the purposes of this section—

(1) the expression “limit of hours of work” shall mean—

(a) in case of persons employed in a shop nine and a half hours in each day ;

(b) in case of persons employed in a commercial establishment two hundred and eight hours in a month ;

(c) in case of persons employed in a restaurant, eating house, theatre or any other place of public amusement or entertainment ten hours in each day ; and

(d) in case of persons employed in any other establishment such hours as may be prescribed ; and

(2) the expression "ordinary rate of wages" shall mean such rate of wages as may be calculated in the manner prescribed.

33. (1) The Provincial Government may make rules to carry out the Rules. 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 matters, namely :—

(i) the manner of making inquiry under sub-section (2) of section 5 ;

(ii) the manner of making inquiry under sub-section (2) of section 10 ;

(iii) the occasions on which the hours of work may exceed 208 in a month under section 11 ;

(iv) fixing excess period for work under section 12 ;

(v) the supervision which the Provincial Government shall exercise over local authority under section 22 ;

(vi) the qualifications of Inspectors under section 25 ;

(vii) the examination to be made of premises and of prescribed registers, records and notices under section 26 ;

(viii) the registers and records to be maintained and the notices to be displayed under section 29 ;

(ix) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 31 ; and

(x) the limit of hours of work under clause (1) (d) and the manner of calculating the ordinary rate of wages under clause (2) of the Explanation to section 32.

(3) The rules made shall be subject to the condition of previous publication and when so made shall be deemed to be part of this Act.

(4) The rules may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to Rs. 50.

34. Save in regard to the matters for which provision is made for Bye-laws. rules under section 33, a local authority may, subject to the previous

sanction of the Provincial Government, make bye-laws not inconsistent with this Act or rules thereunder for the purpose of carrying out the provisions of this Act.

Rights and
privileges
under other
law, etc., not
affected.

35. Nothing in this Act shall affect any rights or privileges which any person employed in any establishment to which this Act applies is entitled to at the date this Act comes into force under any other law, contract, custom or usage applicable to such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

**THE BOMBAY OPTIONS IN COTTON PROHIBITION
ACT, 1939.**

CONTENTS.

PREAMBLE.

Sections.

1. Short title and extent.
2. Definitions.
3. Power of Provincial Government to make bye-laws for recognised cotton association.
4. Options in cotton void.
5. Savings.

BOMBAY ACT No. XXV OF 1939.

[THE BOMBAY OPTIONS IN COTTON PROHIBITION ACT, 1939.]

[11th December 1939.]

An Act to provide for the prohibition of options in cotton and for certain other purposes in the Province of Bombay.

WHEREAS it is expedient to prohibit options in cotton and to provide for certain other purposes hereinafter appearing ;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. (1) This Act may be called the Bombay Options in Cotton Prohibition Act, 1939. Short title
and extent.

(2) It shall extend to the whole of the Province of Bombay.

2. In this Act, words and expressions defined in the Bombay Cotton Contracts Act, 1932, shall have the meanings assigned to them in that Act. Definitions.

3. (1) Notwithstanding anything contained in section 6 of the Bombay Cotton Contracts Act, 1932 (hereinafter called "the said Act"), the Provincial Government may, at any time, make for any recognised cotton association, any by-laws in respect of any of the matters specified in section 6 of the said Act except those specified in clauses (a) and (l) of sub-section (2) of the said section and may also add to, vary or rescind any by-laws made by the Board of Directors of such association in regard to the said matters. Power of
Provincial
Government
to make
by-laws for
recognised
cotton
association.

(2) The by-laws or any addition, variation or rescission made under sub-section (1) shall be published in the Official Gazette and shall be subject to the condition of previous publication :

Provided that if the Provincial Government is of opinion that in the interest of trade, it is necessary to make or rescind any by-law or to make any addition to or variation in any by-law forthwith, the Provincial Government may dispense with the conditions of previous publication.

Options in
cotton void.

4. Notwithstanding anything contained in the said Act or in any other law for the time being in force, all options in cotton entered into after the date on which this Act comes into force shall be void.

Savings.

5. Nothing in this Act shall affect or be deemed to affect—

(a) the terms and incidents of any option in cotton made or effected before the date on which this Act comes into force ;

(b) the validity, invalidity, effect or consequence of anything already done or suffered before the aforesaid date in regard to such options in cotton ;

(c) any right, title, obligation or liability acquired, accrued or incurred in regard to such options in cotton before the aforesaid date ;

(d) any remedy or proceeding in respect of such right, title, obligation or liability ;

(e) anything done in the course of any proceeding pending in any court on the aforesaid date relating to such options in cotton

and any such remedy or proceeding may be enforced, instituted or continued, as the case may be, as if this Act had not been passed.

THE BOMBAY FODDER AND GRAIN CONTROL ACT, 1939.**CONTENTS.****PREAMBLE.****Sections.**

1. Short title, extent and commencement.
2. Definitions.
3. Power to declare famine and scarcity areas and to fix standard prices.
4. (1) Sum in excess of the standard price not to be recovered.
(2) Vendor to give receipt to purchaser.
5. Prohibition against removal of fodder or grain from any local area.
6. Sums in excess of standard price not to be recoverable.
7. Penalty for contravention of section 4 or 5.
8. Rules.

BOMBAY ACT No. XXVI OF 1939.¹

[THE BOMBAY FODDER AND GRAIN CONTROL ACT, 1939.]

[12th December 1939.]

An Act to provide for the control and regulation of supply and distribution of fodder and grain including regulation of prices thereof in the Province of Bombay on occasions of famine or scarcity.

WHEREAS it is expedient to provide for the control and regulation of supply and distribution of fodder and grain including regulation of prices thereof in the Province of Bombay on occasions of famine or scarcity ; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Fodder and Grain Control Act, 1939. Short title, extent and commencement.

(2) It shall extend to the whole of the Province of Bombay.

(3) It shall come into force with effect from such date as the Provincial Government may by notification in the Official Gazette appoint.

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

(1) "Famine area" means any area declared to be a famine area under section 3 ;

(2) "Scarcity area" means any area declared to be a scarcity area under section 3 ;

(3) "Standard price" means the maximum price fixed for sale of fodder or grain under section 3.

3. (1) The Provincial Government may, from time to time, by notification in the Official Gazette, declare that a state of famine or scarcity prevails in any local area in the Province ; and thereupon the said area shall be deemed to be a famine area or a scarcity area, as the case may be, for the purposes of this Act for such period as the Provincial Government may direct. Power to declare famine and scarcity areas and to fix standard prices.

¹For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, p. 445 or *Bombay Legislative Assembly Debates*, 1939, Vol. 7, p. 2342 or *Bombay Legislative Council Debates*, 1939, Vol. 8, p. 454.

For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 7, pp. 826-33, 864-94 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 315-22.

(2) On a declaration being made under sub-section (1), the Provincial Government may also by like notification declare that all contracts for the sale of fodder or grain of any kind entered into on or after the date specified in the notification shall be subject to the provisions of this Act.

(3) The Provincial Government may, by notification in the Official Gazette, fix a standard price for the sale of fodder or grain in any famine area or scarcity area or in such other area as may be specified in the notification.

Sum in excess of the standard price not to be recovered :

4. (1) No person shall recover on account of sale of fodder or grain of any kind in any area for which a standard price has been fixed under sub-section (3) of section 3 any sum in excess of the standard price.

Vendor to give receipt to purchaser.

(2) Every vendor of grain or fodder or any person acting on his behalf selling fodder or grain in any area referred to in sub-section (1) shall give to the purchaser a receipt showing the sum received as the consideration for the sale, the quantity and the quality of fodder or grain sold.

Prohibition against removal of fodder or grain from any local area.

5. (1) After the Provincial Government has made a declaration under sub-section (1) of section 3 that a state of famine or scarcity prevails in any local area and during the period for which such declaration is in force, the Provincial Government may, at any time, on being satisfied that it is necessary for the relief of poor persons or for the protection of agriculture or for the preservation of public health in such famine area or scarcity area that the removal of fodder or grain of any kind from such famine area or scarcity area or from any other local area should be restricted, direct, by notification in the Official Gazette, that no person shall remove from the local area mentioned in the notification such fodder or grain without permission in writing of the Collector or such other officer as may be authorised by him in this behalf.

(2) On such direction being issued no person shall remove from the local area mentioned in the notification any such fodder or grain without permission in the manner provided in sub-section (1).

Sums in excess of standard price not to be recoverable.

6. (1) Any sum agreed to be paid as consideration for the sale of fodder or grain of any kind in excess of the standard price shall be irrecoverable.

(2) If any such sum has been paid, it shall be recoverable by the person paying the same from the person to whom it was paid.

Penalty for contravention of section 4 or 5.

7. Whoever contravenes any of the provisions of section 4 or 5 shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 1,000 or with both.

Rules.

8. The Provincial Government may by notification in the Official Gazette make rules for carrying out the provisions of this Act.

BOMBAY ACT No. XXVII of 1939.¹

[THE SIR CHINUBHAI MADHAVLAL RANCHHODLAL BARONETCY
(AMENDMENT) ACT, 1939.]

[15th December 1939.]

**An Act to amend the Sir Chinubhai Madhavlal Ranchhodlal
Baronetcy Act, 1924.²**

Bom. VIII of 1924. WHEREAS it is expedient to amend the Sir Chinubhai Madhavlal Ranchhodlal Baronetcy Act, 1924, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Sir Chirubhai Madhavlal Ranchhodlal Baronetcy (Amendment) Act, 1939. Short title.

Bom. VIII of 1924. 2. In section 4 of the Sir Chinubhai Madhavlal Ranchhodlal Baronetcy Act, 1924, hereinafter called the said Act,— Amendment of section 4 of Bom. VIII of 1924.

(i) for the words “of rupees twenty-eight lacs in the aggregate and producing an annual income of about rupees one lac twenty-one thousand and five hundred” the words “in the aggregate of about rupees twenty-eight lacs or such sum as may produce an annual income of not less than rupees ninety-eight thousand shall be substituted; and

(ii) for the words “ordinary repairs” the words “repairs of any nature whatsoever” shall be substituted.

3. After section 7 of the said Act, the following new section shall be inserted, namely:— Insertion of new section 7A in Bom. VIII of 1924.

“7A. Immediately from and after the passing of the Sir Chinubhai Madhavlal Ranchhodlal Baronetcy (Amendment) Act, 1939, the lands buildings, hereditaments and premises particularly described in the Third Schedule hereunder written shall be vested by the force and virtue of the aforesaid Act in the Corporation and shall be deemed to be so vested from the aforesaid date by the force of this Act upon the same trusts and for the same purposes and subject to the same powers, provisions and declarations as in this Act declared and Vesting of property described in the Third Schedule and trust in respect thereof.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939, Part V, pp. 523-25 or *Bombay Legislative Assembly Debates*, 1939, Vol. 7, pp. 2355-56, or *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 493-95.

For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 7, pp. 2140-41 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 323-26.

² Not printed in the Bombay Code as it is of a purely personal character, vide preface to the Bombay Code.

contained of and concerning the hereditaments and premises described in the First Schedule hereto :

Provided that so long as stocks, funds or securities referred to in section 4 of the nominal value in the aggregate of about rupees twenty-eight lacs or such sum as may produce an annual income of not less than rupees ninety-eight thousand are not assigned and transferred by the Baronet for the time being or the person who as the heir male of his body has for the time being succeeded to and is in the enjoyment of the title of the Baronet into the name of the Corporation, it shall be competent to the said Corporation for reasons to be recorded in writing to sell by public auction or by private contract the said hereditaments or premises specified in the Third Schedule or any part thereof and invest the sale proceeds in the purchase of stocks, funds or securities for the purpose of making up the said stocks, funds or securities of the nominal value in the aggregate of about rupees twenty-eight lacs or such sum as may produce an annual income of not less than rupees ninety-eight thousand and it shall not be necessary for the Corporation to obtain the consent as provided in section 9 for such sale, of the person entitled to and in actual enjoyment of the title of Baronet conferred by the said Letters Patent and during his minority of his duly appointed guardian."

Insertion of new sections 20A, 20B, 20C, 20D and 20E in Bom. VIII of 1924.

4. After section 20 of the said Act the following new sections shall be inserted, namely :—

Special provisions till properties, funds etc. producing an annual income of Rs. 98,000 are not assigned to the Corporation.

"20A. Notwithstanding anything contained in the foregoing provisions of this Act, on and after the passing of the Sir Chinubhai Madhavlal Ranchhodlal Baronety (Amendment) Act, 1939, so long as stocks, funds or securities referred to in section 4 of the nominal value in the aggregate of about rupees twenty-eight lacs or such sum as may produce an annual income of not less than rupees ninety-eight thousand are either not assigned and transferred by the Baronet for the time being or the person who as the heir male of his body has for the time being succeeded to and is in the enjoyment of the title of the Baronet into the name of the Corporation or are not acquired by purchase or otherwise from the income or proceeds of sale of any of the hereditaments or premises specified in the Third Schedule ;

(a) the Corporation shall not be required to pay, as provided in section 4, the whole of the balance of the annual income of the Trust Funds and of the hereditaments and premises specified in Schedules I and III to the present Baronet or to the person, who as heir male of his body shall for the time being have succeeded to and be in the enjoyment of the title of Baronet conferred by the said Letters Patent as aforesaid and shall be of full age or during his minority to his duly appointed guardian but shall pay to the said Baronet or the said person only such sum, not being less than rupees three thousand a month, as the Corporation may in its absolute discretion

deem fit to fix from time to time and may appropriate any part of the annual income in excess of the sum so fixed towards making up the said stocks, funds or securities of the nominal value in the aggregate of about rupees twenty-eight lacs or such sum as may produce an annual income of not less than rupees ninety-eight thousand ;

(b) the Corporation shall not, as provided in section 5, pay over, transfer and assign to the Baronet on his attaining majority the whole of the investments and accumulations of the residue of the annual income invested during his minority but shall appropriate the same towards the purpose of acquiring and holding stocks, funds or securities as will make up the stocks, funds or securities of the nominal value in the aggregate of about rupees twenty-eight lacs or such sum as may produce an annual income of not less than rupees ninety-eight thousand ;

(c) subject to the provisions of section 7, the actual management of all hereditaments and premises for the time being vested in the Corporation including the collection of rent and carrying out repairs shall be in the hands of the person in the actual enjoyment for the time being of the title of Baronet conferred by the said Letters Patent being of full age or during his minority of his duly appointed guardian, subject nevertheless, notwithstanding anything contained in section 19, to the control, direction and supervision of the Corporation :

Provided always—

(i) that such management shall be carried on in such manner as the Provincial Government may from time to time direct ;

(ii) that the person so in actual management shall submit to the Provincial Government as well as to the Corporation such information and returns and accounts as to the management as the Provincial Government or Corporation may call for or require from time to time :

And provided further that on failure of the person so in actual management to carry out any direction or order of the Provincial Government or the Corporation, as the case may be, or on his failure to furnish such information or returns as may be called for from him by the Provincial Government or the Corporation, as the case may be, or on his failure, to manage the property as carefully as in the opinion of the Provincial Government a man of ordinary prudence would manage it as if the property were his own, the Provincial Government or, with the previous approval of the Provincial Government the Corporation, shall be entitled to and may forthwith take over and assume the actual management for such period as the Provincial Government or the Corporation may deem proper till the stocks, funds or securities referred to in section 4 are made up of the nominal value in the aggregate of about

rupees twenty-eight lacs or such sum as may produce an annual income of not less than rupees ninety-eight thousand.

Provincial Government to be Trustees of property under management.

20B. When the Provincial Government takes over and assumes the actual management of the property under the second proviso to section 20A the property shall vest in the Provincial Government as Trustees for executing all the powers and purposes of this Act conferred on and executable by the Corporation under this Act and all the provisions of this Act which apply to the Corporation shall, so far as may be, apply to the Provincial Government.

Reimbursement of expenses of Provincial Government and Corporation.

20C. On the Provincial Government or the Corporation taking over and assuming the actual management of the hereditaments under the second proviso to section 20A and so long as the Provincial Government or the Corporation is in actual management of the said hereditaments it shall be lawful for the Provincial Government or the Corporation out of any moneys which shall come to its hands by virtue of the trusts and provisions of this Act to retain and reimburse to them all damages, costs and expenses which they shall or may sustain, expend or disburse in or about the execution of the trusts, powers and provisions herein contained or in relation thereto.

Devesting of property specified in Third Schedule on amount of stocks, funds or securities totalling about Rs. 28,00,000.

20D. As soon as the stocks, funds or securities referred to in section 4 are made up of the nominal value in the aggregate of about rupees twenty-eight lacs or such sum as may produce an annual income of not less than rupees ninety-eight thousand, such of the lands, buildings, hereditaments and premises particularly described in the Third Schedule hereunder as may be vesting in the Corporation at the said date shall be divested of the Corporation or of the Provincial Government, as the case may be, and they shall then be vested in the person in the actual enjoyment for the time being of the title of the Baronet, such of them as shall be of freehold tenure absolutely and such of them as are of a leasehold tenure for all the residue then unexpired of the several terms for which the same may be demised by the respective leases relating to them for his own use and benefit.

Indemnity to Provincial Government and Corporation.

20E. No suit or proceeding shall lie against the Provincial Government or any of its officers or the Corporation or any of the trustees for the time being, his heirs, executors, administrators or estates or effects of each of such trustees or heirs, executors or administrators for anything in good faith done or purported to have been done under or in pursuance of the provisions of this Act."

Insertion of Third Schedule in Bom. VIII of 1924.

5. After the Second Schedule to the said Act, the following Schedule shall be added, namely :—

" THE THIRD SCHEDULE.

Particulars of other Properties.

I. Property popularly known as *Desai's Pole Haveli* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about two hundred and forty-five square yards bearing Survey No. 2960 of Sheet No. 67 situated in the City of Ahmedabad in the registration Sub-District of Ahmedabad, Taluka North Daskroi, registration District of Ahmedabad and bounded as follows:—

On the East by Survey No. 2939,

On the West by Public Street,

On the North by Survey Nos. 2958, 2959,

On the South by Survey Nos. 2961 and 2962 and Public Street.

II. Property popularly known as *Zaveriwala Bungalow* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about fifteen thousand, seven hundred and thirty square yards bearing Survey Nos. 262-A and 262-B of Sheet No. 155, situate in the City of Ahmedabad, in the registration Sub-District of Ahmedabad, Taluka North Daskroi, registration District of Ahmedabad and bounded as follows:—

On the East by Railway Lines,

On the West by Public Road leading to Police Headquarters,

On the North by Public Road,

On the South by Survey No. 263.

III. Property popularly known as *Desai's Pole Delha* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about six hundred and twenty-eight square yards bearing Survey No. 3010 of Sheet No. 67, situate in the City of Ahmedabad, in the registration Sub-District of Ahmedabad, Taluka North Daskroi, registration District of Ahmedabad and bounded as follows:—

On the East by Survey No. 3009,

On the West by Survey No. 1399 and Public Street of Hajira's Pole,

On the North by Survey No. 3011 and Public Street,

On the South by Survey No. 1400.

IV. Property popularly known as *Open lands in Desai's Pole* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about nine hundred and sixty square yards, bearing Survey No. 3011 of Sheet No. 67, situate in the City of Ahmedabad, in the registration Sub-District of Ahmedabad, Taluka

North Daskroi, registration District of Ahmedabad and bounded as follows :—

- On the East by Public Street,
- On the West by Survey Nos. 3012, 3013, 1396-97,
- On the North by Public Street,
- On the South by Survey No. 3010 and part of Public Street.

V. Property popularly known as *Chinunath Mahadev lands* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about 46,222 square yards, bearing Survey Nos. 281, 282/1, 284 and 285 of Sheet No. 160, situate in the City of Ahmedabad, in the registration Sub-District of Ahmedabad, Taluka North Daskroi, registration District of Ahmedabad and bounded as follows :—

- On the East by Public Road leading to Naranghat,
- On the West by the River Sabarmati,
- On the North by the Part of 282/2, 283,
- On the South by Survey Nos. 286, 287, 288 and 280.

VI. Property popularly known as *Biradari Bungalow* and consisting of all that piece or pieces or parcel or parcels of leasehold land with buildings thereon admeasuring about twelve thousand nine hundred and seventy-three square yards bearing Survey Nos. 4223 to 4238 and 4242 to 50 of Sheet No. 59, situate in the City of Ahmedabad in the registration Sub-District of Ahmedabad, Taluka North Daskroi, registration District of Ahmedabad and bounded as follows :—

- On the East by Old Collector's Office and Survey No. 4222,
- On the West by the River Sabarmati,
- On the North by the City Wall leading to Lal Darwaja,
- On the South by Survey Nos. 4258-72 and open ground of Old Collector's office.

VII. Property popularly known as *Barejadi lands* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about six lacs eight thousand and twenty-five square yards, bearing Survey Nos. 182, 193-6, 198-214, 218-235, 237, 239, 245-7, 249-256, 258, 331-333, 386-90, of Map of Devli lands situate in the registration Sub-District of Ahmedabad, Taluka South Daskroi, registration District of Ahmedabad and bounded as follows :—

- On the East by limits of Nandej Village,
- On the West by Survey Nos. 334, 330, 328, 327, 321, 262, 261, 257 and 259,
- On the North by Railway Lines and Survey Nos. 385, 393, 392, 391,
- On the South by Govad Pond and Survey Nos. 183 to 192, Public Road and Survey Nos. 701, 248, 684, 244, 236, 238, 243 and 240.

VIII. Property popularly known as *Kankaria lands* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about forty-three thousand, three hundred and eighteen square yards bearing Survey No. 100 of Manipur Town Planning Scheme (Final) Plan No. A 3146, situate in the registration Sub-District of Ahmedabad, taluka North Daskroi, registration District of Ahmedabad and bounded as follows :—

On the East by Survey No. 101,

On the West by Canal,

On the North by Public Road,

On the South by Public Road.

IX. Property popularly known as *Lal Bungalow* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about four thousand, four hundred square yards, bearing Survey Nos. 2881, 2882 to 2885, 2898, to 2901 of Sheet Nos. 53 and 54 respectively, situate in the City of Ahmedabad, in the registration Sub-District of Ahmedabad, taluka North Daskroi, registration District of Ahmedabad and bounded as follows :—

On the East by Nala,

On the West by Mirasi Vado,

On the North by Shahpur Salapos Road,

On the South by Mirasi Vado.

X. Property popularly known as *Shahpur Bungalow* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about 23,736 square yards, bearing Survey Nos. 4560, 4561/B, 4562, 4563/A, 4563/B, 4588, 4610, 4611, 4612 of Sheet Nos. 51 and 52, situate in the City of Ahmedabad in the registration Sub-District of Ahmedabad, taluka North Daskroi.

XI. Property popularly known as *Mama's Haveli* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about three hundred and eleven square yards bearing Survey Nos. 1202, 1205 to 11 of Sheet No. 65 situate in the City of Ahmedabad in the registration Sub-District of Ahmedabad, taluka North Daskroi, registration District of Ahmedabad and bounded as follows :—

On the East by Survey No. 1556,

On the West by Road to Dana Pith, Pankor Naka Road,

On the North by Road leading from Dhalgar Vad to Sankdi Sheri,

On the South by Municipal School.

XII. Property popularly known as *Sakar Bazar Dehla* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about one thousand forty-two square

yards, bearing Survey Nos. 1442 to 45, 1488 to 1503 of Sheet No. 8 situate in the City of Ahmedabad, in the registration Sub-District of Ahmedabad, taluka North Daskroi, registration District of Ahmedabad and bounded as follows :—

- On the East by Survey No. 1439,
- On the West by Sakar Bazar Road,
- On the North by Survey Nos. 1504, 1506-7-8,
- On the South by Cross Lane.

XIII. Property popularly known as *Khanpur Bungalows* and consisting of all that piece or pieces or parcel or parcels of freehold land with buildings thereon admeasuring about nineteen thousand nine hundred and twenty-nine square yards bearing Survey Nos., tenure and area as shown below, situate in the City of Ahmedabad, in the registration Sub-District of Ahmedabad, taluka North Daskroi, registration District of Ahmedabad and bounded as follows :—

- On the East by Shahpur Salapos Road and Nala going to Khanpur Chakla,
- On the West by Khanpur Road,
- On the North by Junction of Khanpur and Shahpur Salapos Road,
- On the South by Dr. Anklesaria's Bungalow.

Sheet No.	Survey No.	Area SquareYards.	Nature.
52	4223	5,121	Summary Settlement, Inam.
52	4224	2,484	Do.
52	4227	4,914	Do.
53	4228	225	Occupancy assessment revisable at Settlement periods.
53	4229	6,755	Summary Settlement.
53	4230	156	Lease for 99 years expiring on 31st March 1967.
53	4231	181	Freehold.
53	4232	15	Freehold.
53	4233	73	Occupancy assessment liable to revision.

XIV. Property popularly known as *Railway pura Dehla* and consisting of all that piece or pieces or parcel or parcels of leasehold land with buildings thereon admeasuring about seven hundred and thirty-two square yards, bearing Survey Nos. 793 to 812 of Sheet No. 7, situate in

the City of Ahmedabad, in the registration Sub-District of Ahmedabad, taluka North Daskroi, Registration District of Ahmedabad and bounded as follows :—

On the East by Public Road from Kalupur Gate to Railway Station,

On the West by Survey Nos. 783 to 791,

On the North by Public Road from Kalupur Gate to Railway Station.

On the South by Survey Nos. 813, 816 and 817.

XV. Property formerly known as *Madhubhai Mill Lands* and now known as *Madhowlal Ranchhodlal Industrial Colony* and consisting of all that piece or pieces or parcel or parcels of freehold and leasehold lands with buildings thereon admeasuring about one lac and eighteen thousand square yards, bearing Survey Nos. 123 to 125 and 126/2, 127 to 135, situate at Moje Sherkotda, Registration Sub-District of Ahmedabad, taluka North Daskroi, and bounded as follows :—

On the North by Road to Saraspur,

On the South by Survey No. 122 and Nalia,

On the East by Nalia and Survey Nos. 136 and 137,

On the West by Survey No. 122, Road, Survey No. 126 and Road.

XVI. Property known as *Beharampur lands* and consisting of all that piece or pieces or parcel or parcels of freehold lands admeasuring about 60,000 (sixty thousand) square yards, bearing Survey Nos. 76, 77, 78 and 89, situate at Moje Beharampur in the Registration Sub-District of Ahmedabad, taluka North Daskroi.”

**THE BOMBAY AGRICULTURAL DEBTORS RELIEF
ACT, 1939.**

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BOMBAY ACT No. XXVIII OF 1939.¹

[THE BOMBAY AGRICULTURAL DEBTORS RELIEF ACT, 1939.]

[30th January 1940.]

An Act to provide for the Relief of Agricultural Debtors in the Province of Bombay.

WHEREAS it is expedient to provide for the relief of agricultural debtors in the Province of Bombay and for certain other purposes specified herein; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bombay Agricultural Debtors Relief Act, 1939. Short title, extent and commencement.

(2) This section and sections 17, 23, 32, 37 and 73 extend to the whole of the Province of Bombay and the rest of the Act shall extend to the whole of the Province of Bombay except the town and island of Bombay.

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

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

(1) "Award" means an award made by the Board under section 24, 54 or 55 or as confirmed or modified by the Court under section 9.

(2) "Board" means a Debt Adjustment Board established under section 4.

(3) "Co-operative Society" means a society registered or deemed to be registered under the provisions of the Bombay Co-operative Societies Act, 1925.

Bom.
VII of
1925.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1939 Part V, pages 153-60 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pages 3615-22 or *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 527-33. For Report of the Select Committee, see *Bombay Government Gazette*, 1939, Part V, pages 335-41 or *Bombay Legislative Assembly Debates*, 1939, Vol. 6, pages 1395-1405. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pages 2418-2509, 3076, Vol. 6, p. 63, Vol. 7, pp. 894-953, 1192-1345, 1374-1577, 1616-64, 1678-1735, 1737-67, 1770-1830, 1832-97, 1933-67. For Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 333-72.

(4) "Court" means—

(a) in sections 13, 14, 17, 61, sub-section (I) of section 62, 63, 66, 75 and 83 a District Court or a Court of the First Class Subordinate Judge to which an appeal lies against the award of a Board under section 9; and

(b) in the remaining provisions wherever the expression occurs, the Civil Court of competent jurisdiction.

(5) "Debt" means any liability in cash or kind, whether secured or unsecured, due from a debtor whether payable under a decree or order of any civil court or otherwise but does not include arrears of wages payable in respect of agricultural or manual labour.

(6) "Debtor" means—

(a) an individual—

(i) who is indebted;

(ii) who holds land used for agricultural purposes;

(iii) who has been cultivating such land personally from a date prior to 1st April 1937; and

(iv) whose annual income from sources other than agriculture and manual labour does not ordinarily exceed 20 per cent. of his total annual income or does not exceed rupees 300, whichever is greater;

(b) an undivided Hindu family—

(i) which is indebted;

(ii) which holds land used for agricultural purposes;

(iii) which has been cultivating such land personally from a date prior to 1st April 1937; and

(iv) the annual income of which from sources other than agriculture and manual labour does not ordinarily exceed 20 per cent. of its total annual income or does not exceed Rs. 500, whichever is greater.

Explanation I.—For the purposes of this clause "Agriculture" includes horticulture, the raising of crops or garden produce, dairy farming, poultry farming, stock breeding and grazing, but does not include leasing of land or cutting only of grass or wood.

Explanation II.—For the purposes of this clause, a person who personally cultivated land used for agricultural purposes on 1st April 1937, but who has been evicted from such land at any time thereafter, shall be deemed to have been cultivating such land personally, if at the date of the application under section 17 or 23 he is cultivating land personally.

(7) "Financing of crops" means advancing of loans for the raising of crops during the ploughing season or later for ploughing, sowing, harrowing, weeding, harvesting, purchase of seeds, manure or for such other purposes as may be prescribed, such loans being repayable during the season when the crops for which the loans were advanced are harvested.

Bom. V of 1879. (8) "Holder" means a holder as defined in section 3 (II) of the Bombay Land Revenue Code, 1879, and includes a holder of land held for the performance of services useful to Government or village community, which service is actually being performed but does not include—

(a) a holder of any other alienated land which cannot be alienated without the sanction of Government, and

(b) a holder of any land held on behalf of a religious or charitable institution.

and the expression "to hold land" shall be construed accordingly.

(9) "Prescribed" means prescribed by rules.

Bom. VII of 1925. (10) "Resource Society" shall have the same meaning as it has in the Bombay Co-operative Societies Act, 1925.

(11) "Rules" means rules made under section 83.

(12) "Secured debt" means a debt due to a creditor from his debtor for which the creditor holds the property of the debtor or any part thereof as security.

(13) "To cultivate personally" means to cultivate by one's own labour or by the labour of any member of one's family or by servants or hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.—If a person who was cultivating personally dies leaving as his heir a widow or a minor or a person who is subject to physical or mental disability, such heir shall be deemed to cultivate the land personally notwithstanding the fact that the land is cultivated on behalf of such heir by servants or hired labour or by tenants.

Explanation II.—In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family. If there are no adult co-parceners in such family capable of cultivating the land personally, such family shall be deemed to be cultivating the land personally if the land is cultivated on behalf of such family by servants or hired labour or by tenants.

(14) "Unsecured debt" means a debt which is not a secured debt.

(15) The expressions "District Judge", "Joint Judge", "First Class Subordinate Judge" and "Special jurisdiction" have the same meanings as are assigned to them in the Bombay Civil Courts Act, XIV of 1869.

(16) The words and expressions used in this Act, but not defined, have the meanings assigned to them in the Code of Civil Procedure, V of 1908, or the Bombay Land Revenue Code, 1879, as the case may be. 1908. Bom. V of 1879.

Savings.

3. Save as otherwise expressly provided in this Act, nothing in sections 17, 31, 32, 33, 34, 38, 39, 40, 41, 42, 43, 44, 45, 52, 53 and 54 shall affect the debts and liabilities of a debtor falling under the following heads, namely:—

(i) any revenue or tax payable to Government or any other sum due to it by way of loan or otherwise, .

(ii) any tax payable to a local authority or any other sum payable to such authority by way of loan or otherwise,

(iii) any liability in respect of any sum due to any co-operative society;

(iv) any liability in respect of any sum advanced after 1st January 1939 solely for the purpose of financing of crops, and

(v) any liability under a decree or order for maintenance passed by a competent Court.

Explanation.—"Tax" means any toll, rate, cess, fee or other impost leviable by Government or any local authority.

CHAPTER II.

CONSTITUTION AND POWERS OF A DEBT ADJUSTMENT BOARD AND THE POWERS OF THE COURT IN APPEAL.

Constitution of the Board.

4. (1) The Provincial Government may, by notification in the *Official Gazette*, establish a Debt Adjustment Board. Such Board may be established for any local area, or for any class of debtors in any local area.

(2) A notification under sub-section (1) shall also be published in the local area concerned in the regional language of that area and in such other manner as may be prescribed.

(3) (i) The Board shall consist of—

(a) one person who holds or has held office under the Crown in India, or

(b) a body or association of persons, or

(c) persons not less than three and not more than five in number.

(ii) Where the Board consists of more than one person, one of such persons shall be a chairman and another a vice-chairman.

(iii) Persons constituting a Board shall have such qualifications as may be prescribed and shall be appointed by the Provincial Government.

(4) Where the Board consists of five members, the quorum shall be three, and where the Board consists of four or three members, the quorum shall be two.

(5) Where the chairman and other members of the Board are unable to come to a unanimous agreement, the opinion of the majority shall prevail. Where the Board is equally divided, the chairman shall have a casting vote.

(6) During the absence of the chairman from any meeting of the Board, the vice-chairman shall act as chairman. During the absence of both the chairman and vice-Chairman from any meeting of the Board, any member elected by the members present shall act as chairman. The First Class Subordinate Judge, within the local limits of whose special jurisdiction the Board is established, shall also nominate one of the members of the Board to act as chairman in the absence of both the chairman and the vice-chairman and on the failure of the members to elect a chairman. The vice-chairman or the member who is so elected or nominated as chairman shall, while so acting, have the same powers as the chairman.

(7) When the Board consists of only one officer or individual, the Provincial Government may appoint, in the manner prescribed, such number of assessors not exceeding four as it thinks fit, to assist the Board in any proceeding before it under this Act. In making the award the Board shall take into consideration the opinions of such assessors.

(8) No member of the Board who has directly or indirectly, by himself or his partner, any share or interest in any transaction in any proceedings before the Board shall act as a member of the Board in respect of such proceedings.

5. (1) Notwithstanding anything contained in section 4, the Provincial Government may, after due enquiry at any time, by notification in the *Official Gazette*—

(a) dissolve any Board and establish in its place a fresh Board ; or

(b) remove all or any of the members of a Board and appoint in their place new members.

(2) The dissolution of a Board or the occurrence of any vacancy on the board through death, resignation or removal of its members under sub-section (1) shall not in any way affect the validity of any proceedings pending before the Board and the said proceedings shall be

continued before the said Board or before any other Board established in place of the said Board, as the case may be, as if there has been no dissolution of the Board or the occurrence of any such vacancy.

(3) Save as otherwise provided in this Act, the proceedings pending before any Board which has been dissolved under sub-section (1) and in place of which no other Board has been established shall be deemed to be civil proceedings within the meaning of section 14 of the Indian Limitation Act, 1908, and the provisions of the said section shall, so far as may be, apply to the computation of the period of limitation in regard to any suit or application which may be instituted in any civil court to enforce any claim which was the subject matter of the proceedings pending before the Board so dissolved. IX of 1908.

Power of Board to decide all questions arising on adjustment of debts.

✓ 6. (1) Subject to the provisions of this Act, the Board shall have full power to decide all questions, whether of title or priority or of any nature whatsoever, and whether involving matters of law or fact, which may arise in any case within the cognizance of the Board or which the Board may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete adjustment of debts in any such case.

(2) Subject to the provisions of this Act and notwithstanding anything contained in any other law for the time being in force, every such decision shall be final and binding for all purposes on all the parties and all other persons claiming through or under such persons who are parties to the proceedings in which such decision is given.

Procedure before Board.

7. (1) Subject to the provisions of this Act and any rules, the Board shall have the same powers as are vested in civil courts under the Code of Civil Procedure, 1908, when trying a suit, and in particular in respect of the following matters:— V of 1908.

- (a) joining any necessary or proper parties ;
- (b) summoning and enforcing the attendance of any person and examining him on oath ;
- (c) compelling the production of documents ;
- (d) issuing commissions for the examination of witnesses ; and
- (e) proof of facts by affidavits.

(2) Subject to the provisions of this Act and any rules, the Board may direct any of its members to inspect any site, or to examine any witnesses on commission. On the inspection of such site by the members and the examination of witnesses on commission, a report shall be made to the Board.

Proceedings deemed to be judicial proceedings.

8. All proceedings under this Act before the Board shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

9. (1) Every award except an award made in terms of a settlement under sub-section (4) of section 23 or under section 24 or under section 55 shall, at the instance of any party, be subject to appeal—

(a) to the District Court within the local limits of whose jurisdiction the Board may have been established, if the total amount of debts payable by the debtor under the award exceeds Rs. 5,000, and

(b) to the Court of the First Class Subordinate Judge within the local limits of whose special jurisdiction the Board may have been established, if the total amount of such debts does not exceed Rs. 5,000.

(2) Every decision of the Board under sub-section (3) of section 23 or dismissing an application under sub-section (2) of section 35 shall at the instance of any party be subject to appeal to the Court of the Subordinate Judge of the First Class within the local limits of whose special jurisdiction the Board may have been established.

10. An appeal against a decision or award of the Board shall be filed within 60 days from the date of such decision or award :

Limitation for appeals.

IX of 1908. Provided that in computing the period of limitation, the provisions of the Indian Limitation Act, 1908, applicable to appeals shall, so far as may be, apply to appeals under this Act.

11. A memorandum of appeal shall be accompanied with court-fees at the following rates :—

Court-fees on appeals.

(a) in an appeal against the decision of the Board under sub-section (3) of section 23 or under sub-section (2) of section 35—a court fee of Rs. 2.

VII of 1870. (b) in an appeal against an award—on the amount in dispute at the rate payable on a memorandum of appeal presented to a civil court under item 1 of Schedule I of the Court-fees Act, 1870, as if the award was a decree of a subordinate civil court.

✓ 12. No decision or award of the Board shall be modified or set aside in appeal, except on any of the following grounds :—

Grounds of appeal.

(a) such decision or award was improperly procured,

(b) corruption or misconduct of the Board or any member thereof, in the conduct of the proceedings relating to such decision or award,

(c) any illegality or irregularity in the proceedings relating to such decision or award, which has occasioned failure of justice,

(d) any error of law or erroneous appreciation of evidence which has occasioned failure of justice.

V of 1908. 13. In the hearing of appeals made under this Act, the Court shall follow the procedure provided in the Code of Civil Procedure, 1908, for the hearing of appeals from original decrees so far as may be applicable.

Procedure in appeals.

14. Notwithstanding anything contained in any other law, no further appeal shall lie against a decision or order of the Court under this Act.

Court's decision order to be final.

15. (1) A Board shall in all proceedings under this Act be subject to the control of the Court of the First Class Subordinate Judge within the local limits of whose special jurisdiction it is established.

Control over Board.

(2) The First Class Subordinate Judge or any person authorised by him may inspect or cause to be inspected any property, books or documents in possession of or under the control of the Board and require the Board to furnish such statements, accounts, reports, copies of documents or such other information relating to the proceedings and duties of the Board and may pass such orders thereon as he thinks fit.

Power of Board to enlarge time.

16. Where any period is fixed or granted by the Board for the doing of any act prescribed or allowed by this Act, the Board may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

CHAPTER III.

PROCEDURE FOR ADJUSTMENT OF DEBTS.

Application for adjustment of debts.

17. (1) Within eighteen months from the date on which a Board is established under section 4, any debtor may make an application to the Board for the adjustment of his debts under this Act as hereinafter provided.

(2) Unless the debtor has already made an application under sub-section (1), his creditor may make an application to the Board for the adjustment of his debts within the period specified in sub-section (1).

(3) An application under this section shall be made to the Board established for any local area if the debtor or any of the debtors who is a party to the application ordinarily resides in such area, or to the Board established for the class of debtors, if the debtor or any of the debtors who is a party to the application belongs to the said class.

(4) When more than one application has been made to the same or different Boards by or in respect of the same debtor or one or more of the joint debtors,

(a) if the Boards are established within the local limits of one Court, that Court, and

(b) if the Boards are established within the local limits of more than one Court a District Judge or a Joint Judge appointed in this behalf by the Provincial Government,

shall after holding such enquiry as it or he thinks fit, direct that all such applications shall be dealt with by any one of such Boards as may be specified in the direction :

Provided that the Board so specified shall be one of the Boards referred to in sub-section (3).

(5) No objection as to the place of presentation of the application shall be allowed by the Board or the Court, unless such objection was taken at the earliest opportunity before the Board to which the application was made and unless there has been a consequent failure of justice.

18. (1) Every application made under section 17 shall be in writing in the prescribed form and shall be signed and verified in the prescribed manner.

Form and verification of application.

VII of 1870. (2) It shall be accompanied with such court fee as may be payable under the Court-fees Act, 1870, as if the application was a plaint in a suit for accounts.

19. (1) After the coming into force of this Act, but notwithstanding the fact that any application has not been filed under section 17—

Every creditor and debtor to file a true and correct statement before Board.

(a) every creditor, on being required to do so by a notice in writing by any of his debtors, shall, within one month from the date of the receipt of such notice, file before the Board referred to in sub-section

(3) of section 17 a true and correct statement of all his claims against such debtor, and shall at the same time send a copy thereof to such debtor, and

(b) every debtor, on being required to do so by a notice in writing by any of his creditors, shall, within two months from the date of the receipt of such notice file before the Board referred to in sub-section (3) of section 17 a true and correct statement—

(i) of all the debts owed by such debtor ;

(ii) whether he holds any land used for agricultural purposes and whether he has been cultivating land personally ;

(iii) of his income from agriculture and from sources other than agriculture in the year preceding the date of the notice.

The debtor shall at the same time send a copy of such statement to such creditor.

(2) Every debtor or creditor giving a notice under sub-section (1) shall at the same time send a copy thereof to the Board.

(3) In awarding the costs of any proceeding in respect of any application made under section 17 the Board may, on being satisfied that the statement required to be filled under sub-section (1) was, without sufficient cause, not filed within the time specified therein, direct the party in default to bear the whole or any portion of the costs of such proceeding.

20. If the payment of a debt due by a debtor is guaranteed by a surety or if a debtor is otherwise jointly and severally liable for any debt along with any other person and if the surety or such other person is not a debtor, the debtor may make an application under sub-section (1) of section 17 for relief in respect of such debt and the Board may after consideration of the facts and circumstances of the case proceed with the adjustment of debts under this Act so far as such applicant is concerned.

Application by debtor jointly and severally liable.

Assignees
from non-
debtor not
entitled to
benefit of
this Act.

21. No application shall lie under section 17 for adjustment of any debt due from a debtor to whom such debt has been transferred or assigned after 1st January 1938 if such debt was originally incurred by any person who is not himself a debtor.

Statement of
debts to be
included in
application.

22. (1) An application made by a debtor under sub-section (1) of section 17 shall contain a statement of debts, in the prescribed form, which shall include the following :—

(a) the name of the place where he ordinarily resides ;

(b) the names and addresses of his creditors, the total amount claimed by each creditor to be owing to him in respect of each debt, so far as it is known to the debtor, and a note whether each such claim is admitted by the debtor ;

(c) the history of each such debt with particulars of the original principal and the rate of interest chargeable ;

(d) details of any debts for which the debtor is liable as a surety or is liable with other persons as a joint debtor or joint surety, together with the names and addresses of all such persons ;

(e) particulars of all the debtor's property, both movable and immovable, including the property situate outside the Province and claims, if any, due to the debtor, a specification of its value and of the places where it may be found and details of any attachment, mortgage, lien or charge subsisting thereon, together with the names and addresses of the co-sharers, if any, of the debtor ;

(f) particulars of any property as in clause (e) which has been transferred by the debtor together with the name and address of the transferee ; and

(g) a declaration that all his debts and all his properties have been included in the statement.

(2) An application made by a creditor under sub-section (2) of section 17 shall contain a statement of debts, in the prescribed form, which shall include the following :—

(a) the name of the place where the debtor ordinarily resides ;

(b) the total amount of every debt claimed by the creditor to be owing to him from the debtor ;

(c) the history of each such debt and the particulars of the original principal and the rate of interest chargeable ;

(d) the names and addresses of the other creditors so far as they are known to the creditor ; and

(e) particulars, so far as they are known to the creditor, of the debtor's property including the property situate outside the Province.

(3) Notwithstanding anything contained in section 3 a statement filed under this section shall contain the amount and particulars of all debts specified in that section due by the debtor.

(4) The Board may return for amendment any application if it is not complete and in proper form.

23. (1) If any debtor and any or all of his creditors arrive at a settlement in respect of any debt due by the debtor to the creditor, the debtor or any of the creditors may, within thirty days from the date of such settlement make an application for recording such settlement to the Board to which an application under section 17 lies. Application for recording settlement.

(2) Every such application shall be in the prescribed form, and shall be signed and verified in the prescribed manner. It shall be accompanied with a court fee of Re. 1.

(3) On receipt of such application the Board shall after giving a notice in the prescribed manner to the creditor or the debtor, as the case may be, and after making such enquiry as it thinks fit, if it is satisfied that the settlement arrived at is *bona fide* and is not made with intent to defeat or delay any of the creditors of the debtor, and is in the interest of the debtor and that the debtor is a person who fulfils the conditions referred to in clauses (a) and (b) of sub-section (1) of section 35 record such settlement and certify the same. Every such settlement so recorded and certified shall be binding and shall not be re-opened.

(4) After the Board has recorded and certified a settlement under sub-section (3), the Board shall call upon the debtor to make a declaration whether there are any other debts due by the debtor which are not included in the settlement. If the debtor makes a declaration that there are no such debts, the Board shall make an award under section 54 in terms of the settlement.

(5) If the Board is satisfied, after recording such settlement, that there are other debts due from the debtor which are not included in the settlement, the Board shall treat the application made under sub-section (1) as an application for adjustment of debts made to it under section 17.

24. Notwithstanding anything contained in the preceding sections, if during the pendency of proceedings before a Board a settlement is arrived at between a debtor and all his creditors and if the Board is satisfied that the settlement has been made by the debtor voluntarily and is for his benefit, the Board may make an award in terms of such settlement. The court fee payable on such award shall be Re. 1 and shall be payable on it before it is transmitted to the court under section 61. Settlement during the pendency of proceedings before the Board.

25. Any settlement of a debt due from a debtor to any creditor, arrived at after the establishment of a Board under section 4 for the local area in which he ordinarily resides or for the class of debtors to which he belongs shall be void and shall not be recognised by any Board or Court either as an acknowledgment or otherwise unless it is certified Settlement to be void.

by the Board under section 23 or unless an award has been made in terms thereof under section 24.

Application under section 17 or 23 to be made only by a debtor whose debts are not more than Rs. 15,000.

26. No application under section 17 or section 23 shall be entertained by the Board on behalf of or in respect of any debtor, unless the total amount of debts claimed as being due from him on 1st January 1939 is not more than Rs. 15,000.

Withdrawal of application.

27. An application for adjustment of debts under section 17 or an application for recording a settlement under section 23 shall not be withdrawn without the leave of the Board.

Consolidation of applications.

28. Where two or more applications for adjustment of debts under section 17 are presented by or against the same debtor or where such separate applications are presented against joint debtors, all such applications shall be consolidated.

Power of transfer.

29. Notwithstanding anything contained in section 17, a Subordinate Judge of the First Class or a District or Joint Judge appointed to exercise the powers under sub-section (4) (b) of that section for any local area may on the application of any person or on his own motion transfer at any stage of the proceedings any application for the adjustment of debts pending before any Board established within the local limits of such Judge to another Board within such limits.

Continuation of proceedings on death of party.

30. If any party to the proceedings before the Board dies, the proceedings shall, unless the Board otherwise directs, be continued after the legal representatives of such deceased party are brought on the record.

Service of notice on creditors to submit statement of debts.

31. On receipt of an application for adjustment of debts the Board shall in the prescribed manner—

(a) give a notice to the debtor (unless the debtor is himself an applicant) and to every creditor (other than the creditor who is himself an applicant) whose name and address are given in the application, and

(b) publish a general notice,

requiring the debtor and all creditors to submit a statement in the prescribed form within one month from the date of the service of the notice or the publication of the general notice, whichever is later :

Provided that if the Board is satisfied that the debtor or any creditor is for good and sufficient cause unable to comply with the notice within the time specified therein, it may extend the period for the submission of the statement.

32. (1) Every debt due from a debtor who ordinarily resides within the local area for which a Board is established under section 4 or who belongs to a class of debtors for which a Board is established under the said section, in respect of which no application has been made under section 17 within the period specified in sub-section (1) of the said section 17, or in respect of which no application for recording a settlement is made under section 23 within the period specified in the said section 23 or in respect of which an application made to the Board is withdrawn under section 27, and every debt due from such debtor in respect of which a statement is not submitted to the Board by the creditor in compliance with the provisions of section 31 shall be deemed to have been duly discharged, unless the Board is satisfied that for good and sufficient cause the creditor did not make an application under section 17 or was unable to comply with the provisions of section 31.

Debts in respect of which no application for adjustment or settlement is made to be void.

(2) Nothing in this section shall apply to any debt due from any person who has by his declaration, act or omission intentionally caused or permitted his creditor to believe that he is not a debtor for the purposes of this Act and that no application under section 17 can be entertained by any Board in respect of any debt owed by such person to such creditor by reason of the provisions of section 26.

33. (1) Every debtor by or against whom an application is made under section 17 or who is a party to an application made under section 23 shall produce all books of accounts and shall give such inventories of his property and such lists of his creditors and debtors and of the debts due to and from him, submit to such examination in respect of his property or his creditors, attend at such time before the Board, and generally do all such things in relation to his property as may be required by the Board or as may be prescribed.

Duties of debtor to attend, etc.

(2) It shall also be the duty of every creditor to produce such books of accounts, to submit to such examination and to supply such information in respect of the debt due to him by the debtor, as may be required by the Board or as may be prescribed.

34. (1) The Board may also on the application of the debtor or any creditor summon before it in the manner prescribed any other person known or suspected to have in his possession any property belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the Board may deem capable of giving information in respect of the debtor, his dealings or property; and the Board may require any such person to produce any documents in his custody or power relating to the debtor, his dealings or property.

The Board may summon any other person.

(2) If any person so summoned refuses to come before the Board at the time appointed, or refuses to produce any document, having no lawful impediment made known to the Board and allowed by it, the Board may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Board may examine any person so brought before it concerning the debtor and his dealings and property.

Preliminary
issues.

35. (1) On the date fixed for the hearing of an application made under section 17, the Board shall decide the following points as preliminary issues:—

(a) whether the person for the adjustment of whose debts the application has been made is a debtor ;

(b) whether the total amount of debts claimed as being due from such person on 1st January 1939 does not exceed Rs. 15,000.

(2) If the Board finds that such person is not a debtor or that the total amount of his debts claimed as being due from such person on 1st January 1939 is more than Rs. 15,000 the Board shall dismiss the application forthwith :

Provided that before the application is so dismissed the creditors or any of them may remit any specific portion of their claim so as to reduce the total amount of the debts of all the creditors claimed as being due from them on 1st January 1939 to a sum not exceeding Rs. 15,000. In such case the Board shall not dismiss the application but shall proceed further with the same.

(3) The debts in respect of which such portion of the claim is remitted under sub-section (2) shall for all purposes be deemed to be extinguished.

(4) The finding of the Board on the preliminary issue that the total amount of the debts due by such person on 1st January 1939 does not exceed Rs. 15,000 shall not, subject to the proviso to sub-section (2), affect the power of the Board to make an award under section 24 or 54 for any sum exceeding Rs. 15,000.

Court fee to
be refunded
to creditor.

36. If an application made by a creditor under sub-section (2) of section 17 is dismissed under section 35 on the ground that the total amount of the debts claimed from a debtor as being due on 1st January 1939 is more than Rs. 15,000, the Board shall direct the amount of the court fee paid by the creditor making the application to be refunded to the creditor.

Transfer of
pending suits
and applica-
tions to
Board.

37. All pending suits and applications for execution before any civil court in which the question involved is the recovery of any debt from a person who is a debtor under this Act and all proceedings arising in or out of such suits or applications, if such person ordinarily resides in any local area for which a Board is established under section 4 or belongs to a class of debtors for which a Board is established under the said section shall, if the total amount of debts due from such debtor is not more than Rs. 15,000 be transferred to the Board to which an application for adjustment of debts of such person under section 17 lies. The decision of the Court on the points whether such person is

a debtor under this Act, and whether such amount of his debts is not more than Rs. 15,000 shall be final.

No such transfer shall be made unless notice is given to all the parties to such suit or applications.

38. If the Board finds the person making the application under sub-section (1) of section 17 or the person against whom an application is made under sub-section (2) of section 17 to be a person—

(a) who is a debtor, and

(b) the total amount of debts claimed as being due from whom on 1st January 1939 is not more than Rs. 15,000,

the Board shall proceed to take accounts in the manner hereinafter provided and determine the amount due to each of the creditors at the date of the application made under section 17 for the adjustment of debts.

39. In an application for the adjustment of debts if the amount of the creditor's claim is disputed, the Board shall, when taking accounts, examine both the creditor and the debtor as witnesses, unless for reasons to be recorded by it in writing, it deems it unnecessary so to do.

40. The Board shall inquire into the history and merits of the case from the commencement of the transactions between the parties and the persons (if any) through whom they claim, out of which the claim has arisen :

Provided that where transactions between the parties have commenced more than 20 years before the coming into force of this Act, any settlement of accounts which has been last arrived at between the parties before the said 20 years and which is in writing and bears the signature of the debtor or the person through whom the liability is derived shall be accepted as binding between the parties and no inquiry into the history and merits of the case shall be made prior to the date of such settlement.

41. When the amount of the claim is admitted by the debtor and the Board, for reasons to be recorded by it in writing, believes that such admission is true and made voluntarily, the Board shall not be bound to inquire in the manner provided in section 40 but may do so if it thinks fit. In other cases, the Board shall be bound to inquire as aforesaid.

42. (1) When the Board inquires into the history and merits of a case under section 40, it shall, notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account, and notwithstanding any statement

or settlement of account, or any contract purporting to close previous dealings and create a new obligation, open and take the account between the parties from the commencement of the transactions.

(2) The Board shall take the account under sub-section (1) according to the following rules, namely :—

(a) Separate accounts of principal and interest shall be taken ;

(b) In the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor, as part of the transactions ;

(c) In the account of principal there shall not be debited to the debtor any sum in excess of a sum due or to accrue due under a decree which the debtor may have agreed directly or indirectly to pay in pursuance of any agreement relating to the satisfaction of the said decree ;

(d) In the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions ;

(e) (i) In the case of transactions which were commenced before the 1st January 1931, the Board shall take accounts in accordance with the provisions of this sections up to 1st January 1931, provided that in the account of interest there shall be debited to the debtor yearly interest on the balance of the principal for the time being at 12 per cent. per annum or at the agreed rate whichever is lower. On taking such accounts, the amounts found due on 1st January 1931 in respect of the principal as well as in respect of the interest shall, each separately, be reduced by 40 per cent. Notwithstanding that a decree or order of a civil court has been passed in respect of any such amount or portion thereof, provided that if such transactions had commenced after 1st January 1930, the reduction in both the amount of the principal and interest found due shall be by 30 per cent. The amount so reduced shall be taken to represent the amount due in respect of the principal and interest on 1st January 1931. Separate accounts shall thereafter be taken of the principal and interest up to the date of the application provided that the interest shall be calculated at the rate agreed to between the parties or 9 per cent. per annum whichever is lower ;

(ii) in the case of transactions which commenced on or after 1st January 1931 in the account of the interest there shall be debited to the debtor yearly interest on the balance of principal for the time being outstanding at 9 per cent. per annum or at the agreed rate whichever is lower ;

(iii) if under any decree passed between the parties the rate of interest allowed on the amount of the principal found due under paragraph (i) or (ii) above is lower than that allowable under this clause, interest on such amount shall be debited at the rate allowed by such decree ;

(iv) In taking accounts under this clause interest to be calculated shall be simple interest ;

(f) All money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Board in its discretion may determine) shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the rate specified in clause (e), the residue of such payment shall be credited to the debtor in the account of principal ;

(g) The accounts of principal and interest shall be made up to the date of the institution of the application, and the aggregate of the balance (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceeds that appearing due on the principal-account, in which case double the latter balance shall be deemed to be the amount then due.

43. When in the course of any proceedings under this Act the Board finds that there are reasonable grounds to believe that a creditor has in his possession or under his control any books of account or any other document which is material to any transaction in any proceedings before the Board and such books or document is not produced by such creditor before the Board in such proceedings, the Board shall presume that such books or document if produced would be prejudicial to the interest of such creditor.

When books of account are not produced Court to presume that they are unfavourable to creditor.

44. Where the mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor, and the Board is unable to determine what profits have been actually received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purpose of section 42 :

In certain cases rent may be charged in lieu of profits.

Provided that, if it be proved that in any year there was any suspension or remission of rent or land revenue of such land under section 84A of the Bombay Land Revenue Code, 1879, an abatement of the whole or part of such amount may be allowed for the year.

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45. (1) Notwithstanding anything contained in any law, custom or contract, whenever it is alleged during the course of the hearing of an application made under section 17 that any transaction purporting to be a sale of land belonging to a debtor was a transaction in the nature of a mortgage, the Board shall declare the transaction to be so, if the

Power of Board to declare transactions purporting to be a sale to be in the nature of mortgage. ✓

Board is satisfied that the circumstances connected with that sale-deed showed it to be in the nature of a mortgage.

(2) Nothing in this section shall apply to—

(i) any transaction entered into before 1st January 1927 ;

(ii) any transaction which has been adjudged to be a sale by a decree of a court of competent jurisdiction ; and

(iii) any property belonging to a debtor and purchased by a third person from the transferee of a debtor on or before the 15th day of February 1939.

Decretal
debts how
far binding.

46. (1) Subject to the provisions of sub-sections (2) and (3), if any decree or order is passed by a competent court in respect of any debt, the amount due under such decree in respect of both the principal and interest shall, in taking accounts under section 42, be deemed to be binding between the parties.

(2) In so far as such decree or order is in respect of transactions entered into before 1st January 1931, the amount of principal and interest found due on 1st January 1931 shall be reduced by 40 per cent. as provided in paragraph (i) and the rate of interest shall be modified as provided in paragraph (iii) of clause (e) of sub-section (2) of section 42, provided that if the said transactions commenced after 1st January 1930 the reduction shall be by 30 per cent.

(3) In so far as such decree or order is in respect of any transactions entered into on or after 1st January 1931 the rate of interest awarded by such decree or order shall be modified as provided in paragraph (ii) and paragraph (iii) of clause (e) of sub-section (2) of section 42.

Notice to
Collector,
co-operative
societies,
Registrar
and local
authorities.

47. (1) On the receipt of an application for the adjustment of debts the Board shall give a notice to the Collector requiring him to state to the Board within the time prescribed the amount of the debt due by the debtor to Government.

(2) The Board shall also give a similar notice to any co-operative society or any local authority to which or to whom any debt may be due by the debtor and also to any person who is entitled to maintenance from the debtor, under a decree or order passed by a competent court. In the case of any debt due to a co-operative society the Board shall also give notice to the Registrar of Co-operative Societies or to such officer as the Registrar may nominate in this behalf.

(3) On the receipt of such notice the Collector, the co-operative society or the local authority, or the person entitled to maintenance, as the case may be, shall, for the purposes of enabling the Board to determine the paying capacity of the debtor under section 51, within the time prescribed, intimate to the Board the total amount of the debt due by

the debtor as also any recurring liability against such debtor in respect of such debt.

(4) The Collector and the co-operative society shall intimate to the Board the amount of remission which the Provincial Government or the co-operative society, as the case may be, is willing to give in respect of the debt.

(5) It shall not be lawful to the Provincial Government or the co-operative society to reduce the amount of remission intimated to the Board under sub-section (4).

48. The Board shall in the manner hereinafter provided determine—

(1) the particulars of the property belonging to the debtor,

(2) the value of the said property,

(3) the particulars of any alienations of or incumbrances on the said property,

(4) the paying capacity of the debtor.

Board's duty to determine the particulars, value, etc., of the property.

49. Any alienation of property made or any incumbrance created thereon by a debtor with intent to defeat or delay any of his creditors shall be void for the purposes of this Act and shall be declared to be so by the Board.

Fraudulent alienations or incumbrances.

Nothing in this section shall impair the rights of an alienee or the holder of an incumbrance in good faith and for consideration.

50. The value of the property and other assets of the debtor shall for the purpose of ascertaining the paying capacity of a debtor under section 51 be determined by the Board as follows :—

Value of property of debtor to be determined by the Board in prescribed manner.

(1) In determining the value of the property or assets of a debtor, the property or assets which are exempt from attachment in execution of a decree of a civil court under the Code of Civil Procedure, 1908, shall not be taken into account.

(2) In determining the value of the immovable property of a debtor which is subject to the liability of secured debts, deduction shall be made from such value in respect of the amount of the debts due to Government and to local authorities which, under any law for the time being in force, are a charge on such immovable property or are recoverable from the debtor as dues of the current year's land revenue.

(3) In determining the value of the property which is not subject to the liability of secured debts the amount of the debts mentioned in section 3 except debts due to Government and to local authorities referred to in paragraph 2 above shall be deducted.

(4) In the case of lands to which section 73A of the Bombay Land Revenue Code, 1879, applies the market value of such lands shall be calculated as if the restriction on the transfer of such lands provided by the said section was not in operation :

Provided that nothing in this paragraph shall be deemed to provide that such lands shall be transferable without the permission of the Collector under the said section.

(5) Subject to the provisions of the above paragraphs the Provincial Government may by rules prescribe the manner in which the market value of the property and assets of the debtor shall be determined.

Paying
capacity.

51. The paying capacity of the debtor, if any, shall, for the purposes of this Act, be deemed to be the aggregate amount consisting of the following items :—

(a) if the amount of the secured debts of a debtor found due on taking account under this Act is less than 80 per cent. of the value of his immovable property as determined under section 50, but such debts are secured, the difference between the amount of such debts and 80 per cent. of the value of such property ;

(b) eighty per cent. of the value of the immovable property of the debtor which is not subject to the liability of secured debts as determined under section 50 ;

(c) eighty per cent. of the value of other assets :

Provided that when any portion of such assets yields income but the market value of such portion cannot be determined, the value of such portion shall be the amount of the income capitalised at six per cent. per annum.

Debts payable by
debtors to
be scaled
down.

52. (1) Notwithstanding any law, custom, contract or decree of a court to the contrary, all debts payable by a debtor at the commencement of this Act shall be scaled down in the manner hereinafter provided.

(2) If all the debts due by a debtor are unsecured, such debts as are found due on taking accounts under this Act shall be scaled down *pro rata* to the value of the paying capacity of the debtor.

(3) If all the debts due by a debtor are secured debts, and the total amount of such debts found due on taking accounts under this Act is more than eighty per cent. of the value of the property belonging to the debtor, such debts shall be scaled down *pro rata* to eighty per cent. of the value of such property.

(4) If the debts due by a debtor are both secured and unsecured, and if the total amount of the secured debts found due on taking accounts under this Act is more than eighty per cent. of the value of

the property on which such debts are secured, the secured debts shall be scaled down *pro rata* to eighty per cent. of the value of the property on which such debts are secured and the unsecured debts shall be scaled down *pro rata* to eighty per cent. of the value of the other property belonging to the debtor over which no debts are secured.

53. (1) The amount of debts so scaled down shall for the purposes of this Act be deemed to be the amount due by the debtor in respect of the said debts.

No recovery of amount in excess of debts scaled down.

(2) No sum in excess of the amount of debts so scaled down shall be recoverable from the debtor or from any property belonging to him, nor shall the debtor be liable to arrest nor shall his property be liable to be attached, sold or proceeded against in any manner in execution of any decree or order against him in so far as such decree or order is for an amount in excess of the amount scaled down under this Act.

54. (1) After determining the amount of debts scaled down in the manner provided in section 52, the Board shall make an award.

(2) The award shall be in the prescribed form and shall include the following particulars:—

(a) a list of the properties of the debtor both movable and immovable with particulars of any mortgage, lien or charge subsisting thereon;

(b) particulars of all debts secured and unsecured which have been scaled down in accordance with section 52 together with the details of the properties on which secured debts are charged;

Provided that the amount of the secured debts so scaled down shall be charged on the properties on which they may have been secured; and the amount of unsecured debts shall be charged on the remaining property of the debtor:

Provided further in the case of debts in respect of which a settlement has been reached and certified, the amount of debts shall be as agreed to in the said settlement;

(c) particulars of all debts of the kind specified in section 3;

(d) particulars of any alienation or incumbrance declared to be void under section 49;

(e) the amount to be paid to each creditor for each debt due to him;

(f) the manner in which and the times at which the amounts referred to in clauses (b) and (c) shall be paid;

(g) the priority in which the debts shall be paid:

Provided that in fixing the priority the following order shall be followed :—

(i) debts due to Government, which are charged on the immovable property belonging to the debtor or which are recoverable as the current years land revenue,

(ii) debts due to local authorities, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's dues,

(iii) loans given by resource societies or by persons authorised to advance loans under section 78 for the financing of crops after the coming into force of this Act, and other loans given for financing crops after 1st January 1939 and before the date of the coming into force of this Act,

(iv) secured debts,

(v) debts due to Government, local authorities and other bodies including co-operative societies, and recoverable as arrears of land revenue,

(vi) other debts due to co-operative societies,

(vii) unsecured debts :

Provided further that in the case of debts falling under the same class, their priority *inter se* shall be determined in the order of the dates on which such debts may have been incurred. If such debts are incurred on the same date, they shall be paid *pro rata* ;

(h) the instalments in which the debts shall be paid :

Provided that the total annual instalments shall not exceed 25 :

Provided further that in directing in what instalments the debts shall be paid the Board shall ascertain the net annual income of the debtor and the annual instalments payable by the debtor shall not exceed his net annual income.

Explanation.—For the purposes of this clause the net annual income of the debtor shall mean the balance of his annual income after deducting such sum as may be considered necessary for the maintenance of the debtor and his dependents and the sum due by the debtor to pay the debts due to Government and to local authorities, and to pay off loans borrowed for the purpose of financing of crops ;

(i) the conditions subject to which the immovable property, if any, in possession of the creditor shall be delivered to the debtor :

Provided that the Board shall not refuse to pass an order for the delivery of possession merely on the ground that the time fixed for the payment of the secured debt has not arrived or on the ground that the secured debt has not been completely discharged or on both ;

(j) the rate of interest, if any, payable on each amount referred to in clause (e) :

Provided that such rate shall not exceed the rate notified in this behalf by the Provincial Government not exceeding 6 per cent. per annum or any rate agreed between the parties when the debt was originally incurred or rate allowed by the decree in respect of such debt, whichever is lowest ;

(k) the property of the debtor which and the conditions subject to which such property shall be liable to be sold for the recovery of any particular debt ;

(l) costs, if any, to be paid by the parties :

Provided that, where the debtor has failed to make an application under section 17 within the period of one year from the date on which a Board is established under section 4 and the creditor has made an application after such period, the whole of the costs shall be directed to be paid by the debtor :

Provided further that, if an application is rejected in consequence of untrue or incorrect statement made or information supplied by the creditor the costs shall be directed to be paid by the creditor making such statement or giving such information ;

(m) the parties by whom and the manner in which the court fees due shall be paid ; and

(n) any other matter which in the opinion of the Provincial Government may be necessary for the purpose of doing complete justice or making a complete adjustment of debts and which the Provincial Government may by rules prescribe to be included in awards.

55. (1) Before making the award under sub-section (1) of section 54 the Board may call upon the creditors to state in writing whether they agree—

Board to prepare a scheme for adjustment of debts through the Provincial Land Mortgage Bank.

(a) that all the debts of the debtor should be so further scaled down as to be reduced to a sum not exceeding half the value of the immovable property of the debtor ; and

(b) that they shall receive in lieu of all the debts due to them bonds issued by the Bombay Provincial Land Mortgage Bank registered under the Bombay Co-operative Societies Act, 1925, or by such other bank as may be specified by the Provincial Government by a notification in the Official Gazette, such bonds being guaranteed by the Provincial Government and being equivalent in value to the sum referred to in (a).

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(2) If all the creditors agree to the sforesaid conditions, the Board shall prepare a scheme for the adjustment of the debts accordingly and shall send the scheme to the said bank for acceptance. If the said Bank agrees to accept the proposal, the Board shall make an award in the form prescribed directing that the sum so scaled down shall be charged on all the immovable property of the debtor and the bonds for the amount referred to in sub-section (1) shall be issued to the creditor in full satisfaction of all the debts due to them from the debtor.

(3) All sums due under an award made in favour of the Bank under sub-section (2) shall be recoverable as arrears of land revenue.

(4) Notwithstanding anything contained in this Act, no appeal shall lie against an award made under sub-section (2).

Debts not to be scaled down in case of collusion.

56. If the Board making an award under section 54 is at any stage of the proceeding satisfied that any claim by a creditor in such proceeding had been put forward in collusion between the debtor and such creditor with a view to defeat the lawful claims of any of the other creditors the Board shall not scale down any of the debts of such debtor in the manner provided in section 52 but shall make an award for the full amount of the debts due from such debtor.

Re-opening of award and re-adjustment of debts.

57. If, after an award is made under section 54, the Board finds on an application made to it by any party or otherwise, that the debtor has other property which was not disclosed to the Board when the award was made, or that any property included in the award did not belong to the debtor, the Board may, notwithstanding anything contained in this Act, re-open the award and re-adjust the debts in accordance with the provisions of this Act :

Provided that where the Board is satisfied that the non-disclosure of such property was in consequence of any fraud on the part of the debtor, the Board in revising the award shall not give the debtor the benefit of section 52.

Reference by the Board.

58. (1) Where, at the hearing of any application under this Chapter, any question of law or usage having the force of law arises, on which the Board entertains reasonable doubt, the Board may either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the First Class Subordinate Judge, within whose jurisdiction the Board may have been established.

(2) An appeal against an award which embodies the decision of the First Class Subordinate Judge on such reference shall lie to the District Court notwithstanding anything contained in section 9.

Amount ordered in the award to be held to be the amount due in all suits and proceedings.

59. Notwithstanding any law or custom or contract to the contrary, the amount ordered to be paid to any creditor or bank by any debtor in any award made under section 24, 54 or 55 shall be held to be the amount due from such debtor to the creditor or the bank, as the case may be, on the date of such award in any suit or proceeding to which any of the parties to the award is a party.

Court fees to be charged.

60. (1) An award made under section 54 or 55 shall direct the party who has been ordered to pay the costs to pay one-half of the difference between the court fee actually paid on the application for adjustment of debts or in the case of suits and applications for execution transferred

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1870. to the Board under section 37 on the plaint in the suit or on such application and the fee which would have been payable under section 7 of the Court-fees Act, 1870, as if the application for adjustment of debts, or the suit or the application for execution had been a suit for money and the total amount of the debts declared due from the debtor had been the amount claimed in such suit :

Provided that where the costs are payable by any co-operative society or by any bank referred to in section 55 the amount of the court fees payable by such society or bank shall not be directed to be recovered from such society or bank :

Provided further that where an award includes any sum in respect of which a creditor had obtained a decree of a civil court, allowance shall be made in calculating the amount of the court fee payable in respect of the award for the court fee already paid in respect of such decree.

(2) Notwithstanding anything contained in any law such fee shall be the first charge on the property of the party ordered to pay the costs.

61. (1) The Board shall transmit an award made under section 24, 54 to 55 or the Court: Transmission
of award to
Court.

Provided that before the award is so transmitted the balance of court fees payable under the award shall be paid by the party ordered by the Board to pay the same.

(2) If the debtor fails to pay the balance of the amount of court fees ordered to be paid by such debtor, the Board may transmit the awards to the Court on the application made by any creditor if such creditor pays such amount of court fees. Any amount so paid by the creditor shall be added by the Board to the amount payable by the debtor under the award.

62. (1) The Court shall register any award transmitted by the Board— Award to be
registered.

(i) if within the period provided in this Act, no appeal is filed against the award under section 9, or

(ii) if an appeal is filed under the said section and such appeal is dismissed, or

(iii) if the award is modified by the Court, in such modified form, or

(iv) if the award is transmitted to the Board for reconsideration of any points, after considering the decision of the Board on the said points and after making such modifications in the award as it thinks fit.

(2) From the date on which the award is registered under sub-section (1), it shall, in supersession of all transactions between the parties and in supersession of all previous decisions of a civil court in respect of the debts mentioned in it, be binding on the debtor and his creditors and the successors in interest of such debtor and creditors.

Recovery of amount due under an award.

63. The award so registered shall be executable as a decree of the Court in which it is registered :

Provided that an amount due under an award made under section 55 shall also be recoverable in the manner specified in sub-section (3) of the said section :

Provided further that nothing in this section shall affect the right of Government or a local authority or a co-operative society to have recourse to any mode of recovery allowable by any law for the time being in force.

Postponement of payment of instalment in case of remissions, etc.

64. (1) Whenever from any cause the payment of one-half or more of the land revenue payable to the Provincial Government is suspended or remitted, the payment of the whole of the instalment due for that year and the full amount of the instalment due for each subsequent year under an award made under section 24 or 54 shall be postponed for one year.

(2) Whenever from any cause the payment of any portion less than one-half of the land revenue payable to the Provincial Government is suspended or remitted one-half of the amount of the instalment for that year and the full amount of the instalment due for each subsequent year under an award made under section 24 or 54 shall be postponed for one year.

No alienation by the debtor to be binding.

65. Notwithstanding any law or contract but subject to the provisions of section 66 no alienation made by a debtor who is a party to an award made under this Act of any property included in such award shall be valid except with the previous sanction of the Provincial Government.

Board or Court may order sale of debtor's property in liquidation of his debt.

66. Notwithstanding anything contained in this Act, if the Board to which an application for adjustment of debts lies under section 17 in respect of the debts of any debtor, or the Court before which an appeal lies against the award is at any time satisfied that it is in the interest of a debtor that any part of his property should be sold in liquidation of his debt or part thereof, such Board or Court may order the sale of such part of the property for such purpose. The property ordered to be sold under this section shall be sold by the Collector in the manner prescribed :

Provided that the part of the property ordered to be sold under this section shall not exceed the part liable to be sold under sub-section (3) of section 68.

Pleaders etc. excluded from appearance.

67. No pleader, vakil, or mukhtyar and no advocate or attorney of a High Court, shall be entitled to appear on behalf of any party in any proceeding before the Board under this Act :

Provided that if the Board after examining the parties to any proceeding before it is of opinion that any of the parties is not

sufficiently competent to represent his case and that in the interest of justice it is necessary to allow such party the assistance of any pleader, vakil or mukhtyar, or advocate or attorney of a High Court the Board may allow such party at its own cost to be represented by a pleader, vakil or mukhtyar, or advocate or attorney of a High Court :

IV of 1908. Provided further that a woman exempted from personal appearance in a court under section 132, Code of Civil Procedure, 1908, shall be entitled to appear in any proceeding before the Board through any agent duly appointed for the purpose.

CHAPTER IV.

INSOLVENCY PROCEEDINGS.

68. (1) If at any stage of the proceedings under Chapter III the Board is satisfied that the paying capacity of the debtor is inadequate to pay the total amount of his debts as scaled down under section 52, or if for any reason the Board finds that the debts due from the debtor cannot be liquidated by annual instalments not exceeding twenty-five in number, the Board shall make an order adjudicating the debtor to be an insolvent. Board to declare debtor insolvent in certain circumstances.

(2) If the Court to which an award is transmitted for execution finds that the two consecutive or any three instalments cannot be recovered by the sale of the moveable property of the debtor, the Court may pass an order adjudicating the debtor to be an insolvent.

(3) After the debtor has been adjudicated an insolvent either by the Board or the Court, the Board or the Court, as the case may be, shall direct that one-half of the property of the debtor liable to attachment and sale under section 60 of the Code of Civil Procedure, 1908, shall be immediately sold free of all incumbrances in liquidation of all the debts outstanding against such debtor :

Provided that if after one-half of the assets of the debtor are sold the property remaining with the debtor exceeds 6 acres of irrigated land or 18 acres of dry land or any land assessed at Rs. 30 whichever is greater then all the excess property over and above the aforesaid land shall also be sold free of all incumbrances.

V of 1920. V of 1920. 69. The order of adjudication made under section 68 whether by the Board or the Court in appeal shall be deemed to be an order made by a competent Court in exercise of its powers under section 27 of the Provincial Insolvency Act, 1920, and thereupon the provisions of the Provincial Insolvency Act, 1920, as modified by the provisions of this Chapter shall, so far as may be, apply as if the debtor was an insolvent in respect of whom an order of adjudication was made under section 27 of that Act. Procedure in insolvency proceedings.

Distribution of assets of the insolvent. 70. The proceeds realised by the sale of the property of the insolvent under section 68 shall be distributed in the order of priority specified in the provisoes to clause (g) of sub-section (2) of section 54.

Bar to application in insolvency in other Courts. 71. No application or proceeding in regard to the insolvency of the debtor shall lie in or shall be dealt with by any other Court.

Appeals barred. 72. No appeal shall lie from any order passed under this Chapter except on the ground that the insolvent has failed to disclose all the material facts relating to his assets and liabilities.

CHAPTER V.

MISCELLANEOUS.

Bar of civil suits or proceedings. 73. Except as otherwise provided by this Act and notwithstanding anything contained in any other law no Civil Court shall entertain or proceed with any suit or proceeding in respect of—

(i) any matter pending before the Board or the Court under this Act, or

(ii) the validity of any procedure or the legality of any award, order or decision of the Board or of the Court, or

(iii) the recovery of any debt made payable under the award.

Application of Limitation Act. 74. Save as expressly provided in this Act the provisions of the Indian Limitation Act, 1908, shall apply to all claims in respect of debts in the proceedings under this Act as if such proceedings were proceedings in a suit in a Civil Court.

Period of proceeding before Board or Court to be excluded. 75. In computing the period of limitation for institution of any suit or proceeding in respect of any debt due from any person who is held not to be a debtor by the Board or in an appeal by the Court, the period during which the proceedings were pending before the Board or Court or the Collector in respect of such debt shall be excluded.

Certificate to the creditor who borrowed sums from another for lending them to debtor. 76. (1) If any creditor claims that for advancing the amount of any debt of a debtor he had borrowed the whole or part of the amount of such debt from another person, the Board shall grant a certificate in the form prescribed to such creditor. Such certificate shall specify the name of such creditor, the amount claimed as due by him from the debtor, the amount awarded and the rate of interest allowed thereon by the Board and the name of the person from whom the amount of such debt was claimed to have been borrowed.

(2) A certificate granted under this section may be produced in any proceeding and the Court before which such proceeding is pending may

take it into consideration in awarding the claim for interest and instalments, if any, between such creditor and such person.

77. (1) No debtor who is a party to an award under this Act and who is indebted to a resource society or any person authorised to advance loans under section 78 shall alienate or encumber the standing crops or the produce of his land without the previous permission of the society or of the person, as the case may be. Any such alienation made without such permission shall be void.

Debtor not to alienate the standing crops, etc.

(2) Any debtor who alienates or incumbers the standing crop or the produce of his land in contravention of sub-section (1) or a person who knowingly permits such alienation or incumbrance to be created in his favour, shall, on conviction, be punishable with imprisonment which may extend to six months or with fine which may extend to Rs. 500.

78. (1) The Provincial Government may by notification in the *Official Gazette* authorise in any local area any individual, joint stock company or other association to advance loans to debtors in respect of whose debts an adjustment has been made under this Act.

Power of Provincial Government to authorise individuals, joint stock companies or other associations to advance loans to debtors. ✓

(2) Such authority shall be granted on such conditions as may be prescribed.

79. The Provincial Government may by notification in the *Official Gazette* delegate to the Collector or any other officer any of the powers exercisable by it or by the Collector under this Act.

Power of Provincial Government to delegate powers to the Collector or any other officer.

80. The chairman and other members of a Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

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Chairman and members of Board to be public servants.

81. No suit, prosecution or legal proceeding shall lie against the chairman or other member of a Board or against any officer of Government in respect of anything in good faith done or intended to be done under this Act.

Indemnity.

82. Whoever—

(a) intentionally makes any false statement in any proceeding under this Act.

Penalty.

(b) intentionally produces before the Board any false document;

(c) files under section 19 a statement which is false or incorrect to his knowledge; or

(d) abets any act punishable under this section

shall, on conviction, be liable to imprisonment which may extend to six months or to fine or to both.

Rules.

83. (1) The Provincial Government may from time to time make rules 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) the manner of publication of the notification under section 4 and the qualifications of persons constituting a Board under sub-section (3) (iii) and the manner of appointment of assessors under sub-section (7) thereof ;

(b) the procedure in proceedings before the Board under section 7 including the inspection of site by members of the Board and examination of witnesses on commission under sub-section (2) thereof, and on appeals before Courts under section 9 ;

(c) the form of application under section 18 and the signing and verification thereof ;

(d) the form of statement of debts under sub-sections (1) and (2) of section 22 ;

(e) the form of application under sub-section (2) of section 23 and the manner of signing and verification thereof and the manner of giving notice under sub-section (3) of section 23 ;

(f) the manner in which the notice under section 31 shall be served or published ;

(g) the inventories of property, lists of creditors and of the debts due to and from a debtor, the examination in respect of property or creditors, the time at which the debtor shall attend before the Board and do other things in relation to property under sub-section (1) of section 33, and the books of accounts, the examination to be submitted to and the information to be supplied in respect of the debt due to a creditor by the debtor under sub-section (2) of section 33 ;

(h) the manner of summoning persons under sub-section (1) of section 34 ;

(i) the time within which the Collector or co-operative society or a local authority or holder of a decree or order for maintenance is required to intimate to the Board the amount of the debt due by the debtor under section 47 ;

(j) the manner in which the market value of the property and assets of a debtor shall be determined under sub-section (5) of section 50 ;

(k) the manner of determining the value of property and other assets under section 51 ;

(l) the form of award under sub-section (2) of section 54 and under section 24 and sub-section (2) of section 55 ; and other particulars to be included in the award under section 24 and clause (n) of sub-section (2) of section 54 ;

(m) the manner of sale of property by the Collector under section 66 ;

(n) the form of certificate to be granted to a creditor under section 76 ;

(o) the conditions on which any individual, joint stock company, or other association shall be authorised to advance loans under section 78.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

84. On the date on which this Act comes into force, the Bombay Small Holders Relief Act, 1938, herein referred to as the said Act shall, notwithstanding anything contained in sub-section (3) of section 1 of the said Act, but save as provided in the provisions of section 11 of the said Act, be deemed to have expired. Any right, privilege, obligation or liability or contract referred to in section 11 of the said Act shall revive and be enforceable as provided in the said section :

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Repeal of
Bom. VIII
of 1938.

Provided that in regard to persons who are debtors and in respect of whose debts an application under section 17 of this Act can be made, such rights, privileges, obligations and liabilities or contracts shall be enforceable in so far as the enforcement thereof is not inconsistent with the provisions of this Act.

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of
1879.

85. (1) On the date on which this Act comes into force, the Dekkhan Agriculturists' Relief Act, 1879, shall be repealed.

Repeal of
Act XVII
of 1879.

(2) Nothing in sub-section (1) shall be deemed to affect, in regard to persons who are debtors and in respect of whose debts an application under section 17 can be made,—

(a) the terms or incidents of any contract made or effected before the date on which this Act comes into force ;

(b) the validity, invalidity, effect or consequences of anything already done or suffered to be done before the aforesaid date ;

(c) any right, title, obligation or liability already acquired, accrued or incurred before such date ;

(d) any remedy or proceeding in respect of such right, title, obligation or liability, or

(e) anything done in the course of any proceeding pending in any Court on the aforesaid date ;

and any such remedy or proceeding may be enforced, instituted or continued, in so far as the enforcement, institution or continuance is not inconsistent with the provisions of this Act :

Provided that such repeal shall not in any way affect the transfer under section 37 of any suits or proceedings to which such debtor was a party.

Transitory
Provisions.

• 86. In respect of transactions entered into before the date of the coming into force of this Act by or with—

(a) debtors in respect of whose debts no application can be made under section 17 of this Act, or

(b) persons who are not debtors,

the Dekkhan Agriculturists' Relief Act, 1879, shall, notwithstanding XVII
its repeal by section 85 of this Act, be deemed to remain in force— of
1879.

(a) for purposes of institution of suits for a period of three years from the date of the coming into force of this Act ;

(b) for purposes of any proceedings arising in or out of suits instituted before the expiry of the period of three years from the coming into force of this Act until such proceedings are terminated.

THE BOMBAY TENANCY ACT, 1939.

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BOMBAY ACT No. XXIX OF 1939.*

[THE BOMBAY TENANCY ACT, 1939.]

[2nd April 1940.]

An Act to provide for the protection of tenants in the Province of Bombay.

WHEREAS it is expedient to provide for the protection of tenants of agricultural lands in the Province of Bombay and for certain other purposes ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bombay Tenancy Act, 1939. Short title,
extent and
commence-
ment.
- (2) It extends to the whole of the Province of Bombay except the City of Bombay.
- (3) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, appoint in this behalf.
2. In this Act, unless there is anything repugnant in the subject or context,—
 - (1) "Agriculture" includes horticulture, the raising of crops or garden produce, dairy farming, poultry farming, stock breeding and grazing, but does not include cutting of grass or wood only.
 - (2) "Co-operative Society" means a society registered under the provisions of the Bombay Co-operative Societies Act, 1925, or a society deemed to have been registered under the said Act.
 - (3) "Improvement" means with reference to any land, any work which adds to the value of the land and which is suitable thereto as also consistent with the purpose for which it is held ; and includes—
 - (a) the construction of tanks, wells, water channels, embankments and other works for storage, supply or distribution of water for agricultural purposes ;

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1925.

*For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1938, Part V, pp. 510-11 or *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 3505-06. For Report of the Select Committee, see *Bombay Government Gazette*, 1939, Part V, pp. 284-88 or *Bombay Legislative Assembly Debates*, 1939, Vol. 6, pp. 1341-44. For Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1939, Vol. 5, pp. 111-40, 165-218, 232-85, 309-62, 385-400 and 2386 ; Vol. 6, pp. 63, 604-63, 706-59, 786-848, 881-935, 975-94, 1319-39 ; Vol. 7, pp. 56-111, 143-203, 236-98, 323-82, 420-77, 505-603, 634-94, and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1939, Vol. 8, pp. 65-67, 71-110, 118-314 and 323.

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

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

(d) the erection of buildings on the land, required for the convenient or profitable use of such land for agricultural purposes ; and

(e) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto as are not of the nature of ordinary repairs ; but does not include such clearances, embankments, levellings, enclosures, temporary wells, water channels and other works as are commonly made by the tenants in the ordinary course of agriculture.

(4) " Land " means land which is used for agricultural purposes and includes the sites of farm buildings appurtenant thereto.

(5) " Mamlatdar " includes a Mahalkari and any other officer whom the Provincial Government may appoint to perform the duties of a Mamlatdar under this Act.

(6) " Person " includes an undivided Hindu family.

(7) " Prescribed " means prescribed by rules made under this Act.

(8) " Profits of Agriculture " means the surplus remaining with the cultivator after the expenses of cultivation including the wages of the cultivator working on the land are deducted from the gross produce.

(9) " Reasonable rent " means the rent determined under section 12.

(10) " Rent " means any consideration, in money or kind or both, paid or payable by a tenant on account of the use or occupation of the land held by him but shall not include the rendering of any personal service.

(11) " To cultivate personally " means to cultivate on one's own account—

(i) by one's own labour, or

(ii) by the labour of any member of one's family, or

(iii) by servants or hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.—A tenant who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour.

Explanation II.—In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family.

(12) " Year " means the year ending on the 31st of March or on such date as the Provincial Government may, by a notification, appoint for any locality.

(13) Words and expressions used in this Act but not defined shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879.

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CHAPTER II.

PROTECTED TENANTS.

3. A tenant shall be deemed to be a protected tenant in respect of any land if— Protected tenants.

- (i) he has held such land continuously for a period of not less than six years immediately preceding the first day of January 1938 ; and
- (ii) he has cultivated such land personally during the aforesaid period.

Explanation I.—If the person who held such land on the first day of January 1938 came to hold the same by inheritance or succession from another person or if he has held such land as a tenant and is an heir to such other person, the period during which such other person held such land as a tenant shall be included in calculating the period of six years under this section.

Explanation II.—If the person who held such land on the first day of January 1938 held as a tenant at any time within six years before the said date from the same landlord in the same village any other land which he cultivated personally, the period during which he held such other land shall be included in calculating the period of six years under this section.

Explanation III.—Where any land is held by two or more persons jointly as tenants, all such persons shall, if any one of them cultivated and continues to cultivate such land personally and if the other conditions specified in this section are fulfilled, be deemed to be protected tenants in respect of such land.

4. (1) Any tenant who held any land continuously for a period of not less than six years immediately preceding the first day of April 1937 but who was evicted from such land on or after such date and who fulfils the conditions specified in clause (ii) of section 3 shall also be deemed to be a protected tenant for the purposes of this Act : Tenants evicted after 1st April 1937 to be deemed protected tenants.

Provided that any tenant who has been evicted from the land in consequence of his failure to tender the rent referred to in section 9 of the Bombay Small Holders Relief Act, 1938, as provided therein, shall not be deemed to be a protected tenant for the purposes of this Act, unless he pays to the landlord such rent within four months from the date on which this Act comes into force.

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(2) A person who is deemed to be a protected tenant under section (1) shall, if he intimates in writing to the landlord within one

year after the coming into force of this Act that he is willing to hold the land on the same terms and conditions on which he held it at the time when he was evicted, be entitled to recover possession of the land—

(a) if the land has been leased by the landlord for a period expiring after the 31st day of May 1940, from the date on which such lease expires ; and

(b) in other cases, from the 1st day of June 1940.

And on so recovering possession, he shall, subject to the provisions of this Act, hold the land on the said terms and conditions.

(3) The provisions of this section shall not apply in cases where the landlord is using the land for any of the purposes mentioned in sub-section (1) of section 7.

Rights and liabilities of a protected tenant.

5. (1) The rent payable by a protected tenant shall be the rent agreed upon between such tenant and his landlord or in the absence of any such agreement the rent payable according to the usage of the locality or if there is no such agreement or usage, or where there is a dispute as regards the reasonableness of the rent payable according to such agreement or usage, the reasonable rent.

(2) Notwithstanding any agreement, usage, decree or order of a Court of law, the tenancy of any land held by a protected tenant as such tenant shall not be terminated unless such tenant—

(a) fails to pay the arrears of rent due, if any, for the year ending on 31st day of March 1939 within four months from the date on which this Act comes into force ;

(b) fails to pay in any year within fifteen days from the day fixed for the payment of the last instalment of land revenue in accordance with the rules made under the Bombay Land Revenue Code, 1879, Bom. for that year the rent of such land for that year or if an application ^{V of 1879.} for the determination of reasonable rent is pending before the Mamlatdar or the First Class Sub-Judge under section 12, fails to deposit within fifteen days from the aforesaid date with the Mamlatdar or the First Class Sub-Judge, as the case may be, a sum equal to the amount of rent which he would have been liable to pay for that year if no such application had been made and in case the reasonable rent determined under section 12 is higher than the sum deposited by him fails to pay the balance due from him within two months from the date of the decision of the Mamlatdar or the First Class Sub-Judge, as the case may be ;

(c) has done any act which is destructive or permanently injurious to the land ;

(d) has sublet the land or fails to cultivate it personally ; or

(e) has used such land for a purpose other than agriculture.

(3) Notwithstanding anything contained in sub-section (2), the tenancy of any land held by a minor who is a protected tenant shall not be liable to be terminated under the said sub-section only on the ground that such land has been sub-let on behalf of the said minor.

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6. Notwithstanding anything contained in section 123 of the Bombay Land Revenue Code, 1879, the responsibility for the maintenance and good repair of the boundary marks of the land held by a protected tenant and any charges reasonably incurred on account of service by revenue officers in case of alteration, removal or disrepair of such boundary marks shall be upon the protected tenant.

Protected tenants responsible for maintenance of boundary marks.

7. (1) Notwithstanding anything contained in section 5, a landlord may terminate the tenancy of a protected tenant by giving him one year's notice in writing stating therein the reasons for such termination if the landlord *bona fide* requires the land for any of the following purposes, namely :—

The landlord's right to determine protected tenancy.

(a) for cultivating personally or using personally the land for any agricultural purpose ; or

(b) for any non-agricultural purpose.

(2) If after the landlord takes possession of the land after the termination of the tenancy under sub-section (1), he fails to use it for any of the purposes mentioned in sub-section (1) within one year from the date on which he took possession or ceases to use it at any time for any of the aforesaid purposes within 12 years from the date on which he took such possession, the tenant whose tenancy has been terminated shall, if he gives a notice in writing to the landlord that he is willing to hold such land on the same terms and conditions on which he held it at the time when his tenancy was terminated, be entitled to recover possession of such land from the commencement of the year following that in which such notice is given :

Provided that the tenant shall give the notice under this sub-section within 2 years from the date

(a) of the expiration of one year during which the landlord has failed to use the land for any of the purposes mentioned in sub-section (1), or

(b) on which the landlord has ceased to use the land for any of the said purposes,

as the case may be.

Provided further that no such tenant shall be entitled to recover possession of such land if he has once refused to hold the land on the same terms and conditions on which he held it on being required in writing to do so by the landlord or has failed to reply to such requisition within 3 months of the receipt thereof.

(3) If a landlord after taking possession of the land after the termination of the tenancy under sub-section (1) on the ground that he requires it

for the purpose of personal cultivation, dies leaving as his heir, a widow or a minor or a person who is subject to mental or physical disability, such heir shall be deemed to cultivate the land personally, if such land is cultivated by her or his servants or by hired labour.

(4) After the tenant has recovered possession under sub-section (2) he shall, subject to the provisions of this Act, hold such land on the same terms and conditions on which he held it at the time his tenancy was terminated.

(5) After the tenant has recovered possession under sub-section (2), if he satisfies the Mamlatdar by an application under section 13 that the land was not at the time of the termination of the tenancy required *bona fide* by the landlord for any of the purposes mentioned in sub-section (1), the tenant shall be entitled to such compensation as may be awarded by the Mamlatdar for any loss caused to him by eviction. Nothing in this sub-section shall apply to any tenant who was evicted under a decree or order of a competent Court if such Court has recorded a finding at the time of passing such decree or order, that the land was required *bona fide* by the landlord for any of the purposes mentioned in sub-section (1).

Explanation I.—Any notice given for the termination of the tenancy of a protected tenant before the commencement of this Act shall not be deemed to be a valid notice for the purposes of sub-section (1).

Explanation II.—For the purposes of this section, a tenant shall include his heir as specified in sub-section (3) of section 9.

Explanation III.—For the purposes of this section, a landlord shall be deemed to use land personally for any agricultural purpose, if he uses such land on his own account—

- (i) by his own labour, or
- (ii) by the labour of any member of his family, or
- (iii) by servants or hired labour under his personal supervision or the personal supervision of any member of his family.

Compensation for improvement made by a protected tenant.

8. (1) A protected tenant who has made an improvement on the land held by him as such tenant before the notice to terminate the tenancy is given to him shall on eviction be entitled to compensation for such improvement.

(2) The compensation to which a protected tenant shall be entitled under sub-section (1) shall be the estimated value at the time of eviction of such improvement. In estimating such value regard shall be paid to—

- (a) the amount by which the value of the land is increased by the improvement;
- (b) the present condition of the improvement and the probable duration of its effects;

(c) the labour and capital provided or spent by the tenant for the making of the improvement ; and

(d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement.

9. (1) If a protected tenant dies, the landlord shall continue the tenancy on the same terms and conditions on which such protected tenant was holding it at the time of his death to such one of his heirs who, within four months of the death of such tenant, gives notice in writing to the landlord that he is willing to hold the land on such terms and conditions.

Continuation
of tenancy
on the death
of a protected
tenant.

(2) If the notice referred to in sub-section (1) is given by two or more heirs of the deceased tenant, the landlord shall continue the tenancy to such one of those heirs as is selected by all the heirs by an agreement amongst themselves and communicated to the landlord in writing within four months from the death of such tenant, or if no such agreement is communicated to the landlord within such time, to such heir as the Collector after consultation with the landlord may select.

(3) The lineal male descendants of a protected tenant or his adopted son or, in the absence of any lineal male descendant or an adopted son, his widow shall be deemed to be his heirs for the purposes of this section.

(4) Where any land is held by more than one protected tenant jointly the tenancy of such land shall, on the death of any one of such protected tenants, be continued, subject to the provisions of this Act, to the surviving protected tenant or tenants and the heirs of the deceased tenant determined in the manner provided in sub-section (2), as the case may be.

10. No sub-division of a land held by a protected tenant shall be recognised or be binding on the landlord unless such sub-division is effected with the consent in writing of the landlord.

Sub-division
not to be
binding on
landlord
unless made
with his
consent.

11. The rights conferred on a protected tenant by this Act shall not be liable to seizure, attachment or sale by process of any Court and it shall not be lawful to mortgage, charge, lease or alienate any such rights.

Bar to
seizure,
attachment
and sale by
process of
Court.

12. (1) For the determination of the reasonable rent of any land held by a protected tenant as such tenant, the protected tenant or his landlord may apply in writing to the Mamlatdar within whose jurisdiction such land is situated. Such application shall be in such form as may be prescribed.

Enquiries
as regards
reasonable
rent.

(2) On the receipt of an application under sub-section (1) the Mamlatdar shall give notice to the landlord or to the protected tenant, as the case may be, and, after holding a formal enquiry in the manner

provided in the Bombay Land Revenue Code, 1879, shall determine the reasonable rent of the land.

Bom-
V of
1879.

(3) Any party aggrieved by the decision of the Mamlatdar under subsection (2) may, within two months from such decision, file an appeal before the First Class Subordinate Judge, within whose jurisdiction the land is situated.

(4) The Subordinate Judge in appeal may for reasons to be recorded in writing annul, reverse, modify or confirm the decision of a Mamlatdar or he may direct further enquiry to be made on any point or take additional evidence as he may think necessary.

(5) In determining the reasonable rent regard shall, subject to the provisions of section 15, be had to the following factors:—

- (a) the rental values of lands used for similar purposes in the locality;
- (b) the profits of agriculture of similar lands in the locality;
- (c) the prices of crops and commodities in the locality;
- (d) the improvements made in the land by the landlord;
- (e) the assessment payable in respect of the land; and
- (f) such other factors as may be prescribed.

(6) The Mamlatdar and the Subordinate Judge in proceedings under this section shall have the same powers as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit, namely:—

V of
1908.

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person and examining him on oath; and
- (c) compelling the production of documents.

The Mamlatdar and the Subordinate Judge may have also such other powers as may be prescribed.

(7) The Mamlatdar or the First Class Subordinate Judge may award costs in any proceeding under this section, and such order shall be deemed to be a decree of a Civil Court and shall be executable as such.

(8) A protected tenant may at any time, during the pendency of proceedings under this section deposit with the Mamlatdar or the First Class Subordinate Judge, as the case may be, a sum equal to the amount of rent which if no proceedings had been instituted under this section he would have been liable to pay in respect of the land of which the reasonable rent is to be determined. On the completion of proceedings, the Mamlatdar or the First Class Subordinate Judge shall direct that the amount so deposited or such part of it as is equal to the amount determined as reasonable rent under this section shall be paid to the landlord and shall make such other order as may be necessary.

(9) Every order passed by the Mamlatdar under this Act, if not appealed against, and every order passed by the First Class Subordinate Judge in appeal competent to pass such orders, shall hold good for a period of five years and shall not be called in question in any Court during that period :

Provided that the Mamlatdar or the First Class Subordinate Judge, as the case may be, may, during the said period of five years—

(i) reduce the rent if on an application made to him by a tenant he is satisfied that on account of deterioration of the land by floods or other cause beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation, or

(ii) enhance the rent if on an application made to him by a landlord he is satisfied that on account of any improvement made in the land by or at the expense of the landlord the produce of the land is increased.

II of
1870.

(10) Notwithstanding anything contained in the Court-fees Act, 1870, every application under this Act to the Mamlatdar and every appeal to the First Class Subordinate Judge shall bear a Court-fee stamp of such value as may be prescribed.

(11) Any party to proceedings under this section may appear by any person authorized in writing to act on his behalf.

13. (1) An application for payment of compensation under sub-section (5) of section 7 for the termination of the tenancy of any land on the ground that it was not *bona fide* required by the landlord for any of the purposes mentioned in sub-section (1) of that section and an application for payment of compensation for improvement under section 8 shall be made to the Mamlatdar in whose jurisdiction such land is situated. The application shall be made in such form as may be prescribed.

Applications
for compensation
for
eviction when
land not
required
bona fide.

(2) On receipt of such application the Mamlatdar shall hold an enquiry and determine the amount of compensation, if any, payable to the tenant after following the procedure prescribed in section 12, as far as is practicable.

(3) Any person aggrieved by any order passed by the Mamlatdar under sub-section (2) may appeal to the Collector within two months from the date of such order.

(4) The order of the Mamlatdar under sub-section (2) shall, subject to an appeal to the Collector under sub-section (3) and the provisions of section 28, be final. The order of the Collector shall, subject to the provisions of section 28, also be final.

(5) Any order passed by the Mamlatdar under sub-section (2) or by the Collector under sub-section (3) shall be deemed to be a decree of a civil Court and shall be executable as such.

CHAPTER III.

TENANTS GENERALLY.

Abolition of all cesses, etc. 14. (1) Notwithstanding any agreement, usage or law, it shall not be lawful for any landlord to levy any cess, rate, tax or service of any description or denomination whatsoever, from any tenant in respect of any land held by him as a tenant other than the rent lawfully due in respect of such land.

(2) Any person who levies any such cess, rate, tax or service in contravention of the provisions of sub-section (1) shall, on conviction be punishable with fine which may extend to Rs, 1,000.

Power of Government to fix maximum rate of rent. 15. (1) The Provincial Government may from time to time by notification in the Official Gazette fix the maximum rate of rent payable by tenants for lands situated in such areas as may be specified in the notification.

(2) Notwithstanding any agreement, usage, decree or order of a Court, a landlord shall not be entitled to recover rent from any tenant for any land in any such area at a rate exceeding the rate fixed for such land in such area in such notification.

(3) Every such notification shall be placed before each Chamber of the Provincial Legislature and shall be liable to be rescinded or modified by a resolution passed in which each of the said Chambers concurs during the next following session.

Suspensions or remissions of rent. 16. (1) Notwithstanding anything contained in section 84A of the ^{Bom.} Bombay Land Revenue Code, 1879, whenever from any cause the payment ^V of the whole land revenue payable to Government by a landlord in respect of any land is suspended or remitted, the landlord shall suspend or remit, as the case may be, the payment to him of the rent of such land by his tenant. If in the case of such land the land revenue is partially suspended or remitted, the landlord shall suspend or remit the rent payable by the tenant of such land in the same proportion :

Provided that the landlord shall not be bound to suspend or remit the rent or portion thereof which is payable in the form of a share of the crop.

(2) If no land revenue is payable to Government in respect of such land and if from any cause, the payment of the whole or any part of the land revenue payable to Government in respect of any other land in the neighbourhood of such land has been suspended or remitted, the Collector shall, subject to the general or special orders of Government, in the manner provided in sub-section (1) suspend or remit, as the case may be, the payment to the landlord of the rent or part of it due in respect of such land.

Bom. V of 1879. (3) No application for assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879, shall be entertained, no suit shall lie and no decree of a Civil Court shall be executed for recovery by a landlord of any rent, the payment of which has been remitted, or during the period for which the payment of such rent has been suspended under this section. The period during which the payment of rent is suspended under this section shall be excluded in computing the period of limitation prescribed for any suit or proceeding for the recovery of such rent.

Bom. V of 1879. (4) Notwithstanding anything contained in sections 86 and 87 of the Bombay Land Revenue Code, 1879, the Collector shall, in passing an order under sub-section (2) of section 87 of the said Code, for rendering assistance to the landlord, allow to the tenant a set off for the sum, if any, paid by such tenant to the landlord in excess of the amount of rent due from him after deducting the amount required to be remitted under sub-section (1) or sub-section (2) of this Act or under section 84A of the said Code. The set off under this sub-section shall be allowed only in respect of the sums paid by such tenant to such landlord during a period of 3 years immediately preceding the date of the application made under section 86 of the said Code.

17. (1) If in any alienated village or village held on khoti or talukdari tenur^e, a tenant is in occupation of a dwelling house built at the expense of such tenant or his predecessor-in-title on a site belonging to his landlord, such tenant shall not be evicted from such dwelling house (with the materials and the site thereof and the land immediately appurtenant thereto and necessary for its enjoyment) unless—

(a) the landlord proves that the dwelling house was not built at the expense of such tenant or his predecessor-in-title, and

(b) such tenant makes a default in the payment of rent, if any, which he has been paying for the use and occupation of such site.

(2) The provisions of sub-section (1) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture from which he has been evicted under sub-section (1) of section 7.

18. (1) If a landlord to whom the site referred to in section 17 belongs intends to sell such site, the tenant at the expense of whom or whose predecessor-in-title, a dwelling house is built thereon shall be given in the manner provided in sub-section (2) the first option of purchasing the site at a value determined by the Mamlatdar in the manner provided herein.

Bar to eviction from dwelling house. ✓
Tenant to be given first option of purchasing site on which he has built a dwelling house.

(2) The landlord intending to sell such site shall give notice in writing to the tenant requiring him to state within 3 months from the date of such notice whether he is willing to purchase the site.

(3) If within the period of 3 months so specified the tenant intimates in writing to the landlord that he is willing to purchase the site, the

landlord shall make an application to the Mamlatdar for the determination of the value of the site. On receipt of such application the Mamlatdar after giving notice to the tenant and after holding a formal enquiry shall determine the value of the site. The determination by the Mamlatdar of the amount of the value of such site shall, subject to the provisions of section 28, be final. The Mamlatdar may, by an order in writing, require the tenant to deposit such amount within three months from the date of such order. On the deposit of such amount the site shall be deemed to have been transferred to the tenant and the amount deposited shall be paid to the landlord. The Mamlatdar shall, on payment of the prescribed fees, grant a certificate in the prescribed form to such tenant specifying therein the site so transferred and the name of such tenant.

(4) If the tenant fails to intimate his willingness to purchase the site within the time specified in sub-section (2) or fails to deposit the amount of the value within the time specified in sub-section (3), the tenant shall be deemed to have relinquished his right of first option to purchase the site and the landlord shall then be entitled to evict the tenant on payment of such compensation for the value of the structure of such dwelling house as may be determined by the Mamlatdar after holding an enquiry in the manner provided in sub-section (3). The decision of the Mamlatdar as regards the amount of compensation under this section shall, subject to the provisions of section 28, be final.

(5) Any sale of a site held in contravention of this section shall be null and void.

Tenant's
rights to
trees planted
by him.

19. (1) If a protected tenant or any other tenant has before the coming into force of this Act planted or thereafter plants any trees on the land leased to him, he shall be entitled to the produce and the wood of such trees during the continuance of such tenancy and shall on the termination of such tenancy be entitled to such compensation for the said trees as may be determined by the Mamlatdar after holding an enquiry in the manner provided by sub-section (3) of section 18 :

Provided that a tenant who is governed by section 23 shall be entitled to such compensation if the trees are planted by him with the consent of the landlord :

Provided further that a tenant shall not be entitled to compensation under this sub-section if the tenancy is terminated by surrender on the part of the tenant.

(2) Any person aggrieved by the decision of the Mamlatdar under sub-section (1) may appeal to the Collector within two months from the date of such decision.

(3) The order of the Mamlatdar under sub-section (1) shall, subject to an appeal to the Collector under sub-section (2) and the provisions of section 23, be final.

(4) The order of the Collector under sub-section (2) shall, subject to the provisions of section 28, be also final.

(5) Any order passed by the Mamlatdar under sub-section (1) or by the Collector under sub-section (2), shall be deemed to be a decree of a civil court and shall be executable as such.

20. Where any tenancy of any land held by any tenant is terminated for non-payment of rent and the landlord sues or files any proceeding to eject the tenant, if, at the hearing of such suit or proceeding the tenant tenders to the landlord the rent in arrears together with the cost of the suit or proceeding, or gives such security as the Court thinks fit for making such payment within fifteen days, the Court may, in lieu of making a decree or passing an order for ejection pass an order directing that the tenancy had not been terminated, and thereupon the tenant shall hold the land as if the tenancy had not been terminated.

Relief against termination of tenancy for non-payment of rent.

21. Where any tenancy of any land held by any tenant is terminated on the ground that the tenant has done any act which is destructive or permanently injurious to the land, no suit or proceeding for ejection against such tenant shall lie unless and until the landlord has served on the tenant a notice in writing specifying the act of destruction or injury complained of and the tenant fails within a period of one year from the service of notice to restore the land to the condition in which it was before such destruction or injury.

Relief against termination of tenancy in certain cases.

22. (1) In the absence of an express intimation in writing to the contrary, every payment made by a tenant to the landlord shall be presumed to be a payment on account of rent due by such tenant for the year in which such payment is made.

Receipts for rent.

(2) Every landlord, shall give a written receipt for the amount of rent received by him in respect of any land in such form and in such manner as may be prescribed.

(3) Any person who fails to give a written receipt for the amount of rent received by him shall on conviction be punishable with a fine which may extend to Rs. 100.

23. No lease of any land made after the coming into force of this Act shall be for a period less than ten years and no such lease shall be determined before such period only on the ground that the period of the lease has expired, notwithstanding any agreement, usage or law to the contrary.

No agricultural lease to be granted for less than 10 years and no such lease to be determined on ground of expiry of term.

24. (1) A person entitled to possession of any land or dwelling house under any of the provisions of this Act may apply in writing for such possession to the Mamlatdar in whose jurisdiction such land or dwelling house is situated. The application shall be made in such form as may be prescribed.

Procedure for taking possession.

(2) On receipt of such application the Mamlatdar shall, after holding an enquiry in the prescribed manner, pass such order thereon as he deems fit.

(3) An appeal shall lie to the Collector against an order passed by the Mamlatdar under sub-section (2) within two months from the date of such order.

(4) Subject to the provisions of section 23, every order passed by the Mamlatdar under sub-section (2), unless modified or revised by the Collector on appeal under sub-section (3), and every order passed by the Collector under sub-section (3), shall be final.

(5) Every order passed by the Mamlatdar under sub-section (2) and every order passed by the Collector under sub-section (3) shall be deemed to be a decree of a civil court and shall be executable as such.

Act not to
apply to
certain lands.

25. Nothing in this Act shall apply to lands—

(1) held on lease from the Crown or a co-operative society, or

(2) held on lease for the benefit of an industrial or commercial undertaking.

Act not to
affect rights
or privileges
of tenant
under any
other law.

26. Nothing contained in this Act shall be construed to limit or abridge the rights or privileges of any tenant under any usage or law for the time being in force or arising out of any contract, grant, decree or order of a court or otherwise howsoever.

CHAPTER IV.

MISCELLANEOUS.

27. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

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

(a) the manner in which the crop share payable to a landlord as rent may be appraised;

(b) the value of the Court fee stamp payable on an application to the Mamlatdar or an appeal to the First Class Subordinate Judge under section 12;

(c) the other factors to be taken into consideration for determining reasonable rent under section 12;

(d) the form of application for payment of compensation under section 13;

(e) the fees to be paid for the grant of a certificate and the form of such certificate under sub-section (3) of section 13;

(f) the manner and the form in which a receipt is to be given by the landlord under section 22 ;

(g) the form of application for possession and the manner in which the enquiry shall be held under section 24.

(3) Rules made under this section shall be subject to the condition of previous publication in the Official Gazette.

28. Except in cases provided in section 12, in all matters connected with this Act, the Provincial Government shall have and exercise the same authority and control over the Collectors and Mamlatdars as they have and exercise over them in the general and revenue administration.

29. On the date on which this Act comes into force, section 9 of the Bombay Small Holders Relief Act, 1938, hereinafter referred to as the said Act, shall, notwithstanding anything contained in sub-section (3) of section 1 of the said Act be deemed to have been repealed :

Provided that any right, privilege, obligation or liability referred to in section 11 of the said Act, the enforcement of which was stayed by the provisions of section 9 of the said Act shall immediately on the repeal of the said section revive and be enforceable in the same manner as is provided in the said section 11 for revival of such rights, privileges, obligations or liabilities on the expiration of the said Act, as if the said Act has expired :

Provided further that in case of persons whose such rights, privileges, obligations or liabilities are in any manner affected by the provisions of this Act such rights, privileges, obligations or liabilities shall be enforceable in so far as the enforcement thereof is not inconsistent with the provisions of this Act.

Bom.
V of
1879.

30. In the Bombay Land Revenue Code, 1879,—

(1) in section 59 after the word “ granted ” the word, letters and figures “ or Rs. 100 ” shall be inserted ;

(2) sections 88 to 94 shall be deleted.

Amendment
of Bombay
Land Revenue
Code.

Bom.
I of
1880.

31. In the Khoti Settlement Act, 1880,—

(i) in section 6—

(a) for the word “ is ” the word “ was ” shall be substituted ; and

(b) after the word “ inheritance ” the words and figures, “ before the passing of the Bombay Tenancy Act, 1939 ” shall be inserted ;

(ii) in section 9—

(a) for the words “ dharekaries and quasi-dharekaries ”, the words “ and privileged occupants ” shall be substituted, and

(b) the words beginning with the words “ Permanent tenancies ” and ending with the words “ exceeding one year ” shall be deleted.

Amendment
of sections 6
and 9 of
Khoti Settlement
Act,
1880.

ORDINANCE No. I OF 1939.

[THE BOMBAY FODDER AND GRAIN CONTROL ORDINANCE, 1939.]

[12th August, 1939.]

An Ordinance to provide for the control and distribution of fodder and grain including the regulation of prices thereof in the Province of Bombay.

WHEREAS the Governor of Bombay is satisfied that circumstances exist in certain areas of the Province of Bombay which render it necessary for him to take immediate action for the purpose of controlling and regulating the supply and distribution of fodder and grain including the regulation of prices thereof;

AND WHEREAS the Legislature of the Province is not in session;

AND WHEREAS steps are being taken to move a Bill in the Chambers of the Provincial Legislature for the said purpose and it is necessary to make immediate provision for taking action until the said Bill is passed into an Act;

NOW, THEREFORE, in exercise of the powers conferred by section 88 of the Government of India Act, 1935, and in pursuance of the instructions from the Governor General under proviso (b) to sub-section (1) of the said section, the Governor of Bombay is pleased to promulgate the following Ordinance:—

1. *Short title and extent.*—(1) This Ordinance may be called the Bombay Fodder and Grain Control Ordinance, 1939.

(2) It shall extend to the whole of the Province of Bombay.

2. *Definitions.*—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(i) "Famine area" means any area declared to be a famine area under section 3;

(ii) "Scarcity area" means any area declared to be a scarcity area under section 3;

(iii) "Standard price" means the maximum price fixed for sale of fodder or grain under section 3.

(2) The provisions of the General Clauses Act, 1897, and of the Bombay General Clauses Act, 1904, shall apply to the interpretation of this Ordinance.

3. *Power to declare famine and scarcity areas and to fix standard prices.*—(1) The Provincial Government may, from time to time by notification in the Official Gazette, declare that a famine or scarcity prevails in any local area in the Province; and thereupon the said area shall be deemed to be a famine area or a scarcity area, as the case may be, for the purposes of this Ordinance for such period as the Provincial Government may direct.

(2) On a declaration being made under sub-section (1), the Provincial Government may also by like notification declare that all contracts for the sale of fodder or grain of any kind entered into on or after the date specified in the notification shall be subject to the provisions of this Ordinance.

(3) The Provincial Government may, by notification in the Official Gazette, fix a standard price for the sale of fodder or grain in any famine area or scarcity area or in such other area as may be specified in the notification.

4. *Sum in excess of the standard price not to be recovered.*—No person shall recover on account of sale of fodder or grain of any kind in any area for which a standard price has been fixed under sub-section (3) of section 3 any sum in excess of the standard price.

5. *Prohibition against removal of fodder or grain from any local area.*—No person shall remove from any local area specified in this behalf by the Provincial Government by a notification in the Official Gazette, fodder or grain of any kind without permission in writing of the Collector or such other officer as may be authorised by him in this behalf.

6. *Sums in excess of standard price not to be recoverable.*—(1) Any sum agreed to be paid as consideration for the sale of fodder or grain of any kind in excess of the standard price shall be irrecoverable.

(2) If any such sum has been paid, it shall, at any time within a period of six months from the date of the payment thereof, be recoverable by the person paying the same from the person to whom it was paid.

7. *Penalty for contravention of section 4 or 5.*—Whoever contravenes any of the provisions of section 4 or 5 shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 1,000 or with both.

8. *Rules.*—The Provincial Government may by notification in the Official Gazette make rules for carrying out the provisions of this Ordinance.

ORDINANCE No. II OF 1939.

[THE BOMBAY OPTIONS IN COTTON PROHIBITION ORDINANCE, 1939.]

[22nd September 1939.]

An Ordinance to prohibit Options in Cotton.

WHEREAS the Governor of Bombay is satisfied that circumstances exist which render it necessary for him to take immediate action for prohibiting options in cotton and certain other purposes hereinafter appearing ;

AND WHEREAS the Legislature of the Province is not in session ;

NOW, THEREFORE, in exercise of the powers conferred by section 88 of the Government of India Act, 1935, and in pursuance of the instructions from the Governor-General under proviso (b) to sub-section (1) of the said section, the Governor of Bombay is pleased to promulgate the following Ordinance :—

1. *Short title and extent.*—(1) This Ordinance may be called the Bombay Options in Cotton Prohibition Ordinance, 1939.

(2) It shall extend to the whole of the Province of Bombay.

2. *Definitions and Interpretation.*—(1) In this Ordinance, words and expressions defined in the Bombay Cotton Contracts Act, 1932, shall have the meanings assigned to them in that Act.

Bom.
IV of
1932.

(2) The provisions of the Bombay General Clauses Act, 1904, shall apply to the interpretation of this Ordinance.

Bom.
I of
1904.

3. *Application and operation of Bom. IV of 1932 in areas to which it did not apply and in which it did not operate.*—Notwithstanding anything contained in section 2 of the Bombay Cotton Contracts Act, 1932, hereinafter called the said Act, the Provincial Government may by notification in the Official Gazette direct that the provisions of the said Act shall apply to and come into operation in any area to which the said Act has not been applied or in which it has not come into operation before the date of this Ordinance, on such date as may be specified in the notification.

Bom.
IV of
1932.

4. *Power of Provincial Government to make by-laws for recognised cotton association.*—Notwithstanding anything contained in section 6 of the said Act, the Provincial Government may, at any time, make for any recognised cotton association, any by-laws in respect of any of the

3. *Power to declare famine and scarcity areas and to fix standard prices.*—(1) The Provincial Government may, from time to time by notification in the Official Gazette, declare that a famine or scarcity prevails in any local area in the Province ; and thereupon the said area shall be deemed to be a famine area or a scarcity area, as the case may be, for the purposes of this Ordinance for such period as the Provincial Government may direct.

(2) On a declaration being made under sub-section (1), the Provincial Government may also by like notification declare that all contracts for the sale of fodder or grain of any kind entered into on or after the date specified in the notification shall be subject to the provisions of this Ordinance.

(3) The Provincial Government may, by notification in the Official Gazette, fix a standard price for the sale of fodder or grain in any famine area or scarcity area or in such other area as may be specified in the notification.

4. *Sum in excess of the standard price not to be recovered.*—No person shall recover on account of sale of fodder or grain of any kind in any area for which a standard price has been fixed under sub-section (3) of section 3 any sum in excess of the standard price.

5. *Prohibition against removal of fodder or grain from any local area.*—No person shall remove from any local area specified in this behalf by the Provincial Government by a notification in the Official Gazette, fodder or grain of any kind without permission in writing of the Collector or such other officer as may be authorised by him in this behalf.

6. *Sums in excess of standard price not to be recoverable.*—(1) Any sum agreed to be paid as consideration for the sale of fodder or grain of any kind in excess of the standard price shall be irrecoverable.

(2) If any such sum has been paid, it shall, at any time within a period of six months from the date of the payment thereof, be recoverable by the person paying the same from the person to whom it was paid.

7. *Penalty for contravention of section 4 or 5.*—Whoever contravenes any of the provisions of section 4 or 5 shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 1,000 or with both.

8. *Rules.*—The Provincial Government may by notification in the Official Gazette make rules for carrying out the provisions of this Ordinance.

ORDINANCE No. II OF 1939.

[THE BOMBAY OPTIONS IN COTTON PROHIBITION ORDINANCE, 1939.]

[22nd September 1939.]

An Ordinance to prohibit Options in Cotton.

WHEREAS the Governor of Bombay is satisfied that circumstances exist which render it necessary for him to take immediate action for prohibiting options in cotton and certain other purposes hereinafter appearing ;

AND WHEREAS the Legislature of the Province is not in session ;

NOW, THEREFORE, in exercise of the powers conferred by section 88 of the Government of India Act, 1935, and in pursuance of the instructions from the Governor-General under proviso (b) to sub-section (1) of the said section, the Governor of Bombay is pleased to promulgate the following Ordinance :—

1. *Short title and extent.*—(1) This Ordinance may be called the Bombay Options in Cotton Prohibition Ordinance, 1939.

(2) It shall extend to the whole of the Province of Bombay.

2. *Definitions and Interpretation.*—(1) In this Ordinance, words and expressions defined in the Bombay Cotton Contracts Act, 1932, shall have the meanings assigned to them in that Act.

Bom.
IV of
1932.

(2) The provisions of the Bombay General Clauses Act, 1904, shall apply to the interpretation of this Ordinance.

Bom.
I of
1904.

3. *Application and operation of Bom. IV of 1932 in areas to which it did not apply and in which it did not operate.*—Notwithstanding anything contained in section 2 of the Bombay Cotton Contracts Act, 1932, hereinafter called the said Act, the Provincial Government may by notification in the Official Gazette direct that the provisions of the said Act shall apply to and come into operation in any area to which the said Act has not been applied or in which it has not come into operation before the date of this Ordinance, on such date as may be specified in the notification.

Bom.
IV of
1932.

4. *Power of Provincial Government to make by-laws for recognised cotton association.*—Notwithstanding anything contained in section 6 of the said Act, the Provincial Government may, at any time, make for any recognised cotton association, any by-laws in respect of any of the

matters specified in section 6 of the said Act and may also add to, vary or rescind any by-laws made by the Board of Directors of such association under the said section. By-laws or any addition, variation or rescission made by the Provincial Government under this section shall be published in the Official Gazette.

5. *Options in cotton void.*—Notwithstanding anything contained in the said Act or in any other law for the time being in force, all options in cotton entered into after the date on which this Ordinance comes into force shall be void.

6. *Savings.*—Nothing in this Ordinance shall affect or be deemed to affect—

(a) the terms and incidents of any option in cotton made or effected before the date on which this Ordinance comes into force ;

(b) the validity, invalidity, effect or consequences of anything already done or suffered before the aforesaid date in regard to such options in cotton ;

(c) any right, title, obligation or liability acquired, accrued or incurred in regard to such options in cotton before the aforesaid date ;

(d) any remedy or proceeding in respect of such right, title, obligation or liability ;

(e) anything done in the course of any proceeding pending in any court on the aforesaid date relating to such options in cotton.

and any such remedy or proceeding may be enforced, instituted or continued, as the case may be, as if this Ordinance had not been passed.