*The Land Acquisition (Bombay Amendment) Act, 1948 (Bom. IV of 1948) at pages 2603-2606 has ceased to be in force with effect from 18th March 1968.*

# BOMBAY ACT No. XV OF 1948.[1]

[THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT) ACT, 1948.]

[*24th March 1948.*]

**An Act to amend the Identification of Prisoners Act, 1920, in its application to the Province of Bombay.**

XXXIII of 1920. WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920, in its application to the Province of Bombay; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Identification of Prisoners (Bombay Amendment) Act, 1948.

Amendment of section 4 of Act XXXIII of 1920. XXXIII of 1920. **2.** For section 4 of the Identification of Prisoners Act, 1920, in its application to the Province of Bombay, the following shall be substituted, namely:—

Taking of measurements or photograph of unconvicted persons. "4. Any person—

(*a*) who has been arrested—

V of 1898. Bom. XXIII of 1945. (*i*) under section 55 of the Code of Criminal Procedure, 1898, or under section 4 of the Bombay Beggars Act, 1945,

Bom. IV of 1890. Bom. IV of 1902. Bom. XXIII of 1945. (*ii*) in connection with an offence punishable under section 61D of the Bombay District Police Act, 1890, or under section 112 of the City of Bombay Police Act, 1902, or under section 6 or 9 of the Bombay Beggars Act, 1945, or in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards, or

Bom. IV of 1890. Bom. IV of 1902. Bom. XXIII of 1945. Bom. VI of 1947. (*b*) in respect of whom a direction or order under section 46 or 46B of the Bombay District Police Act, 1890, or under section 27 of the City of Bombay Police Act, 1902, or under sub-section (*1*) or (*2*) of section 23 of the Bombay Beggars Act, 1945, or under section 2 of the Bombay Public Security Measures Act, 1947, has been made,

shall, if so required by a police officer, allow his measurements or photograph to be taken in the prescribed manner."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 85.

**Replacement Series No. LVIII—p. 38** 2609-2640

*The Poona University Act, 1948 (Bom. XX of 1948) at pages 2609-2640 has been repealed by the Poona University Act, 1974 (Mah. XXIII of 1974). s. 90.*

# THE BOMBAY REFUGEES ACT, 1948.

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4. Registration of refugees.
5. Certificate of registration.
6. Change of address.
7. Power of Provincial Government to order refugees to reside in particular camps, places or areas and to remove themselves from such camps, places or areas.
8. Power of Provincial Government to remove refugees from any camp, place or area in the Province of Bombay.
9. Orders for vaccination and inoculation of refugees.
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11. Registering, authorities and persons authorised to remove refugees to be public servants.
12. Protection of action taken under Act.
13. Certain offences to be cognizable.
14. Delegation of functions.
15. Rules.
16. Power of exemption.

FIRST SCHEDULE.

SECOND SCHEDULE.

# BOMBAY ACT No. XXII OF 1948.[1]

[THE BOMBAY REFUGEES ACT, 1948.]

[*29th March 1948*]

Amended by Bom. 66 of 1948.

Adapted and modified by the Adaptation of Laws Order, 1950.

**An Act to provide for compulsory registration and movement of refugees and for certain other purposes.**

WHEREAS [2][it is expedient to provide for the registration and to regulate the movement of refugees with a view to facilitating their relief and rehabilitation and to securing public health, sanitation and safety and for certain other purposes herein specified]; It is hereby enacted as follows :—

Short title and extent.

**1.** (*1*) This Act may be called the Bombay Refugees Act, 1948.

(*2*) It extends to the whole of the [3][State] of Bombay.

Interpretation.

**2.** In this Act, " refugee " means any person who has since the first day of August 1947, entered the [3][State] of Bombay, having left his place of residence elsewhere on account of civil disturbances in that place or the fear of such disturbances.

Registration Centres.

**3.** In Greater Bombay the Commissioner of Police for the Greater Bombay and elsewhere the District Magistrate shall, as soon as may be, by a general or special order, establish in respect of—

(*a*) each camp in which refugees are being accommodated, and

(*b*) each particular area specified by him, a registration centre for the registration of refugees, and shall appoint a person or a committee of persons to be the registering authority in charge of each such centre :

[4][Provided that the [5][State] Government may, from time to time by notification in the *Official Gazette*, direct that the functions of the Commissioner of Police or the District Magistrate under this section shall be performed by any other officer specified in such notification.]

Registration of refugees.

**4.** (*1*) Every refugee for the time being in the [3][State] of Bombay shall, within fifteen days from the coming into operation of this Act or within seven days from the date of his arrival in the [3][State] whichever is later, register himself at the registration centre of the camp in which he is being accommodated or if he is being accommodated or is residing elsewhere than in a camp for which a registration centre has been established, at the registration centre of the area in which he is being accommodated or is residing :

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 115.

[2] This portion was substituted for the original by Bom. 66 of 1948, s. 2.

[3] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[4] This proviso was added by Bom. 66 of 1948, s. 3.

[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Provided that a refugee who is the head of a family shall be responsible for the registration of members of his family for the time being with him:

Provided further that where a refugee is a female, a minor, a lunatic, an idiot or a person incapable by reason of being sick or infirm of attending at the registration centre, the person who may for the time being be looking after such refugee shall be responsible for his registration.

(*2*) A refugee registering under sub-section (*1*) or a person responsible for registration of a refugee under the said sub-section (*1*) shall, to the best of his ability, correctly fill up, or cause so to be filled up, the form set out in the First Schedule.

Certificate of registration.

**5.** The registering authority shall issue to every refugee registering under this Act a certificate of registration in the form set out in the Second Schedule.

Change of address.

**6.** (*1*) If a refugee ceases to reside at the address recorded in the certificate of registration issued under section 5, he shall, within seven days of any such change of address, intimate his new address to the registering authority by which the certificate of registration was issued and if the new address is within the jurisdiction of another registering authority, to that other registering authority, and shall at the same time forward the certificate of registration to that other registering authority in order that the new address may be entered therein:

Provided that where a sefugee is not the head of the family, the head of the family, and where a refugee is a female, a minor, a lunatic, an idiot or a sick or infirm person, the person who may for the time being be looking after such refugee shall intimate the change of address and forward the certificate of registration to the registering authority as aforesaid.

(*2*) Nothing in sub-section (*1*) shall apply where the change of address recorded in the certificate of registration is due to a temporary absence not intended to exceed [1][three months] in duration.

Power of [2][State] Government to order refugees to reside in particular camps, places or areas and to remove themselves from such camps, places or areas.

**7.** The [2][State] Government may, by order in writing, direct any refugee or class of refugees to reside in any camp or place or within any area or to leave any camp or place or area and go to and reside in any other camp or place or area in the [3][State] of Bombay within a period specified in such order.

Power of [2][State] Government to remove refugees from any camp, place or area in the [3][State] of Bombay.

**8.** If any refugee fails to leave any camp, place or area, in accordance with an order made under section 7, he may be removed by any police officer or any person authorised by the [2][State] Government in this behalf from such camp, place or area in such manner as may be specified by the [3][State] Government by a general or special order.

Nothing in this section shall affect the liability of such refugee to the penalty provided in section 10.

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[1] These words were substituted for the words "thirty days" by Bom. 66 of 1948, s. 4.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Province", *ibid.*

**9.** (*1*) An officer authorised by the Provincial Government in this behalf may, by order in writing, require a refugee or any person responsible for the registration of a refugee under sub-section (*1*) of section 4, to get himself or the refugee for whose registration he is so responsible vaccinated against small-pox or inoculated against plague, cholera or typhoid within fifteen days of such order, except where a certificate is produced from a registered medical practitioner or from a vaccinator or inoculator duly authorised by the Provincial Government in that behalf that such refugee has been vaccinated or revaccinated or inoculated, as the case may be, by him within six months immediately preceding the date of the order. Orders of vaccination and inoculation of refugees.

(*2*) Nothing in this section shall affect the liability of any person to get himself or any other person vaccinated or inoculated under any law for the time being in force.

[1][**10.** (*1*) Whoever refuses or without lawful excuse neglects to comply with the requirements of section 4 or 6 shall, on conviction, be punished with fine which may extend to two hundred rupees. Penalties.

(*2*) Whoever gives particulars in filling the form under sub-section (*2*) of section 4 which are false and which he either knows or believes to be false or whoever contravenes any other provisions of this Act or any rule made thereunder or any order made in pursuance of this Act shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.]

**11.** Every person or member of a committee appointed as a registering authority under section 3 and every person authorised by the Provincial Government to remove a refugee under section 8 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Registering authorities and persons authorised to remove refugees to be public servants.

XLV of 1860.

**12.** No suit, prosecution or other legal proceeding shall lie against any person in respect of anything in good faith done or intended to be done under this Act or any rule or order made thereunder. Protection of action taken under Act.

[2][**13.** All offences under this Act except offences under sub-section (*1*) of section 10 shall be cognizable.] Certain offences to be cognizable.

**14.** The Provincial Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the Provincial Government below the rank of a Collector, as may be so specified. Delegation of functions.

**15.** (*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 power, such rules may provide for—

(*i*) the preparation and maintenance of registers of refugees registered under section 4;

(*ii*) the manner of service on refugees of orders made under this Act; and

(*iii*) the vaccination and inoculation of refugees under section 9.

[1] This section was substituted for the original by Bom. 66 of 1948, s. 5.
[2] This section was substituted for the original by Bom. 66 of 1948, s. 6.

Power of exemption.

[1][16. (*1*) The Provincial Government may, by notification in the *Official Gazette*, direct that refugees from any particular area or place or any class of refugees shall be exempt from all or any of the provisions of this Act or any requirements thereof.

(*2*) An officer authorised in this behalf by the Provincial Government may, for reasons to be recorded in writing, order that any refugee shall be exempt from all or any of the provisions of this Act or any requirements thereof.]

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[2][FIRST SCHEDULE.

[*See* section 4 (*2*).]

**Form of Registration.**

GOVERNMENT OF BOMBAY.

REGISTRATION OF REFUGEES.

(1) Name of the applicant in full (in capital letters with surname first).

(2) Age ... ... ...

(3) Sex ... ... ...

(4) Whether married or single ...

(5) Names of dependents at present in the Province of Bombay, their relationship, ages and sex.

(6) Names of dependents left behind, if any, in the place which he has left, their relationship, ages and sex.

(7) Address prior to evacuation: Village, Tehsil, District (in detail).

(8) Present address (Building, Floor, Street, Road, etc.

(9) Details of identity documents and other papers relating to evacuation, if any, with the applicant.

(10) Period of residence at place which he has left.

(11) Date and place of arrival in the Province of Bombay.

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[1] This section was inserted by Bom. 66 of 1948, s. 7.

[2] This schedule was substituted for the original, *ibid.*, s. 8.

(12) Any moveable or immovable property lost or left at the place which he has left or elsewhere and its value.

(13) Whether any property sold prior to evacuation. If so, its details and the price at which it was sold.

(14) Academical and technical qualifications.

(15) Occupation, profession or trade and monthly income prior to evacuation.

(16) Aptitude for any occupation, profession or trade other than that followed prior to evacuation.

(17) Details of land taken, if any, for settling either in the [1][State] of Bombay or elsewhere in [2][India].

(18) Means of maintenance at present.

(19) Resources possessed at present.

(20) Details of facilities or assistance received, if any, at present either through official or non-official sources.

(21) Whether any facilities or assistance required for rehabilitation. If so, their details.

(22) Whether he wishes to stay in the [1][State] of Bombay. If so, for how long.

(23) Whether willing to go outside the [1][State] of Bombay. If so, the place he wishes to proceed to.

*Remarks—*

Signature/Left hand thumb impression and/or Photograph of the applicant, *if available.*

Place 195 .

*Registering Authority.]*

[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the words "the Indian Union", *ibid.*

## SECOND SCHEDULE.

(*See* section 5.)

**Form of Certificate of Registration.**

GOVERNMENT OF BOMBAY.

POLITICAL AND SERVICES DEPARTMENT.

Serial Number .....

Reception Camp Number .....

Registration Office Number .....

Name of refugee in full .....

Address before evacuation .....

Present address .....

Name of head of family .....

1* * * .....

Signature or finger print of refugee .....

Office of registration .....

Registered by .....

Date .....

Place 19 5 .

Registering Authority.

[1] The entry " Dentification marks " was deleted by Bom. 66 of 1948, s. 9.

*The Bombay Building (Control on Erection, Re-Erection and Conversion) Act, 1948 (Bom. XXXI of 1948) at pages 2649-2654A has been repealed by the Bombay Building (Control on Erection, Re-erection and Conversion) (Repeal) Act, 1971 (Mah. XLI of 1971), s. 2.*

# THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE

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1. Short title and commencement.
2. Amendment of section 7 of Act V of 1898.
3. Amendment of heading "C" in chapter II of Act V of 1898.
4. Amendment of section 267 of Act V of 1898.
5. Amendment of section 268 of Act V of 1898.
6. Amendment of section 269 of Act V of 1898.
7. Amendment of section 274 of Act V of 1898.
8. Amendment of section 276 of Act V of 1898.
9. Amendment of section 277 of Act V of 1898.
10. Amendment of section 296 of Act V of 1898.
11. Amendment of section 305 of Act V of 1898.
12. Amendment of section 306 of Act V of 1898.
13. Amendment of heading "J" in Chapter XXIII of Act V of 1898.
14. Amendment of section 312 of Act V of 1898.
15. Amendment of section 315 of Act V of 1898.
16. Amendment of heading "K" in Chapter XXIII of Act V of 1898.
17. Amendment of heading "L" in Chapter XXIII of Act V of 1898.
18. Amendment of section 333 of Act V of 1898.
19. Amendment of sections 354 and 356 of Act V of 1898.
20. Amendment of section 373 of Act V of 1898.
21. Amendment of section 413 of Act V of 1898.
22. Amendment of section 435 of Act V of 1898.
23. Amendment of section 436 of Act V of 1898.
24. Amendment of section 437 of Act V of 1898.
25. Amendment of section 438 of Act V of 1898.
26. Amendment of section 449 of Act V of 1898.
27. Amendment of section 554 of Act V of 1898.
28. Amendment of form No. XXVIII of Schedule V to Act V of 1898.
29. Transitory provision.

CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948.]

[*10th April 1948.*]

**An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.**

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

**1.** (*1*) This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1948.

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

Amendment of section 7 of Act V of 1898.

V of 1898. **2.** In section 7 of the Code of Criminal Procedure, 1898 (hereinafter called the said Code),—

(*a*) in sub-section (*1*), the brackets and words "(excluding the presidency-towns)" shall be deleted; and

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

Greater Bombay to be sessions division.

"(*1A*) For the purposes of this Code, Greater Bombay shall be a sessions division."

Amendment of heading "C" in Chapter II of Act V of 1898.

**3.** In Chapter II of the said Code, for the heading "*C—Courts and Offices outside the Presidency-towns*" the heading "*C—Court of Session for Greater Bombay and Courts and Offices outside Greater Bombay*" shall be substituted.

Amendment of section 267 of Act V of 1898.

**4.** In the marginal note of section 267 of the said Code after the words "High Court" and in section 267 of the said Code after the words "High Court" where they occur for the first time, the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 268 of Act V of 1898.

**5.** In section 268 of the said Code, at the beginning the words and figures "Subject to the provisions of section 267" shall be inserted.

Amendment of section 269 of Act V of 1898.

**6.** In sub-section (*1*) of section 269 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 274 of Act V of 1898.

**7.** In section 274 of the said Code,—

(*a*) in sub-section (*1*), after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted; and

(*b*) in sub-section (*2*), for the words "before the Court" the words "before any other Court" shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette* 1948, Part V, page 12.

Bom. XXXII

Amendment of section 276 of Act V of 1898.

**8.** In section 276 of the said Code, in clause *thirdly* of the proviso, after the words "of such High Court" the words "or before the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 277 of Act V of 1898.

**9.** In sub-section (*2*) of section 277 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 296 of Act V of 1898.

**10.** In section 296 of the said Code, after the words "such Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 305 of Act V of 1898.

**11.** In the marginal note of section 305 and in sub-section (*1*) of section 305 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 306 of Act V of 1898.

**12.** In sub-section (*1*) of section 306 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of heading "*J*" in Chapter XXIII of Act V of 1898.

**13.** In Chapter XXIII of the said Code, in the heading "*J*"—

(*a*) after the words "*High Court*" the words "*and the Court of Session for Greater Bombay*" shall be inserted; and

(*b*) for the words "*that Court*" the words "*such Courts*" shall be substituted.

Amendment of section 312 of Act V of 1898.

**14.** In section 312 of the said Code, after the word "list" the words "for the High Court and the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 315 of Act V of 1898.

**15.** In section 315 of the said Code, for the words "in the town which is the usual place sitting of each High Court" the words "of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay" shall be substituted.

Amendment of heading "*K*" in Chapter XXIII of Act V of 1898.

**16.** In Chapter XXIII of the said Code, in the heading "*K*", after the words "*Court of Session*" the words "*other than the Court of Session for Greater Bombay*" shall be inserted.

Amendment of heading "*L*" in Chapter XXIII of Act V of 1898.

**17.** In Chapter XXIII of the said Code, in the heading "*L*", after the words "*High Courts*" the words "*and the Court of Session for Greater Bombay*" shall be inserted.

**18.** In section 333 of the said Code, after the words "before a High Court" the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 333 of Act V of 1898.

**19.** In the marginal notes of sections 354 and 356, the words "outside presidency-towns" shall be deleted. Amendment of sections 354 and 356 of Act V of 1898.

**20.** For the marginal note to section 373 of the said Code the marginal note "Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police" shall be substituted and to section 373 of the said Code, the following proviso shall be added, namely:— Amendment of section 373 of Act V of 1898.

"Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay."

**21.** In section 413 of the said Code,— Amendment of section 413 of Act V of 1898.

(*a*) after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted;

(*b*) for the words "a Court of Session" where they occur for the first time the words "any other Court of Session" shall be substituted; and

(*c*) after the words "Court of Session" where they occur for the second time the words "other than that for Greater Bombay" shall be inserted.

**22.** In sub-section (*1*) of section 435 of the said Code, after the words "any Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 435 of Act V of 1898.

**23.** In section 436 of the said Code, after the words "Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 436 of Act V of 1898.

**24.** In section 437 of the said Code, after the words "Sessions Judge" where they occur for the first time the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 437 of Act V of 1898.

**25.** In sub-section (*1*) of section 438 of the said Code, after the words "Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 438 of Act V of 1898.

**26.** In sub-section (*1*) of section 449 of the said Code, after clause (*c*) the following shall be inserted, namely:— Amendment of section 449 of Act V of 1898.

or,

(*d*) "a case is tried by jury in the Court of Session for Greater Bombay, which if it had been tried outside a Presidency-town, have been triable under the provisions of this Chapter,".

Amendment of section 554 of Act V of 1898.

**27.** In section 554 of the said Code, after sub-section (*1*) the following new sub-section shall be inserted, namely :—

Power of High Court of Bombay to make rules for Court of Session for Greater Bombay.

"(*1A*) With the previous sanction of the Provincial Government, the High Court of Judicature at Bombay may also make rules for regulating the practice and proceedings of the Court of Session for Greater Bombay."

Amendment of form No. XXVIII of Schedule V to Act V of 1898.

**28.** In form No. XXVIII—Charges—in Schedule V to the said Code, the brackets and words "[*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court]" shall be deleted.

Transitory provision.

**29.** Nothing in this Act shall affect any case, appeal or proceeding pending in the High Court on the date this Act comes into force and every such case, appeal or proceeding shall be tried, heard and disposed of as if this Act had not been passed.

# THE BOMBAY LAND REQUISITION ACT, 1948.

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PREAMBLE.

SECTIONS.

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20B. Other laws relating to acquisition and requisitioning of property to continue.
21. Validation of requisition orders.
22. Certain order not to be invalid on ground of absence of declaration.
23. Saving.

SCHEDULE.

# BOMBAY ACT No. XXXIII OF 1948[1]

[THE BOMBAY LAND REQUISITION ACT, 1948.]*

[*11th April 1948*]

Amended by Bom. 2 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 39 of 1950.†
" " " 9 of 1951.
" " " 40 of 1951.
" " " 5 of 1952.
" " " 5 of 1953.
" " " 17 of 1955.
" " " 52 of 1955.
Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
Amended by Bom. 91 of 1958.
" " " 33 of 1959.
Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
Amended by Mah. 37 of 1963.
" " " 14 of 1968.
" " " 34 of 1968.
" " " 36 of 1970.
" " " 50 of 1972.
" " " 51 of 1973 (27-12-1973).§
" " " 45 of 1977.

**An Act to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes.**

[2]WHEREAS it is expedient to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Bombay Land Requisition Act, 1948.

Extent. **2.** (*1*) This Act shall extend to the areas specified in the Schedule hereto annexed and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(*2*) The [3][State] Government may, by notification in the *Official Gazette*, extend any or all of the provisions of this Act to any other area and on such date as may be specified in the notification :

Bom. XXXIII of 1959. [4][Provided that on the commencement of the Bombay Land Requisition (Extension and Amendment) Act, 1959, all the provisions of this Act shall also extend to the rest of the [5][State of Bombay].]

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[1]For Statement of Objects and Reasons, *see Bombay Government Gazette, 1948*, Part V, page 216.

[2]The first paragraph and the word " AND " in the second paragraph were deleted by Bom. 33 of 1959, s. 3.

[3]This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4]This proviso was added by Bom. 33 of 1959, s. 4.

[5]The words " State of Bombay " shall stand unmodified (*see* the Maharashtra Adaptation of Laws) (State and Concurrent Subjects) Order, 1960.

*This Act was extended to and shall in virtue of such extension be in force, in the rest of the State of Bombay (*vide* Bom. 33 of 1959, s. 2).

†Section 6 of Bom. 39 of 1950, reads as follows :—

" 6. *Amendments to have retrospective effect.*—The amendments made by this Act shall be deemed to have been and always have been made with effect from the 26th January 1950, and all orders for requisition made under sections 5, 6 and 7 of the said Act on or after that date shall be deemed to have been made under the said Act as amended by this Act, and no such order shall be called into question in any Court merely on the ground that the amendments made by this Act were not at the date of such order included in the aforesaid provisions under which the said order was made."

§This indicates the date of commencement of Act.

(*3*) The [1][State] Government may, at any time by like notification, direct that any or all of the provisions of this Act shall cease to extend to any area and on such date as may be specified in the notification ; and on that date the said provisions shall cease to be in force in such area.

3. [*Duration.*] *Deleted by Mah. 51 of 1973, s. 2.*

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

(*1*) " land " includes benefits to arise out of land and buildings and all things attached to the earth or permanently fastened to the buildings or things attached to the earth ;

(*2*) " landlord " means any person who is, for the time being, receiving, or 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 or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant ; and includes any person not being a tenant, who from time to time derives title under a landlord ; and further includes in respect of his sub-tenant a tenant who has sub-let any premises ;

(*3*) " premises " means any building or part of a building let or intended to be let separately including—

(*i*) the garden, grounds, garages, and out houses, if any, appurtenant to such building or part of a building ;

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ;

but does not include a room or other accommodation in a hotel or lodging house ;

(*4*) " prescribed " means prescribed by rules, made under this Act ;

(*5*) " to requisition " means in relation to any land to take possession of the land or to require the land to be placed at the disposal of the [1][State] Government.

Requisition of land. 5. (*1*) If in the opinion of the [1][State] Government it is necessary or expedient so to do, the [1][State] Government may by order in writing requisition any land for [2][any public purpose] :

Provided that no building or part thereof wherein the owner, the landlord or the tenant, as the case may be, has actually resided for a continuous period of six months immediately preceding the date of the order shall be requisitioned under this section.

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[1]This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2]These words were substituted for the words " purpose of the State or any other public purpose " by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

(*2*) Where any building or part thereof is to be requisitioned under sub-section (*1*) the [1][State] Government shall make such enquiry as it deems fit and make a declaration in the order of requisition that the owner, the landlord or the tenant, as the case may be, has not actually resided therein for a continuous period of six months immediately preceding the date of the order and such declaration shall be conclusive evidence that the owner, landlord or tenant has not so resided.

Requisition of vacant permises.

**6.** (*1*) If any premises situate in an area specified by the [1][State] Government by notification in the *Official Gazette*, are vacant on the date of such notification and wherever any such premises are vacant or become vacant after such date by reason of the landlord, the tenant or the sub-tenant, as the case may be, ceasing to occupy the premises or by reason of the release of the premises from requisition or by reason of the premises being newly erected or reconstructed or for any other reason the landlord of such premises shall give intimation thereof in the prescribed form to an officer authorised in this behalf by the [1][State] Government.

(*2*) The intimation shall be given [2][by registered post] within one month of the date of the notification in the case of premises which are vacant on such date and in other cases within seven days of the premises becoming vacant or becoming available for occupation.

(*3*) A landlord shall not, without the permission of the [1][State] Government, let, occupy or permit to be occupied such premises before giving the intimation and for a period of one month from the date on which the intimation is received.

(*4*) Whether or not an intimation under sub-section (*1*) is given and notwithstanding anything contained in section 5, the [1][State] Government may by order in writing—

(*a*) requisition the premises [3][for [4][any public purpose] and may use or deal with the premises for any such purpose] in such manner as may appear to it to be expedient ; or

[5]* * * * *

Provided that where an order is to be made under clause (*a*) [6][requisitioning the] premises in respect of which no intimation is given by the landlord, the [1][State] Government shall make such inquiry as it deems fit and make a declaration in the order that the premises were vacant or had become vacant, on or after the date referred to in sub-section (*1*) and such declaration shall be conclusive evidence that the premises were or had so become vacant.

[7]* * * * *

(*5*) Any landlord who fails to give such intimation within the period specified in sub-section (*2*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both and any landlord who

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words " by post " by Bom. 5 of 1952, s. 3(*1*).
[3] This portion was substituted for the words " and may use or deal with the premises " by Bom. 39 of 1950, s. 3.
[4] These words were substituted for the words " the purpose of the State or any other public purpose " by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
[5] Clause (*b*) was deleted by Bom. 5 of 1952, s. 3 (*2*).
[6] These words were substituted for the words, brackets and letter " or (*b*) requisitioning or requiring to let " *ibid.*
[7] The second proviso was deleted, *ibid.*

lets, occupies or permits to be occupied the premises in contravention of the provisions of sub-section (*3*), shall, on conviction, be punished with imprisonment for a term which may extend to one year and shall also be punished with fine.

*Explanation.*—For the purposes of this section—

(*a*) premises which are in the occupation of the landlord, the tenant or the sub-tenant, as the case may be, shall be deemed to be or become vacant when such landlord ceases to be in occupation or when such tenant or sub-tenant ceases to be in occupation upon termination of his tenancy, eviction, assignment or transfer in any other manner of his interest in the premises or otherwise, notwithstanding any instrument or occupation by any other person prior to the date when such landlord, tenant or sub-tenant so ceases to be in occupation ;

(*b*) premises newly erected or re-constructed shall be deemed to be or become vacant until they are first occupied after such erection or reconstruction.

Continuance of requisition.

7. (*1*) Notwithstanding anything contained in the Requisitioned Land (Continuance of Powers) Act, 1947, the [1][State] Government may, by order in writing direct that any land which was continued under requisition under the said Act, shall continue to be subject to requisition under this Act [2][for [3][any public purpose] when it is released from requisition under the said Act or ceases to be subject to requisition for any reason ; and the [1][State] Government may [4][for any such purpose] use or deal with the land so continued to be subject to requisition in such manner as may appear to it to be expedient. XVII of 1947.

(*2*) In respect of the continued subjection of the land to requisition under sub-section (*1*) compensation shall be determined and paid in accordance with the provisions of this Act and of the rules made thereunder :

Provided that all agreements and awards made in relation to the land in respect of the payment of compensation for the period before it was continued to be subject to requisition under sub-section (*1*) shall continue to be in force and shall apply to the payment of compensation for the period of requisition under this Act.

Continuance of requisition made under the Defence of India Act, 1962.

[5][7A. All immovable properties, which at the commencement of the Bombay Land Requisition (Amendment) Act, 1968, are subject to requisitioning effected under the Defence of India Act, 1962 (hereinafter in this section referred to as " the Defence Act ") by the State Government or by any officer or authority to whom the powers of the State Government under the Defence Act were delegated, shall, immediately on the expiration of the period stated in the orders of requisitioning made under the Defence Act, be deemed to be lands requisitioned under this Act and shall continue to be subject to requisitioning as if they were requisitioned under this Act, without specifying any such period. The State Government may use or deal with any such land for any public purpose. Any agreement or award made for the payment of compensation in respect of any such property and in force immediately before the expiration of the said period shall continue to be in force as if the amount of compensation were determined under this Act, and shall apply to the payment of compensation during the period of requisitioning under this Act. If in respect of any such property no such agreement or award is in force immediately before the expiration of the said period, the amount of compensation shall be determined in Mah. XIV of 1968. 51 of 1962.

[1] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] These words were inserted by Bom. 39 of 1950, s. 4.

[3] These words were substituted for the words " any purpose of the State or any other public purpose " by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

[4] These words were inserted by Bom. 39 of 1950, s. 4.

[5] Section 7A was inserted by Mah. 14 of 1968, s. 2.

accordance with the provisions of the Defence Act (including the rules made thereunder) as if those provisions were for such purpose enacted in this Act and shall continue to apply to such property ; and any agreement or award so made shall apply to the payment of compensation for the period of requisitioning under the Defence Act, and also under this Act.]

Payment of compensation.

**8.** (*1*) When any land is requisitioned or is continued to be subject to requisition under this Act, there shall be paid subject to the provisions of [1][sections 7 and 7A,] compensation to persons having interest in such land the amount of which shall be determined by an officer authorised in this behalf by the [2][State] Government who shall hold an inquiry in the manner prescribed. The officer shall determine such amount of compensation as he deems just having regard to all the circumstances of the case ; and in particular he shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894 [3][(as in force in the [4][Bombay area of the State of Maharashtra])] in so far as they can be made applicable.

I of 1894.

(*2*) Where there are several persons interested in the land, the officer shall decide the dispute, if any, as to the apportionment of the amount of compensation or any part thereof or as to the persons to whom the same or any part thereof is payable.

(*3*) An appeal shall lie against the decision of the officer under sub-section (*1*) or (*2*), except in cases where the total amount of compensation in respect of the land does not exceed an amount prescribed in this behalf by the [2][State] Government,—

(*a*) in Greater Bombay, to the High Court, and

(*b*) elsewhere, to the District Court.

Such appeal shall be made within a period of sixty days from the date of the decision.

[5][*Explanation.*—For the purposes of this section, the total amount of compensation shall mean in cases where the amount of compensation is paid in a lump sum, such sum, and in cases where it is paid periodically, such multiple of the amount of compensation as may be prescribed.]

(*4*) No further appeal shall lie against any decision in appeal under sub-section (*3*).

Power of State Government to call for record.

[6][**8-A1.** The State Government may,—

(*a*) in cases in which no appeal lies under sub-section (*3*) of section 8, or

(*b*) in cases in which such appeal lies, but has not been filed within the period specified in the said sub-section (*3*), after the period for filing such appeal has expired,

call for the record of the inquiry or proceedings of the officer, who has given the decision under sub-section (*1*) or (*2*) of the said section 8, for the purpose of satisfying itself as to the legality, propriety or regularity of such inquiry or proceedings, and may pass such order thereon as it deems fit. Any order passed by the State Government under this section shall be final.]

Landlord's duty to execute necessary repairs.

[7][**8A.** Where any premises are requisitioned or continued under requisition under this Act, the State Government may, subject to any agreement entered into by the appropriate Government with the landlord of the premises, whether such premises are requisitioned or continued under requisition either before or after the coming into force of the Bombay Land Requisition (Amendment) Act, 1950, by order in writing direct him to execute such repairs as shall in its opinion be

Bom. II of 1950.

[1] This was substituted for the word and figure " section 7 " was inserted by Mah. 14 of 1968, s. *3*.

[2] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These brackets and words were inserted by Bom. 33 of 1959, s. *5*.

[4] These words were substituted for the words " pre-Reorganisation State of Bombay, excluding the transferred territories " by the Maharashtra Adeptation of Laws Order, 1960.

[5] This Explanation was added by Bom. 2 of 1950, s. *3*.

[6] Section 8-A1 was inserted by Bom. 5 of 1953, s. *3*.

[7] Section 8A was inserted by Bom. 2 of 1950, s. *4*.

necessary or sufficient to keep the premises in a good and tenantable condition and as may be specified in the order, within the time mentioned therein. If the landlord fails to execute such repairs, the State Government may cause such repairs to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.]

Application of section 499 of Bom. III of 1888 to requisitioned premises.

[1][**8AA.** Without prejudice to the powers conferred by section 8A, the provisions of section 499 of the Bombay Municipal Corporation Act shall apply in relation to premises which are requisitioned or continued under requisition under this Act, with this modification that the occupier for the purposes of that section shall be the State Government, or where the State Government so allows, shall be the person to whom any such premises are allotted or who is allowed to continue to remain in occupation or possession thereof, and accordingly the State Government or such person may in the circumstances stated in the said section 499 execute the work therein referred to, subject to the provisions of that section ; but for the purposes of reimbursing itself, or such person, for the reasonable expenses incurred in executing any such work, the State Government shall be entitled to recover from the owner the amount of such expenses and may deduct that amount from the compensation which, from time to time, becomes due to the owner.] Bom. III of 1888.

[1] Section 8AA was inserted by Bom. 91 of 1958, s. 3.

Vacation of requisitioned land and recovery of dues as arrear of land revenue.

[1][8B. (*1*) Where the State Government has either before or after the coming into force of the Bombay Land Requisition (Amendment) Act, 1950, allotted to any person any land requisitioned or continued under requisition under this Act or where any person continues or is permitted to continue to remain in occupation or possession of such land, the State Government may, notwithstanding anything contained in any law for the time being in force, by order in writing direct the person to whom such land is allotted or the person who continues or is permitted to continue to remain in occupation or possession of such land or any other person for the time being in occupation of such land to vacate the same within such period as may be specified in the order and deliver possession thereof to the officer authorised in this behalf by the State Government.

Bom. II of 1950.

(*2*) If any person to whom any such land is allotted by the State Government fails to pay to the State Government any sum which he is liable to pay under the terms and conditions subject to which such land is allotted to him or if any person who continues or is permitted to continue to remain in occupation or possession of such land fails to pay any amount of compensation which the State Government determines as the amount payable by him for such occupation or possession, such sum or amount due whether before or after the coming into force of the Bombay Land Requisiton (Amendment) Act, 1950, shall, without prejudice to any other mode of recovery, be recovered from him or any person for the time being in occupation of the land as an arrear of land revenue.

Bom. II of 1950.

(*3*) The allotment of any land to any person, or the continuance of any person or the permission to any person to continue to remain in occupation or possession of any land, referred to in sub-section (*1*) shall be deemed to be a licence, in favour of such person for the use and occupation of the said land.]

Release from requisition.

9. (*1*) The [2][State] Government may, at any time, release from requisition any land requisitioned or continue to be subject to requisition under this Act.

[3][(*1A*) Notwithstanding anything contained in sub-section (*1*), the State Government shall release from requisition,—

(*a*) any land requisitioned or continued to be subject to requisition under this Act before the commencement of the Bombay Land Requisition (Amendment) Act, 1973, on or before the expiry of a period of [4][ten years] from such commencement ;

Mah. LI of 1973.

(*b*) any land requisitioned under this Act after such commencement, on or before the expiry of a period of [4][ten years] from the date on which possession of such land was surrendered or delivered to, or taken by, the State Government or any officer authorised or empowered by the State Government.]

(*2*) (*a*) Upon such release [5][under sub-section (*1*) or sub-section (*1A*),] the land shall be restored as far as possible in the same condition in which it was on the date on which the [2][State] Government was put in possession thereof, and the [2][State] Government shall pay compensation for deterioration, if any, caused to the land otherwise than by reasonable wear and tear or irresistible force :

Provided that nothing in this sub-section shall apply to any structures, trees or crops standing on the land on the date on which the [2][State] Government took possession thereof and in respect of which compensation has been paid.

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[1] Section 8B was inserted by Bom. 2 of 1950, s. 3.
[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] Sub-section (*1A*) was inserted by Mah. 51 of 1973, s. 3(*a*).
[4] These words were substituted for the words "five years" by Mah. 45 of 1977, s. 2.
[5] These words, brackets, figures and letter were inserted by Mah. 51 of 1973, s. 3(*b*).

(*b*) The officer authorised in this behalf by the [1][State] Government shall determine such amount of compensation as he deems just and his decision, subject to an appeal to the [1][State] Government, shall be final. Such appeal shall be made within a period of thirty days from the date of the decision.

(*3*) When any land is to be released from requisition, the [1][State] Government may, after making such inquiry, if any, as it deems fit, specify by order in writing the person to whom possession of the land shall be given.

(*4*) The delivery of possession of the land to the person specified in an order made under section (*3*) shall be a full discharge of the [1][State] Government from all liability in respect of such delivery but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(*5*) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the [1][State] Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and shall publish the notice in the *Official Gazette*.

(*6*) When a notice referred to in sub-section (*5*) is published in the *Official Gazette*, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the [1][State] Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

(*7*) For the purpose of releasing any land from requisition, the [1][State] Government may, by order, direct the person to whom the [1][State] Government had given possession of such land and other person, if any, in occupation of such land to deliver possession thereof to the officer authorised in this behalf by the [1][State] Government.

Notice to owner of land or premises requisitioned or to be requisitioned to submit application for compensation.

[2][**9A.** The State Government shall, at the time of requisitioning or thereafter, by notice in writing published or served, as the case may be, in the manner provided in section 13 for the publication or service of the orders therein mentioned, require the owner of the land or landlord of the premises requisitioned, or to be requisitioned, to submit within the time specified in section 9B, his claim for compensation in respect of such land or premises.

Officer to whom, manner in which and time within which application for compensation to be made.

**9B.** (*1*) Every application for the determination or payment of compensation shall be made to the officer authorised to determine compensation under section 8, in such manner and in such form, and accompanied by such information, as may be prescribed.

(*2*) such application shall,—

(*a*) in the case of a claim for compensation under sub-section (*1*) of section 8, be made within three months from the date on which the notice under section 9A is published or served, as the case may be;

(*b*) in the case of arrears of compensation, where an order determining compensation directs that the amount of compensation shall be paid at a future date or in instalments or periodically, be made within three months from the date on which the amount, instalment or periodical payment, as the case may be, becomes so payable;

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[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] Sections 9A, 9B and 9C were inserted by Bom. 52 of 1955, s. 3.

(*c*) in the case of a claim for compensation under clause (*a*) of sub-section (*2*) of section 9, be made within three months from the date on which possession was delivered under the said section.

(*3*) The provisions of sections 4 and 5, and of sub-section (*1*) of section 12, of the Indian Limitation Act, 1908, shall *mutatis mutandis* apply in relation to applications for determination or payment of compensation under this Act, as they apply in relation to applications described in the First Schedule to that Act.

IX of 1908.

If application for determination of compensation not made in time compensation to be determined *ex parte*.

**9C.** If an application for compensation under clause (*a*) of sub-section (*2*) of section 9B is not made within the time therein mentioned, the officer may proceed to determine *ex parte* the amount of compensation and apportionment thereof, and such determination and apportionment shall, subject to the provisions of sub-section (*3*) of section 8 and of section 8-A1, be binding on the owner or landlord :

Provided that, if the owner or landlord, within thirty days of the date of the decision of the officer, shows to the satisfaction of the officer that the notice was not duly published or served or that he was prevented by sufficient cause from making his claim in time, the officer shall cancel his decision and proceed to determine the compensation and apportionment thereof after taking into consideration any claim made by the owner or landlord.]

Power of inquiry.

**10.** For the purposes of holding an inquiry under section 8 the authorised officer shall have the same powers as are vested in civil courts in respect of—

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath,

(*c*) compelling the production of documents, and

(*d*) issuing commissions for the examination of witnesses.

Powers to take possession.

**11.** (*1*) Any officer authorised in this behalf by the [1][State] Government by a general or special order may take possession of any land in respect of which an order has been made under section 5 or 6 [2][or sub-section (*1*) of section 8B] or sub-section (*7*) of section 9 and may take or cause to be taken such steps and use or cause to be used such force as may in the opinion of such officer, be reasonably necessary for taking possession of such land.

(*2*) The [1][State] Government may, after giving 15 clear days' notice to the person from whom possession of the land has been taken under sub-section (*1*) remove or cause to be removed or dispose of by public auction any property remaining on such land.

(*3*) Where property is sold under sub-section (*2*), the sale proceeds shall after deducting the expense of sale, be paid to such person or persons who may appear to the [1][State] Government to be entitled to the same.

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[1] This word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words, brackets, figures and letters were inserted by Bom. 2 1950, s. 6.

Power to obtain information.

**12.** (*1*) Any officer authorised in this behalf by the [1][State] Government by a general or special order may, with a view to carrying out the purposes of this Act, by order require any person to furnish to him such information in such person's possession relating to any land which is requisitioned or is continued under requisition or is intended to be requisitioned or continued under requisition [2][under this Act].

(*2*) Every person required to furnish such information as is referred to in sub-section (*1*) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code. XLV of 1860.

Publication and service of orders.

**13.** (*1*) Every order made under section 5, 6, 7, [3][8A or 8B [4]* * or] sub-section (*7*) of section 9 or section 12 shall—

(*a*) if it is an order of a general nature or affecting a class of persons, be published in the manner prescribed by rules made in this behalf;

(*b*) if it is an order affecting an individual, corporation, or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; V of 1908.

(*c*) if it is an order affecting an individual person other than a corporation or firm, be served on the person—

(*i*) personally, by delivering or tendering to him the order, or

(*ii*) by post, or

(*iii*) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain.

(*2*) Where a question arises whether a person was duly informed of an order made in pursuance of section 5, 6, 7, [3][8A or 8B [4]* * or], sub-section (*7*) of section 9 or section 12 compliance with the requirements of sub-section (*1*) shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

Power to enter and inspect land.

**14.** Without prejudice to any powers otherwise conferred by this Act, any officer or person empowered in this behalf by the [1][State] Government, by general or special order may enter and inspect any land for the purpose of determining whether, and, if so, in what manner, an order under this Act should be made in relation to such land, or with a view to securing compliance with any order made under this Act.

Delegation of functions.

**15.** The [1][State] Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the [1][State] Government below the rank of a Collector, as may be so specified.

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[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were added by Bom. 39 of 1950, s. 5.

[3] The figures, letters and words "8A or 8B or 9A or" were inserted by Bom. 2 of 1950, s. 7.

[4] The word, figure and letter "or 9A" were deleted by Bom. 5 of 1952, s. 5.

Exemption.

**16.** The [1][State] Government may by rules exempt any land from the provisions of section 5 or 6 or both on such terms and conditions as may be specified in the said rules.

Protection of action taken under Act.

**17.** (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made thereunder.

(*2*) Save as otherwise expressly provided under this Act no suit or other legal proceeding shall lie against the [1][State] Government for any damage caused or likely to be caused by anything in good faith done or intended to be done under this Act, or any order made thereunder.

Officers to be deemed public servants.

**18.** Every officer authorised or empowered by the [1][State] Government to exercise any power or to perform any duty under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Power to make rules.

**19.** (*1*) The [1][State] Government may by notification in the *Official Gazette* make rules to carry into effect the purposes of this Act.

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

(*i*) the form in which intimation shall be given under sub-section (*1*) of section 6;

(*ii*) the manner of holding an inquiry under sub-section (*1*), and the amount of compensation to be prescribed under sub-section (*3*) of section 8;

[2][(*ii-a*) the manner and form in which applications for determination of payment of compensation shall be made, and the information required to accompany such applications, under section 9B;]

(*iii*) levy of court-fees in respect of appeals under sections 8 and 9;

(*iv*) exemption of any land from the provisions of section 5 or 6 or both and the terms and conditions on which the land shall be exempted;

(*v*) any other matter which under this Act is to be or may be prescribed.

Repeal.

**20.** (*1*) The Bombay Land Requisition Ordinance, 1947, is hereby repealed, and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment.

Bom. Ordinance No. V of 1947.

Bom. 1 of 1904.

(*2*) Notwithstanding the repeal of the said Ordinance and anything contained in this Act,—

(*i*) any intimation given under sub-section (*1*) of section 5 of that Ordinance within a period of seven days prior to the commencement of this Act shall be deemed to have been given under the corresponding provision of this Act;

(*ii*) any order made under the said Ordinance requisitioning any land shall be deemed to be made under this Act;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This clause was inserted by Bom. 52 of 1955, s. 4.

(*iii*) any land requisitioned or continued to be subject to requisition under the said Ordinance shall be deemed to be requisitioned or continued to be subject to requisition under this Act.

Repeal of C. P. and Berar LXIII of 1948 and saving.

[1][20A. (*1*) On the commencement of the Bombay Land Requisition (Extension and Amendment) Act, 1959, the Central Provinces and Berar Accommodation (Requisition) Act, 1948, in its application to the Vidarbha region of the State of Bombay shall stand repealed. Bom. XXXIII of 1959. C. P. and Berar LXIII of 1948.

(*2*) Notwithstanding such repeal, any accommodation, which immediately before, such repeal is subject to requisition under the repealed Act, shall thereafter be deemed to be requisitioned under this Act, and the State Government may use or deal with any such requisitioned accommodation for any public purpose in such manner as may appear to it to be expedient:

Provided that the State Government may at any time release from requisition any such requisitioned accommodation.

Other laws relating to acquisition and requisitioning of property to continue.

20B. For the removal of doubt, it is hereby declared that the provisions of this Act shall be in addition to and not in derogation of the provisions of the Bombay Requisitioned Property (Continuance of Powers) (Saurashtra Area) Act, 1958 or of any law relating to acquisition or requisitioning of property for the time being in force in the State of Bombay or any part thereof.] Bom. LVI of 1958.

Validation of requisition orders.

[2][21. (*1*) Notwithstanding anything contained in this Act, or a judgment, decree or order of a Court if any order for requisition made under section 5, 6 or 7 on or after the 26th January 1950 and before the commencement of the Bombay Land Requisition (Amendment) Act, 1951, has not specified the purpose for which such requisition was made, but if such order for requisition was in fact made for the prupose of the State or any other public purpose, such order shall not be deemed to be or ever to have been invalid, nor shall such order be called in question in any Court merely on the ground that the order has not specified the purpose for which the requisition was made. Bom. XL of 1951.

(*2*) Nothing contained in this section shall—

(*a*) affect the judgment, decree or order of any competent Court passed before the 31st August 1951 holding any such order invalid on the ground specified in sub-section (*1*), or

(*b*) preclude any Court from requiring the State Government or the Officer who made such order for requisition to produce before it evidence to show that the order for requisition was in fact made for the purpose of the State or any other public purpose.]

[1] Sections 20A and 20B were inserted by Bom. 33 of 1959, s. 6.

[2] This section was inserted by Bom. 40 of 1951, s. 2.

Certain order not to be invalid on ground of absence of declaration

[1][22. (*1*) Notwithstanding anything contained in this Act or a judgment, decree or order of a court, an order made or purporting to have been made under section 6 before the commencement of the Bombay Land Requisition (Amendment) Act, 1955, shall not be deemed to be or to have ever been invalid merely on the ground that such order did not contain a declaration, whether express or implied, that the premises requisitioned were vacant or had become vacant on or after the date of the notification under sub-section (*1*) of section 6; nor shall such order be called in question in any Court merely on the ground aforesaid.

Bom. XVII of 1955.

(*2*) Nothing contained in this section shall affect the judgment, decree or order of any competent court passed before the 13th January 1955, holding any such order invalid on the ground specified in sub-section (*1*).]

Saving.

XXX of 1952. [2][23. Nothing in this Act shall apply to any premises to which the Requisitioning and Acquisition of Immoveable Property Act, 1952, applies.]

## SCHEDULE.

1. City of Bombay.
2. Bombay Suburban District.
3. Thana District.
4. Ahmedabad District.
5. Surat District.
6. Nasik District.
7. Poona District.
8. Sholapur District.
9. Ahmednagar District.
[3][10. Chandgad Taluka in the Kolhapur District.]

[4]* * *

[1] This section was inserted by Bom. 17 of 1955, s. 2.
[2] This section was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
[3] This entry was substituted for the original, *ibid.*
[4] Entry 11 was omitted, *ibid.*

# THE BOMBAY CITY CIVIL COURT ACT, 1948.

CONTENTS

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Constitution of City Court.
4. [*Deleted.*]
4A. Power of High Court to transfer matrimonial cases to City Court.
5. Subordination to and superintendence by High Court.
6. Appointment of Judges.
7. Powers of Judges when City Court consists of more than one Judge.
8. Registrar.
9. Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.
10. Fees for process.
11. [*Deleted.*]
12. High Court jurisdiction barred except in certain cases.
13. Costs to be disallowed when plaintiff sues in High Court instead of in City Court.
14. Allowance for fees paid in City Court in cases removed to High Court.
15. Appeals and limitation.
16. Seal of City Court.
17. Holidays and vacations.
18. Transfer of suits pending in High Court.

# BOMBAY ACT No. XL OF 1948[1]

## [THE BOMBAY CITY CIVIL COURT ACT, 1948]

[*10th May 1948*]

(*Assented to by the Govenor General*)

Amended by Bom. 26 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1951.
" " " 32 of 1954.
" " Mah. 15 of 1968.
" " " 29 of 1968.
" " " 46 of 1977. (1-1-1978)*†
" " " 15 of 1979. (1-7-1979)*

**An Act to establish an additional Civil Court for Greater Bombay**

WHEREAS it is expedient to establish an additional Civil Court for the Greater Bombay; It is hereby enacted as follows:—

Short title and commencement.

**1.** (*1*) This Act may be called the Bombay City Civil Court Act, 1948.

(*2*) It shall come into force on such date[2] as the [3][State] Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

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

(*1*) " City Court " means the Court established under section 3;

(*2*) " High Court " means the High Court of Judicature at Bombay;

(*3*) " Institution fee " means the court-fee payable in respect of the plaint or application by which a suit or proceeding is instituted;

(*4*) " Small Cause Court " means the Court of Small Causes of Bombay;

(5) " Special law " means a law applicable to a particular subject.

Constitution of City Court.

**3.** The [3][State] Government may by notification in the *Official Gazette*, establish for the Greater Bombay a court, to be called the Bombay City Civil Court. Notwithstanding anything contained in any law, such court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding [4][fifty thousand rupees] in value, and arising within the Greater Bombay, except suits or proceedings which are congnizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial Jurisdiction, or

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 7.
[2] 16th August 1948 [*vide* G.N., H.D., No. 2346/5-(7), dated 14th August 1948].
[3] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words " ten thousand rupees " by Mah. 46 of 1977, s. 2.
* This indicates the date of commencement of the Act.
† Section 19 of Mah. 46 of 1977 reads as follows :—

Savings.

" 19. The amendments made by this Act in any of the Acts aforesaid shall not have any effect in respect of and apply to any suits, appeals or other proceedings of a civil nature filed and pending before any Court on the date of commencement of this Act, and such proceedings shall be continued and disposed of by that Court, as if this Act had not been passed; and any appeal, revision application or other proceedings of a civil nature in respect of any decree or order passed by any Court before the date of commencement of this Act shall be filed before and heard and disposed of by the Court competent to entertain such proceedings before such commencement, as if this Act had not been passed. "

(*b*) by the High Court for the relief of insolvent debtors, or
(*c*) by the High Court under any special law other than the Letters Patent; or
(*d*) by the Small Cause Court :

Provided that the [1][State] Government may, from time to time, after consultation with the High Court, by a like notification extend the jurisdiction of the City Court to any suits or proceedings [2][which are cognizable by the High Court as a court having testamentary or intestate jurisdiction or for the relief of insolvent debtors.]

**4.** [*Power of* [1][*State*] *Government to enhance jurisdiction of City Court.*] *Deleted by Mah. 46 of 1977, s. 3.*

Power of High Court to transfer matrimonial cases to City Court.

[3][**4A.** (*1*) Notwithstanding anything contained in any law for the time being in force, the High Court may at any stage transfer to the City Court any suit or proceeding which is cognizable by it as a Court having matrimonial jurisdiction and instituted in such court.

(*2*) Any suit or proceeding so transferred shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in that Court.

(*3*) In any such suit or proceeding institution fees shall be paid, credit being given to any court fee levied in the High Court and cost incurred in the High Court till the date of transfer shall be assessed by the City Court in such manner as the [4][State] Government may, after consultation with the High Court, determine by rules.]

Subordination to and superintendence by High Court.

**5.** The City Court shall be deemed to be a court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent of the High Court and of the Code of Civil Procedure, 1908. V of 1908.

Appointment of Judges.

**6.** The [1][State] Government may, by notification in the *Official Gazette*, appoint as many persons as it thinks fit to be Judges of the City Court.

Powers of Judges when City Court consists of more than one Judge.

**7.** When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(*b*) the [1][State] Government may appoint any one of the Judges to be the principal Judge [5][and any two other Judges to be called the additional principal Judge];

(*c*) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the court among the various Judges thereof;

[6][(*d*) [7][any additional principal Judge] may exercise all or any of the powers conferred on the principal Judge by this Act or any other law for the time being in force, as the High Court may, from time to time, direct.]

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[1] This word "State" was substituted for the word " Provincial " by the Adaptation of Laws Order, 1050.

[2] This portion was substituted for the original by Bom. 26 of 1950, s. 2.

[3] This section was inserted, *ibid.*, s. 3.

[4] The word " State " was substituted for the word " Provincial " by Bom. 9 of 1951, s. 3, Second Schedule.

[5] These words were substituted for the words " and any other Judge to be the additional principal Judge " by Mah. 15 of 1979, s. 2(*a*).

[6] Clause (*d*) was added by Mah. 29 of 1968, s. 2 (*b*).

[7] These words were substituted for the words " the additional principal Judge " by Mah. 15 of 1979, s. 2(*b*).

8. (*1*) The [1][State] Government may appoint an officer to be called the Registrar [7][Registrars.] of the City Court. He shall be the chief ministerial officer of the Court; and shall exercise such powers and discharge such duties of a ministerial nature as the Judge of the City Court, or when the court consists of more than one Judge, the principal Judge may, from time to time, by rules, direct. [2][The State Government may also appoint [3][two officers to be called the additional Registrars] of the City Court. [4][Any additional Registrar] shall exercise all or any of the powers and discharge all or any of the duties of the Registrar as the principal Judge may, from time to time, by rules, direct.]

(2) The [1][State] Government may, with the previous approval of the High Court, invest the Registrar and [5][any additional Registrar] [6][with all or any of the following powers of the Judge of the City Court, namely:—

(*a*) the power to hear and dispose of all applications for permission to sue or defend as paupers or for dispaupering plaintiffs or defendants permitted to sue or defend as paupers;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was added by Mah. 29 of 1968, s. 3(*a*).
[3] These words were substituted for the words "an officer to be called the additional Registrar" by Mah. 15 of 1979, s. 3(*a*) (*i*).
[4] The words "Any additional Registrar" were substituted for the words "The additional Registrar", *ibid.*, s. 3 (*a*) (*ii*).
[5] The words "any additional Registrar" were substituted for the words "the additional Registrar", *ibid.*, s. 3(*b*).
[6] This portion was substituted for the words "with any powers of the Judge of the City Court other than powers of trying suits and proceedings" by Mah. 14 of 1968, s. 2.
[7] This word was substituted for the word "Registrar" by Mah. 29 of 1968, s. 3(*c*).

(*b*) the power to hear and dispose of all interlocutory applications or matters necessary for the progress of any suit or other proceedings;

(*c*) the power to hear and dispose of all applications for execution of decrees (but in the case of any application referred to in rule 22 of Order XXI in the First Schedule to the Code of Civil Procedure, 1908, only when the person to whom the notice thereunder is served does not appear or offer any objection to the execution);

V of 1908.

(*d*) the other powers of the said Judge, not being powers of trying suits and proceedings.]

**9.** Save as otherwise provided in this Act all questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.

**10.** (*1*) The High Court shall, from time to time, with the sanction of the [1][State] Government prescribe and regulate the fees to be taken for any process issued by the City Court or by any officer of such court.

Fees for process.

(*2*) Table of the fees so prescribed shall be published in the *Official Gazette.*

**11.** [*Repayment of institution fee under certain circumstances.*] *Deleted by Mah. 15 of 1968, s. 3.*

**12.** Notwithstanding anything contained in any law, the High Court shall not have jurisdiction to try suits and proceeedings cognizable by the City Court:

High Court jurisdiction barred except in certain cases.

Provided that the High Court may, for any special reason, and at any stage remove for trial by itself any suit or proceeding from the City Court.

**13.** If in any suit instituted in the High Court the Judge who tries it is of the opinion that it ought to have beeen instituted in the City Court and in such suit—

Costs to be disallowed when plaintiff sues in High Court instead of in City Court.

(*a*) if the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client ; or

(*b*) if the plaintiff obtains a decree for any matter of an amount or value less than the maximum amount of the pecuniary jurisdiction of the City Court, no costs shall be allowed to the plaintiff.

**14.** When any suit or proceeding is removed for trial to the High Court from the City Court under section 12—

Allowance for fees paid in City Court in cases removed to High Court.

(*a*) it shall be heard and disposed of by the High Court in the exercise of its original civil jurisdiction and the said Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in such Court;

(*b*) court fee on the scale for the time being in force in the High Court as a court of original civil jurisdiction shall be payable in that court in respect of the suit or proceeding therein ;

Provided that in the levy of any such fee which, according to the practice of the court, is credited to the [1][State] Government, credit shall be given for the institution fee already paid in the City Court.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Appeals and limitation.

**15.** (*1*) An appeal shall lie to the High Court from—

(*a*) every decree passed by the Judge of the City Court, and

(*b*) such orders passed by the said Judge as are specified in and to the extent provided for by section 104 of the Code of Civil Procedure, 1908. V of 1908.

(*2*) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the day of such decree or order:

[1][Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period.]

Seal of City Court.

**16.** The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the [2][State] Government.

Holidays and vacations.

**17.** (*1*) The Judge of the City Court, or when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the court, and shall submit the same for the approval of the High Court.

(*2*) Such list, when it has received such approval, shall be published in the *Official Gazette*, and the said holidays and vacations shall be observed accordingly.

Transfer of suits pending in High Court.

**18.** (*1*) All suits and proceedings cognizable by the City Court and pending in the High Court, in which issues have not been settled or evidence has not been recorded on or before the date of the coming into force of this Act, shall be transferred to the City Court and shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction thereof as if they had been originally instituted in that Court.

(*2*) In any suit or proceeding so transferred institution fee shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of the transfer shall be assessed by the City Court in such manner as the [1][State] Government may, after consultation with the High Court, determine by rules.

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[1] This proviso was inserted by Bom. 32 of 1954, s. 3.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

# BOMBAY HIGH COURT LETTERS PATENTS (AMENDMENT) ACT, 1948.

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CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Amendment of Letters Patent of 8th December 1823.
3. Amendment of Letters Patent of 28th December 1865.

# BOMBAY ACT No. XLI OF 1948.[1]

[THE BOMBAY HIGH COURT LETTERS PATENTS (AMENDMENT) ACT, 1948.]

[*4th May 1948.*]

**An Act to amend the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three and to amend the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five.**

WHEREAS it is expedient to amend the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three and to amend the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay High Court Letters Patents (Amendment) Act, 1948.

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

Amendment of Letters Patent of 8th December 1823.

2. In the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three—

(*1*) in paragraph 21—

(*a*) after the words "Judicature at Bombay" where they occur for the first time, the words "and of the Bombay City Civil Court" shall be inserted;

(*b*) after the words "Judicature at Bombay" where they occur for the second time, the words "or to the said Bombay City Civil Court, as the case may be," shall be inserted;

(*c*) after the word "respectively" the words "or by the Bombay City Civil Court or by any Judge of the said Court" shall be inserted;

(*2*) in paragraph 22—

(*a*) after the words "Judicature at Bombay" where they occur for the first time, the words "or the Bombay City Civil Court" shall be inserted

(*b*) after the words "Judicature at Bombay" where they occur for the second time, the words "or the said Bombay City Civil Court, as the case may be," shall be inserted;

(*c*) for the word "Court" where it occurs at the end, the word "Courts" shall be substituted;

(*3*) in paragraph 23—

(*a*) after the words "said Court" where they occur for the first time, the words "or of the said Bombay City Civil Court" shall be inserted;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 220.

(*b*) for the words "said Court" where they occur for the second time, the words "said Supreme Court of Judicature at Bombay" shall be substituted;

(*4*) to paragraph 43, the following shall be added, namely:—

"The foregoing provisions as respects the Sheriff and his duties shall, so far as may be, apply to the Court of Session for Greater Bombay."

Amendment of Letters Patent of 28th December 1865.

**3.** (*1*) In the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five—

(*1*) in clause 12, for the words "in which the debt, or damage, or value of property sued for does not exceed one hundred rupees" the words "or the Bombay City Civil Court" shall be substituted;

(*2*) in clause 22—

(*a*) the words "within the local limits of its ordinary original civil jurisdiction, and also" shall be deleted;

(*b*) for the words "such limits" the words "the local limits of its ordinary original civil jurisdiction" shall be substituted.

(*2*) For the avoidance of doubt, it is hereby declared that the amendments made by clause (2) of sub-section (*1*) shall not be deemed to affect any of the powers of the High Court under the provisions, for the time being in force, of the Code of Criminal Procedure, 1898. V of 1898.

*The Court-fees (Bombay Amendment) Act, 1948 (Bom. XLII of 1948) at pages 2681-2682 has been removed as the principal Act has been repealed by the Bombay Court-fees Act, 1959 (Bom. XXXVI of 1959).*

# THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1948.

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CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Amendment of section 21 of Act XV of 1882.
3. Substitution of new section for section 22 of Act XV of 1882.
4. Amendment of section 31 of Act XV of 1882.
5. Deletion of sections 39 and 40 of Act XV of 1882.
6. Amendment of section 47 of Act XV of 1882.
7. Amendment of section 49 of Act XV of 1882.
8. Amendment of section 61 of Act XV of 1882.
9. Amendment of section 63 of Act XV of 1882.

# BOMBAY ACT No. XLIV OF 1948.[1]

[THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1948.]

[*18th May 1948.*]

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

XV of 1882. WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Presidency Small Cause Courts (Bombay Amendment) Act, 1948.

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

Amendment of section 21 of Act XV of 1882.

XV of 1882. 2. In section 21 of the Presidency Small Cause Courts Act, 1882 (hereinafter called "the said Act"),—

(*a*) the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be deleted; and

(*b*) for the words "High Court" the words "Bombay City Civil Court" shall be substituted.

Substitution of new section for section 22 of Act XV of 1882.

3. For section 22 of the said Act, the following shall be substituted, namely:—

Costs when plaintiff sues in High Court or in Bombay City Civil Court; in other cases cognisable by Small Cause Court.

"22. If in any suit instituted in the High Court or in the Bombay City Civil Court, other than a suit to which section 21 applies, the Judge who tries it is of the opinion that it ought to have been instituted in the Small Cause Court and if in such suit—

(*a*) where it is instituted in the High Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client; or

(*b*) where it is instituted in the Bombay City Civil Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs and may also be awarded such additional amount not exceeding one thousand rupees by way of compensation as the Judge may award; or

(*c*) where it is instituted in the High Court or in the Bombay City Civil Court, the plaintiff obtains a decree for any matter of an amount or value less than two thousand rupees, no costs shall be allowed to the plaintiff."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 177.

Amendment of section 31 of Act XV of 1882.

**4.** In section 31 of the said Act,—

(*a*) after the words "Madras City Civil Court or" the words, "the Bombay City Civil Court or" shall be inserted; and

(*b*) the words "or Bombay" shall be deleted.

Deletion of sections 39 and 40 of Act XV of 1882.

**5.** Sections 39 and 40 of the said Act shall be deleted.

Amendment of section 47 of Act XV of 1882.

**6.** In section 47 of the said Act, after the words "High Court" the words "or the Bombay City Civil Court" shall be inserted.

Amendment of section 49 of Act XV of 1882.

**7.** In section 49 of the said Act, for the words "High Court" the words "Bombay City Civil Court or the High Court, as the case may be," shall be substituted.

Amendment of section 61 of Act XV of 1882.

**8.** In section 61 of the said Act, after the words "High Court" at both the places where they occur the words "or the Bombay City Civil Court" shall be inserted.

Amendment of section 63 of Act XV of 1882.

**9.** In the marginal note to section 63 and in the said section 63 of the said Act, for the words "one thousand" the words "two thousand" shall be substituted.

# BOMBAY ACT No. XLV OF 1948.[1]

[THE LEGAL PRACTITIONERS (BOMBAY AMENDMENT) ACT, 1948.]

[*18th May 1948*]

**An Act to amend the Legal Practitioners Act, 1879, in its application to the Province of Bombay.**

XVIII of 1879. WHEREAS it is expedient to amend the Legal Practitioners Act, 1879, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

**1.** (*1*) This Act may be called the Legal Practitioners (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the [2][State] Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 36 of Act XVIII of 1879.

XVIII of 1879. **2.** In the Legal Practitioners Act, 1879, in section 36, in sub-section (*1*), for the words, "District Judge," the words "and District Judge, the Judge of the Bombay City Civil Court or, if the said Court consists of more than one Judge, the principal Judge thereof, every" shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 132.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

# THE CODE OF CRIMINAL PROCEDURE (BOMBAY SECOND AMENDMENT) ACT, 1948.

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CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Insertion of new section 476C in Act V of 1898.
3. Insertion of new Chapter XLIIA in Part IX of Act V of 1898.

# BOMBAY ACT No. XLVI OF 1948.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY SECOND AMENDMENT) ACT, 1948.]

[*22nd May 1948.*]

**An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.**

V of 1898. WHEREAS it is expendient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Code of Criminal Procedure (Bombay Second Amendment) Act, 1948. Short title.

V of 1898. 2. In the Code of Criminal Procedure, 1898 (hereinafter called the said Code), in its application to the Province of Bombay, after section 476B the following new section shall be inserted, namely:— Insertion of new section 476C in Act V of 1898.

"476C. A criminal court dealing with an application made to it for filing a complaint under section 476 or 476A, and a court dealing with an appeal under section 476B and the High Court dealing with an application in revision shall have power to make such order as to costs as may be just: Power to order costs.

Provided that no such order shall be made against the Government or any public servant acting on behalf of the Government."

3. In Part IX of the said Code, after Chapter XLII the following new Chapter shall be inserted, namely:— Insertion of new Chapter XLIIA in Part IX of Act V of 1898.

"CHAPTER XLIIA.

OF COSTS TO BE PAID BY THE COMPLAINANT OR INFORMANT.

516AA. (*1*) If in any case instituted upon complaint or upon information given to a police officer or to a magistrate, the accused is ordered to be discharged or acquitted by any court (including a court of appeal or revision) or if in any such case the proceedings are quashed by the High Court by an order made under section 561A and if such court is of the opinion that the complaint was made or the information was given without any reasonable and probable cause, it may, at the time of making such order, if the complainant or informant is present, call upon him forthwith to show cause why he should not be ordered to pay costs to such person; or if the complainant or informant is not present, direct the issue of a notice to him to appear and show cause as aforesaid. Power to order costs against complainant or informant.

(*2*) The court shall record and consider any cause which such complainant or informant may show and may make an order directing him to pay the whole or any part of such costs. Such costs may include any expenses incurred in respect of witnesses and of pleader's fees which the court considers reasonable.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 93.

(*3*) The court may, by the order directing payment of costs under sub-section (*2*) further order that in default of payment the person ordered to pay such costs shall suffer simple imprisonment for a period not exceeding thirty days.

(*4*) When any person is imprisoned under sub-section (*3*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply. XLV of 1860.

(*5*) No person who has been directed to pay costs by an order made under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him.

(*6*) Where any such order is made by a magistrate and the amount directed to be paid exceeds fifty rupees, the complainant or informant may, within sixty days from the date of the order, appeal against it to the court of session.

(*7*) In cases where the order is appealable under sub-section (*6*), the costs shall not be paid before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided and in other cases the costs shall not be paid before the expiration of one month from the date of the order."

*The Bombay Secondary School Certificate Examination Act, 1948( Bom. XLIX of 1948) at pages 2693-2702A has been repealed by the Maharashtra Secondary Education Boards Act, 1965 (Mah. XLI of 1965), section 40(1).*

# THE INDIAN TRAMWAYS (BOMBAY AMENDMENT) ACT, 1948.

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1. Short title.
2. Amendment of section 7 of Act XI of 1886.
3. Amendment of sections 10 and 12 of Act XI of 1886.
4. Insertion of new section 49 in Act XI of 1886.

# BOMBAY ACT No. L of 1948.[1]

[THE INDIAN TRAMWAYS (BOMBAY AMENDMENT) ACT, 1948.]

[*22nd October 1948*]

Adapted and modified by the Adaptation of Laws Order, 1950.

**An Act to amend the Indian Tramways Act, 1886, in its application to the Province of Bombay.**

XI of 1886. WHEREAS it is expedient to amend the Indian Tramways Act, 1886, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Tramways (Bombay Amendment) Act, 1948.

Amendment of section 7 of Act XI of 1886. XI of 1886. **2.** In sub-section (*1*) of section 7 of the Indian Tramways Act, 1886, hereinafter called the said Act, after the words "public traffic" the words "or private use, as the case may be" shall be inserted.

Amendment of sections 16 and 12 of Act XI of 1886. **3.** In clause (*c*) of sub-section (*1*), and in sub-section (*2*), of section 10, and in section 12, of the said Act, after the words "public traffic", the words "or private use" shall be inserted.

Insertion of new section 49 in Act XI of 1886. **4.** After section 48 of the said Act, the following new section shall be inserted, namely:—

Application of Act to tramways for private use. "49. Notwithstanding anything contained in this Act, the [2][State] Government may, by notification in the *Official Gazette*, exempt any tramway, which is not, or when completed will not be, [3][a railway as defined in article 366 of the Constitution], and which is constructed and maintained for private use, from the operation of any provisions of this Act or declare that any provisions of this Act shall apply to such tramway with such modifications as may be specified in the notification."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 299.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950,

[3] These words and figures were substituted for the words, figures and brackets. "a federal railway as defined in sub-section (*2*) of section 311 of the Government of India Act, 1935", *ibid.*

# THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.

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1. Short title.
2. Amendment of Act III of 1909.
3. Validation of certain rules and notices.
4. Repeal of Bom. Ordinance No. III of 1948.

# BOMBAY ACT No. LI OF 1948.[1]

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.]

[*22nd October 1948.*]

**An Act to amend the Presidency-towns Insolvency Act, 1909, in its application to the Province of Bombay.**

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

Short title. **1.** This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1948.

III of 1909. **2.** In the Presidency-towns Insolvency Act, 1909,— Amendment of Act III of 1909.

(*a*) for clause (*i*) of section 9, the following shall be substituted, namely :—

"(i) if, after a creditor has served an insolvency notice on him under this Act 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, either comply with the requirements of the notice or satisfy the Court that 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*) in sub-section (*1*) of section 9A, after the words "or his agent" the words, "or to satisfy the Court that he has a counter claim orset 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" shall be inserted.

Validation of certain rules and notices. **3.** The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,—

III of 1909. (*a*) the rules including the forms relating to insolvency notices made by the High Court under the Presidency-towns Insolvency Act, 1909, before the 14th day of June 1948, shall be deemed to have been made under the said Act as amended to have been made under the said Act as amended by this Act, and

(*b*) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the 14th day of June 1948 shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

Bom. Ordinance No. III of 1948. **4.** The Presidency-towns Insolvency (Bombay Amendment) Ordinance, 1948, is hereby repealed. Repeal of Bom. Ordinance No. III of 1948.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 387.

# THE SOCIETIES REGISTRATION (BOMBAY AMENDMENT) ACT, 1948.

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PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 12 of Act XXI of 1860.
3. Insertion of new sections 12-A, 12-B and 12-C and in Act XXI of 1860.

# BOMBAY ACT No. LIII OF 1948.[1]

[THE SOCIETIES REGISTRATION (BOMBAY AMENDMENT) ACT, 1948.]

[*5th November 1948.*]

**An Act to amend the Societies Registration Act, 1860, in its application to the Province of Bombay**

XXI of 1860. WHEREAS it is expedient to amend the Societies Registration Act, 1860, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Societies Registration (Bombay Amendment) Act, 1948.

Amendment of section 12 of Act XXI of 1860. XXI of 1860. **2.** In section 12 of the Societies Registration Act, 1860, hereinafter called the said Act, after the words "other society" the words "or whenever the governing body of any society registered under this Act decides to change the name of the society" shall be inserted.

Insertion of new sections 12A, 12B and 12C in Act XXI of 1860. **3.** After section 12 of the said Act, the following new sections shall be inserted, namely:—

Registration of change of name. "12-A. (*1*) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar of Companies for registering the change of name. If the proposed name is identical with that by which any other existing society has been registered, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to resister the change of name.

(*2*) Save as provided in sub-section (*1*), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate the change of name shall be complete.

(*3*) The Registrar shall charge for any copy of a certificate issued under sub-section (*2*) a fee of rupee one and all fees so paid shall be accounted for to the Provincial Government.

Effect of change of name. 12-B. The change in the name of a society shall not affect any rights or obligations of the society or render defective any legal proceeding by or against the society; and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

Registration of change. 12-C. If any society registered under this Act has, before the date of the coming into force of the Societies Registration (Bombay Amendment) Act, 1948,

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 447.

of names effected before coming into force of Bom. LIII of 1948.

intimated to the Registrar of Companies the change of its name and if the Registrar has recorded such change, the Registrar may, notwithstanding anything contained in this Act, on an application made by the society in this behalf and on payment of a fee as provided for in sub-section (*3*) of section 12-A, register the change of such name and issue a certificate to the society under sub-section (*2*) of the said section 12-A. On the issue of such certificate the change shall be deemed to be complete from the date on which such change was recorded by the Registrar, notwithstanding the fact that the society had not followed the procedure prescribed in sections 12 and 12-A."

Bom. LIII of 1948.

*The Bombay Lotteries and Prize Competitions Control and Tax Act, 1948 (Bom. LIV of 1948) at pages 2715-2726A has been repealed by the Bombay Lotteries (Control and Tax) and Prize Competitions (Tax) Act, 1958 (Bom. LXXXII of 1958), section 34.*

# THE BOMBAY DISEASES OF ANIMALS ACT, 1948,

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SCHEDULE.

# BOMBAY ACT No. LIX OF 1948.[1]

[THE BOMBAY DISEASES OF ANIMALS ACT, 1948.]†

[*30th November 1948*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1951.
Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
Amended by Bom. 8 of 1958.
Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
Amended by Mah. 3 of 1960.

**An Act to provide for [2][the eradication prevention and control of diseases] affecting animals.**

WHEREAS it is expedient to provide for [2][the eradication, prevention and control of diseases] affecting animals ; It is hereby enacted as follows :—

## PART I.

### PRELIMINARY.

Short title.

1. This Act may be called the Bombay [3][Diseases of Animals] Act, 1948.

Extent and commencement.

2. (*1*) This Act extends to the [4][State of Maharashtra].

(*2*) [5][Section 1, this section and section 5A] shall come into force at once. The [6][State] Government may, from time to time, by notification in the *Official Gazette*, direct that all or any of the remaining provisions of this Act shall come into force in such area in respect of such scheduled disease and on such date as may be specified in the notifi ation and may by similar notification direct that such provisions shall cease to be in force in any area from such date as may be specified therein.

Definitions.

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

(*a*) "animal" means any domesticated animal or bird, or any animal or bird kept in confinement ;

[7][(*b*) "export" means to take out of the State of Maharashtra, otherwise than across a customs frontier ;

(*c*) "import" means to bring into the State of Maharashtra, otherwise than across a costoms frontier ;]

(*d*) "infective animal" means an animal which is affected with a scheduled disease or has recently been in contact with or in close proximity to an animal so affected ;

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[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1948, Part V, page 475.

[2] These words were substituted for the words "the prevention and control of contagious diseases" by Mah. 3 of 1960, s. 3 and 4.

[3] These words were substituted for the words and brackets "Animal Contagious Diseases (Control)", *ibid*, s. 5.

[4] These words were substituted for the words "Bombay area of the State of Maharashtra" by Mah. 3 of 1960, s. 6 (*a*).

[5] This portion was substituted for the word "This section", *ibid*, s. 6 (*b*).

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[7] Clauses (*b*) and (*c*) were substituted for the original by Mah. 3 of 1960, s. 7 (*a*).

† This Act was extended to that part of the State of Maharashtra to which, immediately before the commencement of Mah. 3 of 1960, it did not extend (*vide* Mah. 3 of 1960, s. 2).

(*e*) "Inspector" means an Inspector appointed under section 4;

(*f*) "prescribed" means prescribed by rules made under section 36;

(*g*) "rules" means rules made under section 36;

(*h*) "scheduled disease" means any disease specified in the Schedule to this Act;

(*i*) "transport" means to remove to one place from another place within the [1][State of Maharashtra];

(*j*) "Veterinary Surgeon" means a Veterinary Surgeon appointed under section 4.

**Appointment of Veterinary Surgeons and Inspectors.**

**4.** (*1*) The [2][State] Government [3][or the Commissioner in his division] may, by notification in the *Official Gazette*, appoint a person to be a Veterinary Surgeon for the purposes of this Act for such local area as may be specified in the notification and may specify the area within which he shall exercise the powers and perform the duties of a Veterinary Surgeon under this Act.

(*2*) The [2][State] Government [3][or the Commissioner in his division] may, by a similar notification in the *Official Gazette*, appoint a person to be an Inspector for all or any of the purposes of this Act and specify the area within which he shall exercise the powers and perform the duties of an Inspector under this Act.

(*3*) A Veterinary Surgeon shall, within the area for which he is appointed, exercise all the powers which an Inspector may exercise under this Act and may exercise such powers in addition to his powers as Veterinary Surgeon.

**Veterinary Surgeons and Inspectors to be public servants.**

**5.** Every Veterinary Surgeon and every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

## PART II.

### [4][ERADICATION, PREVENTION AND CONTROL] OF SCHEDULED DISEASES.

**Eradication of diseases in certain areas.**

[5]**[5A.** (*1*) The State Government with the object of eradicating as far as practicable any scheduled disease, may by notification in the *Official Gazette*—

(*a*) declare any local area to be an eradication area, and thereupon in such area any class or classes of animals specified in the notification shall be liable to be immunized in the manner described in the notification, and shall also for the purposes of identification be marked in the prescribed manner; and

(*b*) prohibit or regulate the movement of any class or classes of animals into, or out of, or within, any local area which is for the time being declared to be an eradication area.

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[1] These words were substituted for the words "Bombay area of the State of Maharashtra" by Mah. 3 of 1960, s. 7 (*b*).

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were inserted by Bom. 8 of 1958, Schedule.

[4] These words were substituted for the words "Prevention and Control" by Mah. 3 of 1960, s. 8.

[5] Section 5A was inserted, *ibid*, s. 9.

(*2*) For the purpose of immunizing any animal as provided in sub-section (*1*) the Veterinary Surgeon or Inspector may by notice in writing served on any person, or published in any such local area or part thereof, in the manner prescribed, require any person or all persons, as the case may be, who own or are in charge of any such animal to produce the animal for immunization and marking at such time and place as is specified in the notice, and thereupon the person, or all persons, to whom the notice refers shall comply with the requisition, and shall also give all reasonable facilities and assistance for the carrying out of the immunization and marking:

Provided that, on an application made by the owner, or any person having charge, of any animal required to be immunized and marked, the Veterinary Surgeon or Inspector may, for good and sufficient reason, exempt any animal from such immunization or marking and he shall, if so requested, furnish in writing to the owner, or person in charge, of such animal, the reason for such exemption.

*Explanation.*—"Immunization" for the purposes of this section means treatment with serum or vaccine, or with both vaccine and serum.]

Power to prohibit or regulate import, export or transport of, holding of markets, fairs, etc. of and traffic in, infective animals, etc.

6. (*1*) The [1][State] Government [2][or the Commissioner in his division] may, for the purpose of preventing the outbreak or spread of any scheduled disease by notification in the *Official Gazette*, prohibit, control or regulate in such manner and to such extent [3][as it or he may think fit]

(*a*) the import, export or transport of any animals, or the carcasses thereof, or of any part of animals or carcasses thereof or of any fodder, bedding or other thing used in connection with animals, which may, in the opinion of the [2][State] Government [3][or Commissioner] carry infection, or

(*b*) the holding of animal markets, animal fairs, animal exhibitions or other concentration of animals in any specified area, or

(*c*) the sale or other dealings in, infective animals or the carcasses of animals, which at the time of their death were infective, or any fodder, bedding or other thing used in connection which such animals which may, in the opinion of the [1][State] Government [2][or Commissioner] carry infection.

(*2*) The [1][State] Government [2][or Commissioner] may, by notification in the *Official Gazette*, specify the season or seasons during which and the route or routes by which animals may be imported [3][into the [4][State of Maharashtra], [2][or as the case may be, into the division] and no person shall import animals [3][into the [4][State of Maharashtra], [2][or as the case may be, into the division] otherwise than during the season and by the route so appointed.

Establishment of quarantine stations.

7. (*1*) The [1][State] Government [2][or the Commissioner in his division] may establish quarantine stations for the inspection and detention of animals along the route appointed under sub-section (*2*) of section 6.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were inserted by Bom. 8 of 1958, sch.

[3] These words were substituted for the words "into the State" by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

[4] These words were substituted for the words "Bombay area of the State of Maharashtra" by Mah. 3 of 1960, s. 10.

(*2*) All animals inspected or detained at a quarantine station shall be liable—

(*a*) to be vaccinated against any scheduled disease if in the opinion of the officer in charge of such station it is necessary to do so ; and

(*b*) to be marked in the prescribed manner.

(*3*) The period of detention of animals at a quarantine station for the purpose of inspection, vaccination and marking shall be such as may be prescribed.

(*4*) The animals detained at a quarantine station shall remain under the care of the person in charge who shall be responsible for their feeding and upkeep and for the payment of such fee for their vaccination and marking as may be prescribed.

(*5*) The officer in charge of the quarantine station shall, at the time of release of an animal from the station, grant in such form as may be prescribed a permit to the person in charge of the animal and such person shall, while in charge of the animal, produce it whenever required to do so by an Inspector or a Police Officer.

Power to isolate infective animals and their examination.

**8.** (*1*) Where an Inspector has reason to believe that any animal is infective he may, by order in writing, direct the owner or person in charge of such animal to keep it where it is for the time being or to remove it or allow it to be removed to such place of isolation or segregation as may be specified in the order :

Provided that where there is no person in charge of the animal and the owner is unknown, or where the order cannot be communicated to the owner of the animal without undue delay or where the person in charge of the animal refuses to comply with the order under this sub-section, the Inspector may seize the animal and remove it to a place of isolation or segregation.

(*2*) The Inspector shall forthwith report to the Veterinary Surgeon every order or seizure under sub-section (*1*).

Power of Veterinary Surgeons to examine animals.

**9.** (*1*) On receipt of a report under sub-section (*2*) of section 8 the Veterinary Surgeon shall, as soon as practicable, examine the animal and all animals with which it has been in contact or to which it has been in close proximity, and for this purpose may submit any animal to any prescribed test.

(*2*) If after such examination the Veterinary Surgeon—

(*a*) is of opinion that any animal is not infective, the Inspector shall forthwith return it to the person who, in his opinion, is entitled to its possession :

Provided that where such person cannot, in the opinion of the Inspector, be found after reasonable inquiry, he shall send the animal to the nearest cattle pound or deal with it in such other manner as may be prescribed,

(*b*) certifies in writing that any animal is affected with a scheduled disease the Inspector shall destroy the animal, or deal with it in such other manner as may be prescribed, or

(*c*) certifies in writing that any animal is infective, though not diseased the animal shall be dealt with in such manner as may be prescribed.

(*3*) The decision of the Veterinary Surgeon whether any animal has been in contact with or in close proximity to an animal suspected to be affected with a scheduled disease shall be final.

Compensation for animals destroyed.

**10.** (*1*) The owner of an animal destroyed under sub-section (*2*) of section 9 may be paid such compensation as shall be determined in the manner prescribed :

Provided that no compensation shall be paid—

(*i*) to any person convicted of any offence punishable under this Act committed in respect of such animal ; or

(*ii*) in respect of any animal which, when it was imported, was affected with a scheduled disease on account of which it was destroyed.

(*2*) The decision under sub-section (*1*) regarding the right of a person to be paid any compensation or the amount of such compensation shall be final.

Declaration of private infected places and examination of such places by Veterinary Surgeon.

**11.** (*1*) If an Inspector has reason to believe that an infective animal is kept on any land, or in any building or other place he shall, forthwith, by order in writing, declare such land, building or place to be an infected place. The Inspector shall deliver a copy of the order to the owner, occupier or person in charge of the infected place and report his action to the Veterinary Surgeon.

Nothing in this sub-section shall apply to any place which is owned by or is under the control or management of, any local authority or a railway administration and in which animals are kept temporarily for purposes of sale or exhibition or while in transit.

(*2*) On receipt of a report under sub-section (*1*), the Veterinary Surgeon shall, as soon as practicable, examine the infected place and the animals kept therein. After such examination, he shall either confirm or cancel the order passed by the Inspector.

(*3*) If the Veterinary Surgeon confirms the order passed by the Inspector, he may declare all places in which animals are kept, temporarily or otherwise, within a radius not exceeding one mile from the infected place, to be infected places. The Veterinary Surgeon shall give a written notice of such declaration to the owners, occupiers or persons in charge of such places. The Veterinary Surgeon shall thereafter report the action taken by him under this section to the prescribed authority.

(*4*) If the Veterinary Surgeon cancels the order passed by the Inspector, the place specified in such order shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

Declaration of public infected places.

**12.** (*1*) Where the Veterinary Surgeon has reason to believe that an infective animal is or has been kept in any place which is owned by or is under the control or management of any local authority or railway administration or a port authority and in which animals are kept temporarily for purposes of sale, or exhibition or while in transit, he may, by order in writing, declare such place to be an infected place.

(*2*) The Veterinary Surgeon shall—

(*a*) cause a copy of the order passed by him under sub-section (*1*) to be exhibited prominently in the infected place in the regional language of the locality ;

(*b*) cause a copy of such order to be delivered at the office of the local authority or to the station master of the nearest railway station or to the Officer in charge of the port or in charge of a shipping office at such port, as the case may be ;

(*c*) cause a copy of the order to be sent to the nearest police station ; and

(*d*) forthwith report the action taken by him to the prescribed authority.

Power of [1][State] Government to declare infected areas.

**13.** (*1*) On receipt of the report of the Veterinary Surgeon under sub-section (*3*) of section 11 or sub-section (*2*) of section 12, the prescribed authority shall, after making such further inquiry as it thinks fit, submit such report with his remarks thereon, to the [2][Commissioner concerned.].

(*2*) The [3][Commissioner] on receipt of the report from the prescribed authority may—

(*a*) confirm the declaration under sub-section (*1*) or (*3*) of section 11 or sub-section (*1*) of section 12 either with or without modification ; or

(*b*) cancel any such declaration.

(*3*) Where the [3][Commissioner] confirms any such declaration, either with or without modification, a notification shall be published in the *Official Gazette* defining the limits of the area to which the declaration, with the modifications, if any, made therein, shall apply and declaring such area to be an infected area.

(*4*) The [3][Commissioner] may by notification in the *Official Gazette* add to, amend, vary or rescind any notification published under sub-section (*3*) either [4][on his own motion] or on a further report of the Veterinary Surgeon [5][submitted to him] through the prescribed authority.

(*5*) On publication of a notification under sub-section (*3*) or (*4*), any place declared by the Inspector or the Veterinary Surgeon to be an infected place and not included in the infected area as defined in such notification shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

(*6*) The Inspector shall cause to be exhibited in some prominent place in the infected area and in the regional language thereof a copy of the notification issued under sub-section (*3*) or (*4*).

(*7*) Where the [3][Commissioner] cancels any declaration referred to in sub-section (*2*), any place specified in such declaration shall cease to be an infected place and the Inspector shall give notice accordingly to all person to whom copies of such declaration were delivered or on whom notices of such declaration were served.

[6][(*8*) The State Government may, subject to such conditions (if any) as it thinks fit, delegate all or any of its powers under this section to the Collector of a District ; and thereupon all or, as the case may be, the relevant provisions of this section, shall apply in relation to such officer as they apply in relation to the State Government.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words "State Government" by Bom. 8 of 1958, Schedule.

[3] This word was substituted for the words "State Government" *ibid.*

[4] These words were substituted for the words "on its own motion", *ibid.*

[5] These words were substituted for the words "submitted to it" *ibid.*

[6] Sub-section (*8*) was added by Mah. 3 of 1960, s. 11.

Removal of animals and other things from infected area or place prohibited without licence.

**14.** (*1*) Where any area or place has been declared to be an infected area or place under the foregoing provisions, no person shall, while such a declaration remains in force, remove any infected animal, alive or dead, or any part of an animal or any food, bedding or other thing used in connection with an animal, save in accordance with the conditions of a licence granted by the Inspector.

(*2*) Nothing contained in sub-section (*1*) shall apply to the carriage by a railway of any animal or thing referred to in that sub-section through an infected area or place :

Provided that where any such animal or thing while in transit through an infected area or place is unloaded therein, it shall not be removed therefrom save in accordance with the provisions of sub-section (*1*).

Power to require animals, etc., to be brought to infected areas.

**15.** Where any animal or thing referred to in section 14 is removed from an infected area or place otherwise than in accordance with the conditions of a licence granted under the said section 14, any Inspector or Police Officer may require the owner or person in charge of such animal or thing to take it back to such area or place :

Provided that nothing in this section shall affect the powers of an Inspector under section 8 to deal with infective animals.

Cleansing and disinfection of vessels and vehicles.

**16.** (*1*) Every vessel or vehicle used by a common carrier for the transport of animal shall be cleansed and disinfected by him at such periods and in such manner as may be prescribed.

(*2*) The person in charge of every such vessel or vehicle shall, when required to do so by an Inspector, cause the vessel or vehicle to be taken to such place as the Inspector may direct and to stop and remain stationary for so long as may reasonably be necessary for the purpose of enabling the Inspector to inspect such vessel or vehicle. The Inspector may, after such inspection, if in his opinion the vessel or vehicle is not in a sanitary condition, require it to be cleansed and disinfected in the prescribed manner.

(*3*) Nothing in this section shall apply to the rolling stock of any railway.

Power to require disinfection of infected premises, vessels or vehicles.

**17.** Subject to such rules as may be prescribed, the Veterinary Surgeon [1][may] by order in writing, require the owner, occupier or person in charge of any land, building, or other place or of any vessel or vehicle in which an infective animal has been kept to have such land, building, place, vessel or vehicle disinfected, and the internal fittings thereof and other things found therein or near thereto to be disinfected or destroyed in, such manner and to such extent as may be specified in the order.

Power of Veterinary Surgeon to hold post-mortem.

**18.** Subject to such rules as may be prescribed the Veterinary Surgeon may make or cause to be made a *post mortem* examination of any animal which at the time of its death was infective or is suspected to have been infective, and for this purpose he may cause the carcass of such animal to be exhumed.

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[1] This word was inserted by Bom. 9 of 1951, s. 3 Second Schedule.

Duty of certain persons to report scheduled disease.

**19.** Every owner or person in charge of, and every Veterinary practitioner who has been called to treat, an animal which he has reason to believe to be affected with a scheduled disease shall forthwith report the fact to the Inspector having jurisdiction in the area.

Duty of person in charge to isolate infective animals.

[1][**19A.** Every owner, or person in charge of an animal which he has reason to believe to be affected with a scheduled disease shall keep that animal in a closed space separate from animals not so affected.

*Explanation.*—"Closed space" for the purposes of this section means any place, enclosed in such manner, and situated at such distance, as to effectively prevent any animal affected with a scheduled disease from coming into contact with any animal not so affected, or any animal not so affected from coming into contact with an animal so affected.]

Keeping or grazing infective animal prohibited.

**20.** No person shall keep or graze in open or unenclosed land to which other persons have a right of access for their animals, any animal which he knows to be infective.

Bringing of infective animals in market, etc., prohibited.

**21.** No person shall bring or attempt to bring into any market, fair, exhibition or other concentration of animals, any animal which he knows to be infective.

Placing of carcass of infective animals in river, etc., prohibited.

**22.** No person shall place or cause or permit to be placed in any river, lake, canal or other water or in the sea within such distance from the shore, as may be prescribed, the carcass or any part of the carcass of any animal which at the time of its death was infective or which was destroyed on account of its being infective or suspected to be infective.

Disinterring without lawful authority carcass of animal prohibited.

**23.** No person shall without lawful authority disinter or cause to be disinterred the carcass or any part of the carcass of any animal which, at the time of its death was infective or which was destroyed on account of its being infective or suspected to be infective.

Powers of entry and inspection.

**24.** Subject to such rules as may be prescribed, an Inspector may enter upon and inspect any land, building or other place or any vessel or vehicle for the purpose of exercising the powers and performing the duties conferred or imposed on him by or under this Act.

Enforcement of orders and recovery of expenses.

**25.** (*1*) Where by any notice, requisition, or order made under this Act or under any rule or notification issued thereunder, any person is required to take any measures or to do anything in respect of any property owned or occupied by him or in his charge, a reasonable time shall be specified in such notice, requisition or order within which such measures shall be taken or such things shall be done, as the case may be.

(*2*) If such measures are not taken or such thing is not done within the time so specified, the authority issuing the notice, requisition or order may cause the measures to be taken or the thing to be done at the cost of the person concerned.

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[1] Section 19A was inserted by Mah. 3 of 1960, s. 12.

(*3*) The costs of any measures taken or thing done under sub-section (*2*) shall be recoverable from the person concerned in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a Court as if such costs were a fine imposed by a Court.

V of 1893.

**26.** If any question arise under this Act whether or not an animal is an infective animal, the question shall be decided by the Veterinary Surgeon and his decision shall be final. Power of Inspector to decide whether or not animal is infective.

**27.** [1][Whoever— Penalties.

(*ai*) fails to comply with or contravenes the terms of any notification issued under section 5A, or fails to carry out any requisition made, or directions given, by or under the said section, or]

(*i*) fails to carry out any direction specified in, or contravenes the terms of, any notification issued under section 6 or imports any animal in contravention of the provisions of sub-section (*2*) thereof, or

(*ii*) fails to feed or look after the upkeep of the animal under sub-section (*4*) of section 7 or fails to produce the permit under sub-section (*5*) thereof, or

(*iii*) fails to comply with an order made by an Inspector under sub-section (*1*) of section 8, or

(*iv*) removes any animal or thing from an infected area or place in contravention of the provisions of section 14, or

(*v*) fails to comply with any direction given by an Inspector or a Police Officer under section 15, or

(*vi*) fails to cleanse or disinfect any vessel, or vehicle used for removing animals in the manner prescribed as required under sub-section (*1*), or fails to cause any vessel or vehicle to stop and remain stationary when required to do so under sub-section (*2*), of section 16, or

(*vii*) fails to comply with an order made by a Veterinary Surgeon under section 17, or

(*viii*) fails to report that an animal is infective as required by section 19, or

[2][(*viii-a*) fails to keep an infective animal separate as required by section 19A, or]

(*ix*) keeps or grazes any animal which he knows to be infective in contravention of the provisions of section 20, or

(*x*) brings or attempts to bring any animal which he knows to be infective in contravention of the provisions of section 21, or

(*xi*) disinters or causes to be disinterred the carcass or any part of the carcass of any animal which at the time of its death was infective or was destroyed on account of its being infective or suspected to be infective in contravention of the provisions of section 23,

[3][shall, on conviction, be punished in the case of a first conviction with fine which may extend to one hundred rupees, and in the case of a second or subsequent conviction whether under the same or any other clause of this section, with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both].

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[1] This portion was substituted for the word " Whoever— " by Mah. 3 of 1960, s. 13 (*a*).
[2] Clause (*viii-a*) was inserted by Mah. 3 of 1960, s. 13 (*b*).
[3] This portion was substituted for the portion beginning with the words " shall, on conviction " and ending with the words " five hundred rupees ", *ibid.*, s. 13 (*c*).

Penalty for placing carcass of infective animal in river, etc.

**28.** Whoever places or causes or permits to be placed in any river, lake, canal or other water or in the sea within such distance from the shore, as may be prescribed the carcass or any part of the carcass of any animal which at the time of its death was infected or which was destroyed on account of its being infective or suspected to be infective, in contravention of the provisions of section 22 shall, on conviction, be punished, in the case of a first conviction with imprisonment for a term which may extend to six months or with fine which may extend to one hundred rupees or with both, and in the case of a subsequent conviction with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty for vexatious entry, inspection and seizure.

**29.** (*1*) Whoever, being an Inspector or a Veterinary Surgeon, appointed under this Act, vexatiously and unnecessarily enters or inspects any land, building or other place or any vessel or vehicle or seizes or detains any animal shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

(*2*) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Officers bound to assist Inspectors and Veterinary Surgeons.

**30.** All village officers and all officers of the departments of revenue, agriculture and veterinary shall be bound—

(*a*) to give immediate information to the Veterinary Surgeon and Inspector having jurisdiction in the area regarding the prevalence of a scheduled disease among animals in the area,

(*b*) to take all necessary measures to prevent the spread of disease, and

(*c*) to assist the Veterinary Surgeon and Inspector to carry out the provisions of this Act.

Powers of arrest and seizure.

[1]**[31.** (*1*) Any police officer, not below the rank of sub-inspector, may, without an order from a magistrate and without a warrant, arrest any person for whose arrest a requisition has been received from an Inspector or a Veterinary Surgeon, provided that the requisition specifies the person to be arrested, and the offence punishable under this Act in which such person has been concerned.

(*2*) Such police officer may seize any animal in respect of which an offence has been committed, and shall without delay obtain the orders of a judicial magistrate for its custody.]

Jurisdiction of Magistrate.

**32.** No Magistrate, other than a Presidency Magistrate, a Magistrate of the First Class or a Magistrate of the Second Class specially empowered in this behalf by the [2][State] Government shall try any offence punishable under this Act.

Bar of claim to compensation.

**33.** No person shall except as provided for in section 10 be entitled to any compensation on account of the destruction of any animal or thing under the provisions of this Act or of any loss, injury or inconvenience caused to him by reason of anything lawfully done under this Act.

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[1] Section 31 was substituted for the original by Mah. 3 of 1960, s. 14.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

34. All officers shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders, not inconsistent with the provisions of this Act, as the [1][State] Government may from time to time make. Officers to act subject to orders o Government.

35. No suit, prosecution or other legal proceeding shall lie against any person for anyth ng which is in good faith done or intended to be done under this Act or the rules made under this Act. Protection for action taken under this Act.

36. (*1*) The [1][State] Government may make rules for the purpose of carrying into effect the provisions 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 [2][following matters, namely :—

(*ai*) the manner of marking animals under sub-section (*1*), and the manner of serving or publishing notices under sub-section (*2*), of section 5A ; ]

(*i*) the manner of marking animals under sub-section (*2*), the period of detention under sub-section (*3*), the amount of fee for the vaccination and marking of animals under sub-section (*4*) and the form of permit under sub-section (*5*), of section 7 ;

(*ii*) the test to which an animal may be submitted under sub-section (*1*), and the manner in which an anima may be dealt with under sub-section (*2*), of section 9 ;

(*iii*) the manner in which compensation shall be determined under section 10 ;

(*iv*) the authority to be prescribed for the purposes of sections 11, 12 and 13 ;

(*v*) the periods at which and the manner in which the vessels and vehicles shall be cleansed and disinfected under section 16 ;

(*vi*) for disinfecting land, building or other place or vessel or vehicle under section 17 ;

(*vii*) the making of post-mortem examinations under section 18 ;

(*viii*) the distance from the shore within which carcasses shall not be placed under section 22 ;

(*ix*) for regulating the powers of an Inspector under section 24.

(*3*) In making a rule under sub-section (*1*) or sub-section (*2*), the [1][State] Government may provide that a breach thereof shall be punishable with fine which may extend in the case of a first conviction to Rs. 50 and in the case of a second or subsequent conviction to Rs. 100.

(*4*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette.*

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950
[2] This portion was substituted for the words " following matters, namely :—" by Mah. 3 of 1960, s. 15 (*a*).

[1][(5) All rules made under this section shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.]

Power of State Government to add to the Schedule.

[2][37. The State Government may, by notification in the *Official Gazette*, specify in the Schedule any disease affecting animals and on the issue of such notification, the Schedule shall be deemed to be amended by the inclusion of the said disease therein.

Repeal of C. P. and Berar XVI of 1934 and saving.

38. On the commencement, by notification under sub-section (2) of section 2, of any of the provisions of this Act in the Vidarbha region of the State, the Central Provinces and Berar Cattle Diseases Act, 1934, in its application to that region, shall stand repealed : C. P. and Berar XVI of 1934.

Provided that, such repeal shall not affect—

(*a*) the previous operation of the Act so repealed ; or

(*b*) the right or liability acquired or incurred under the Act so repealed ; or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against any of the provisions of the Act so repealed ; or

(*d*) any investigation, legal proceeding or remedy in respect of any such right, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not commenced in that region.]

## SCHEDULE.

1. Rinderpest or cattle plague.
2. Foot and Mouth Disease.
3. Hoemorrhagic Septicaemia.
4. Blackquarter.
5. Anthrax.
6. Tuberculosis.
7. Johne's Disease.
8. Rabies.
3. [9. South African Horse Sickness.]

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[1] Sub-section (5) was inserted by Mah. 3 of 1960, s. 15 (*b*).

[2] Sections 37 and 38 were inserted, *ibid.*, s. 16.

[3] This entry was added, *ibid.*, s. 17.

THE CODE OF CIVIL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948 (BOM. LX OF 1948) AT PAGE 2739 HAS BEEN REPEALED BY THE CODE OF CIVIL PROCEDURE (MAHARASHTRA AMENDMENT) ACT, 1977 (MAH. LXV OF 1977), S. 4.

# THE PRESS AND REGISTRATION OF BOOKS (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 9 of Act XXV of 1867.
3. Amendment of section 10 of Act XXV of 1867.
4. Amendment of section 16 of Act XXV of 1867.

# BOMBAY ACT No. LXI OF 1948.[1]

[THE PRESS AND REGISTRATION OF BOOKS (BOMBAY AMENDMENT) ACT, 1948.]

[*3rd December 1948.*]

**An Act to amend the Press and Registration of Books Act, 1867, in its application to the Province of Bombay.**

XXV of 1867. WHEREAS it is expedient to amend the Press and Registration of Books Act, 1867, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Press and Registration of Books (Bombay Amendment) Act, 1948.

XXV of 1867. **2.** In section 9 of the Press and Registration of Books Act, 1867 (hereinafter called the said Act),— Amendment of section 9 of Act XXV of 1867.

(*a*) to the marginal note, the words " and to notified libraries " shall be added; and

(*b*) after the first paragraph, the following new paragraph shall be inserted, namely :—

" Such number of copies of the book not exceeding five shall also be delivered by the printer, free of expense, to such public libraries as the Provincial Government may, by notification in the *Official Gazette*, from time to time specify, within one calendar month after the day on which any such book shall first be delivered out of the press."

Amendment of section 10 of Act XXV of 1867. **3.** In section 10 of the said Act, after the word " officer " the words " or the person in charge of the library, as the case may be, " shall be inserted.

Amendment of section 16 of Act XXV of 1867. **4.** In section 16 of the said Act,—

(*a*) after the words " in this behalf " the words " or on the application of the person in charge of the library to whom a copy of the book should have been delivered, " shall be inserted; and

(*b*) for the word " second " the word " third " shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 426.

# THE INDIAN FOREST (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 28 of Act XVI of 1927.
3. Insertion of new section 34 A in, and amendment of section 35 of, Act XVI of 1927.
4. Amendment of section 36 of Act XVI of 1927
5. Amendment of section 37 of Act XVI of 1927.

# BOMBAY ACT No. LXII OF 1948.[1]

[THE INDIAN FOREST (BOMBAY AMENDMENT) ACT, 1948.]

[*4th December 1948.*]

**An Act to amend the Indian Forest Act, 1927, in its application to the Province of Bombay.**

XVI of 1927. WHEREAS it is expedient to amend the Indian Forest Act, 1927, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Forest (Bombay Amendment) Act, 1948. Short title.

XVI of 1927. 2. In section 28 of the Indian Forest Act, 1927 (hereinafter called the said Act),— Amendment of section 28 of Act XVI of 1927.

(*i*) in sub-section (*1*), after the words "reserved forest" the words "or called a protected forest" shall be inserted; and

(*ii*) in sub-section (*3*),—

(*a*) after the word "reserved" the words "or protected" shall be inserted; and

(*b*) after the words "village forests" the words "according as the forests assigned are reserved or protected forests" shall be inserted.

3. (*1*) For sub-section (*1*) of section 35 of the said Act, the following shall be substituted, namely:— Insertion of new section 34A in, and amendment of section 35 of, Act XVI of 1927.

"34A. For the purposes of this Chapter 'forest' includes any land containing trees and shrubs, pasture lands and any other land whatsoever which the Provincial Government may, by notification in the *Official Gazette*, declare to be a forest. Interpretation.

35. (*1*) The Provincial Government may, by notification in the *Official Gazette*,—

(*i*) regulate or prohibit in any forest—

(*a*) the breaking up or clearing of the land for cultivation;

(*b*) the pasturing of cattle;

(*c*) the firing or clearing of the vegetation;

(*d*) the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any tree;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 385.

(*e*) The lopping and pollarding of trees;

(*f*) the cutting, sawing, conversion and removal of trees and timber; or

(*g*) the quarrying of stone or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process;

(*ii*) regulate in any forest the regeneration of forests and their protection from fire;

when such regulation or prohibition appears necessary for any of the following purposes:—

(*a*) for the conservation of trees and forests;

(*b*) for the preservation and improvement of soil or the reclamation of saline or water-logged land, the prevention of land-slips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;

(*c*) for the improvement of grazing;

(*d*) for the maintenance of a water supply in springs, rivers and tanks;

(*e*) for the maintenance, increase and distribution of the supply of fodder, leaf manure, timber or fuel;

(*f*) for the maintenance of reservoirs or irrigation works and hydro-electric works;

(*g*) for protection against storms, winds, rolling stones, floods and drought;

(*h*) for the protection of roads, bridges, railways and other lines of communication; and

(*i*) for the preservation of the public health."

(*2*) In sub-section (*2*) of section 35 of the said Act for the words "in or upon any forest or wasteland" the words "in any forest" shall be substituted.

(*3*) In sub-section (*3*) of section 35 of the said Act the words "or land" shall be deleted.

Amendment of section 36 of Act XVI of 1927.

4. In section 36 of the said Act—

(*i*) the words "or land" wherever they occur shall be deleted;

(*ii*) in sub-section (*1*), after the word "reserved" the words "or protected" shall be inserted.

Amendment of section 37 of Act XVI of 1927.

5. In section 37 of the said Act—

(*i*) in sub-section (*1*) the words "or land" shall be deleted;

(*ii*) sub-section (*2*) shall be deleted.

# THE BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948.

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# BOMBAY ACT No. LXVII OF 1948[1]

[THE BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948]

[*28th December 1948*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 12 of 1951.
" " " 34 of 1951.
" " " 45 of 1951.
" " " 33 of 1952.
" " " 60 of 1953.
" " " 13 of 1956.
Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
Amended by Bom. 15 of 1957.*
" " " 38 of 1957.†
" " " 63 of 1958.‡
Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
Amended by Mah. 9 of 1961.
" " " 27 of 1961.
" " " 36 of 1962.
" " " 8 of 1963.
" " " 39 of 1964.
" " " 31 of 1965.
" " " 4 of 1966.
" " " 41 of 1966.
" " " 49 of 1969.
" " " 35 of 1974 (6-7-1974).§
" " " 10 of 1977 (11-3-1977).§

**An Act to amend the law relating to tenancies of agricultural lands and to make certain other provisions in regard to those lands.**

WHEREAS it is necessary to amend the law which governs the relations of landlords and tenants of agricultural lands ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 295.

* Section 17 of Bom. 15 of 1957 reads as follows :—

" 17. The amendments made to the said Act by sections, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13 and 14 and by sub-clause (*a*) of clause (*1*) and clause (*2*) of section 15 of this Act shall be deemed to have been made and to have come into force on the date on which the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955, came into force." Certain amendments to have retrospective effect.

†Section 34 of Bom. 38 of 1957 reads as follows:—

" 34. The amendments made to the said Act by sub-section (*2*) of section 2, sections 3, 4, 5, 11, 12 and 13, sub-section (*1*) of section 14 and sections 18, 20 and 28 shall be deemed to have been made and to have come into force on the date on which the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955, came into force." Certain amendments to have retrospective effect.

‡Section 21 of Bom. 63 of 1958 reads as follows :—

" 21. (*1*) The amendments made to the principal Act by sections 3, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18 and 20 of this Act shall be deemed to have been made and to have come into force on the date on which the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955, came into force. Certain amendments to have retrospective effect and refund of penalty.

(*2*) The amount of penalty, if any, paid by a transferee under section 84A of the principal Act before the coming into force of this Act shall to the extent to which it is in excess of the amount payable under the said section as amended by this Act be refunded.

(*3*) If any transfer in favour of the tenant is declared invalid under section 84B or 84C of the principal Act, before the coming into force of this Act, and if the tenant pays to the State Government a penalty as prescribed in the said section 84B or 84C, as amended by section 13 or 14 of this Act such transfer shall be revalidated by the Mamlatdar ".

§This indicates the date of commencement of Act.

AND WHEREAS on account of the neglect of a landholder or disputes between a landholder and his tenants, the cultivation of his estate has seriously suffered, or for the purpose of improving the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture, it is expedient to assume management of estates held by landholders and to regulate and impose restrictions on the transfer of agricultural lands, dwelling houses, sites and lands appurtenant thereto belonging to or occupied by agriculturists, agricultural labourers and artisans in the Province of Bombay and to make provisions for certain other purposes hereinafter appearing ; It is hereby enacted as follows :—

## CHAPTER I

### PRELIMINARY

Short title, and extent.

**1.** (*1*) This Act may be called the Bombay Tenancy and Agricultural Lands Act, 1948.

(*2*) It extends to the [1][Bombay area of the State of Maharashtra].

Definitions.

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

[2][(*1*) " Agriculture " includes horticulture, the raising of crops, grass or garden produce, [3][the use by an agriculturist of the land held by him or a part thereof for the grazing of his cattle, the use of any land, whether or not an appanage to rice or paddy land, for the purpose of rab manure] but does not include allied pursuits, or the cutting of wood only ;

(*1A*) " Agricultural labourer " means a person whose principal means of livelihood is manual labour on land ;]

(*2*) " Agriculturist " means a person who cultivates land personally ;

[4][(*2A*) " allied pursuits " means daily farming, poultry farming, breeding of livestock, grazing [5][(other than the pasturage of one's own agricultural cattle)] and such other pursuits as may be prescribed ;

(*2B*) " appointed day " means the 15th day of June 1955 ;

(*2C*) " backward area " means any area declared by the State Government to be a backward area, being an area in which, in the opinion of the State Government, socially, economically and educationally backward classes of citizens predominate ; and includes an area declared to be a Scheduled area under paragraph 6 of the Fifth Schedule to the Constitution of India ;

(*2D*) " ceiling area " means in relation to land held by a person, whether as an owner or tenant or partly as owner and partly as tenant, the area of land fixed as ceiling area under section 5 or 7 ;

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[1] These words were substituted for the words " pre-Reorganisation State of Bombay excluding the transferred territories " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[2] These clauses were substituted for the original clause (*1*) by Bom. 13 of 1956, s. 2(*1*).

[3] These words were inserted by Bom. 15 of 1957, s. 2(*a*).

[4] Clauses (*2A*), (*2B*), (*2C*), (*2D*) and (*2E*) were subs tituted for the original clause (*2A*) by Bom. 18 of 1956, s. 2(*2*).

[5] This portion was inserted by Bom. 15 of 1957, s. 2(*d*),

Provided that the restrictions contained in clauses (*a*), (*b*) and (*c*) shall not apply to any land—

(*i*) which does not exceed twice the ceiling area,

(*ii*) up to twice the ceiling area, if such land exceeds twice the ceiling area.

*Explanation I.*—A widow or a minor, or a person who is subject to physical or mental disability, or a serving member of the armed forces shall be deemed to cultivate the land personally if such land is cultivated by servants, or by hired labour, or through tenants.

*Explanation II.*—In the case of a joint family, the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family ;]

[1]* * * * * * * *

[2][(*6A*) "economic holding" means in relation to land held by a person whether as an owner or tenant or partly as owner and partly as tenant, the area of land fixed as an economic holding under section 6 or 7 ;

(*6B*) "fragment" means a fragment as defined in sub-section (*4*) of section 2 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947;]

Bom. LXII of 1947.

[3][(*6C*) "to hold land" as an owner or tenant shall, for the purposes of clause (*2D*) of this section and [4][sections 32 (*1B*), 32A], 32B, [5][and 63], mean to be lawfully in actual possession of land as an owner or tenant, as the case may be ;]

(*7*) "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 ;

(*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 ;

[6][(*7A*) "joint family" means an undivided Hindu family, and in the case of other persons a group of unit the members of which are by custom joint in estate or residence ;]

[7][(*8*) "land" means—

(*a*) land which is used for agricultural purposes [8][or which is so used but is left fallow, and includes the sites of farm buildings] appurtenant to such land ; and

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[1] Clause (*6AA*) which was inserted by Bom. 38 of 1957, s. 2(*1*) was deleted by Bom. 63 of 1958, s. 2.

[2] These clauses were inserted by Bom. 13 of 1956, s. 2(*5*).

[3] This clause was inserted by Bom. 15 of 1957, s. 2 (*c*).

[4] These word, figures, letters and brackets were substituted for the word, figures and letter "sections 32A" by Mah. 49 of 1969, s. 2. Sch.

[5] The word and figures "and 63" were substituted for the figures and word "34 and 35" by Mah. 27 of 1961, s. 48, Second Schedule.

[6] This clause was added by Bom. 13 of 1956, s. 2(*6*).

[7] This clause was substituted for the original, *ibid.*, s. 2 (*7*).

[8] These words were substituted for the words "and the sites of farm buildings" by Bom. 15 of 1957 s. 2 (*d*).

(*d*) for the purposes of sections 11, 16, 17 , 17A, 17B, 18, 19, 20, 26, 28, 29, 29A, 30, 41, 63, 64, 64A, 84A, 84B and 84C—

(*i*) the sites of dwelling houses occupied by agriculturists, agricultural labourers or artisans and land appurtenant to such dwelling houses ;

(*ii*) the sites of structures used by agriculturists for allied pursuits ;]

(*9*) " Landholder " means a zamindar, jagirdar, saranjamdar, inamdar, talukdar, malik or a khot or any person not hereinbefore specified who is a holder of land or who is interested in land and whom the [1][State] Government has declared on account of the extent and value of the land or his interests therein to be a landholder for the purposes of this Act ;

[2][(*9A*) " landless person " means a person who, holding no land for agricultural purposes, whether as an owner or tenant earns his livelihood principally by manual labour ; and intends to take to the profession of agriculture and is capable of cultivating land personally ;]

(*10*) " Mamlatdar " includes a Mahalkari and any other officer, whom the [1][State] Government may appoint to perform the duties of a Mamlatdar under this Act ;

[3][(*10A*) " permanent tenant " means a person—

(*a*) who immediately before the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 (hereinafter called " the Amending Act, 1955 "),— Bom. XIII of 1956.

(*i*) holds land as mulgenidar or mirasdar ; or

(*ii*) by custom, agreement, or the decree or order of a Court holds the land on lease permanently ; or

(*b*) the commencement or duration of whose tenancy cannot satisfactorily be proved by reason of antiquity ;

and includes a tenant whose name or the name of whose predecessor-in-title has been entered in the record of rights or in any public record or in any other revenue record as a permanent tenant immediately before the commencement of the Amending Act, 1955 ;]

(*11*) " Person " includes [4][a joint][5]* * family ;

(*12*) " Prescribed " means prescribed by rules made under this Act ;

(*13*) " Profits of Agriculutre " in respect of any land means the surplus remaining [6][with the holder] after the expenses of cultivation including the wages of the cultivator working on the land are deducted from the gross produce ;

[7][*Explanation.*—If the members of the family of a holder work on the land for the purpose of cultivation thereof, the labour of such members shall be taken into account in estimating the expenses of cultivation referred to in this clause;]

(*14*) " Protected tenant " means person who is recognised to be a protected tenant [8][under section 4-A] ;

[9]* * * * * * * *

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] This clause was inserted by Bom. 13 of 1956, s. 2(*8*).
[3] This clause was added, *ibid.*, s. 2 (*9*).
[4] These words were substituted for the words " an undivided ", *ibid.*, s. 2 (*10*).
[5] The word " Hindu " was deleted by Bom. 38 of 1957, s. 2 (*2*).
[6] These words were substituted for the words " with the cultivator " by Bom. 13 of 1956, s. 2 (*11*) (*a*).
[7] This Explanation was inserted, *ibid.*, s. 2 (*11*) (*b*).
[8] These words, figure and letter were substituted for the words and figures " under section 31 ", *ibid.*, s. 2 (*12*).
[9] Clause (*15*) was deleted, *ibid.*, s. 2 (*13*).

(*16*) "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 or labour ;

[1][(*16A*) "serving member of the armed forces" means a person in the service of the armed forces of the Union : provided that if question arises whether any person is a serving member of the armed forces of the Union, such question shall be decided by the State Government, and its decision shall be final ;

(*16B*) "small holder" means an agriculturist cultivating land less in area than an economic holding who earns his livelihood principally by agriculture or by agricultural labour ;

(*17*) "Tenancy" means the relationship of landlord and tenant ;

[2][(*18*) "tenant" means a person who holds land on lease and include—

(*a*) a person who is deemed to be a tenant under section 4 ;

(*b*) a person who is a protected tenant ; and

(*c*) a person who is a permanent tenant ;

and the word "landlord" shall be construed accordingly ;

(*19*) "Tribunal" means the Agricultural Lands Tribunal constituted under section 67 ;

[3][(*20*) "village" means a village recognized as such in the revenue accounts ;]

[4][(*20A*) "*warkas* land" means land which is used for the purpose of rab manure in connection with rice cultivation and is classified in the revenue record as *warkas*;]

(*21*) Words and expression used in this Act but not defined shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879, and the Transfer of Property Act, 1882, as the case may be.

Bom. V of 1879.
IV of 1882.

## CHAPTER II

### General Provisions regarding Tenancies

Application of Chapter V of Transfer of Property Act.

**3.** The provisions of Chapter V of the Transfer of Property Act, 1882, shall in so far as they are not inconsistent with the provisions of this Act, apply to the tenancies and leases of land to which this Act applies.

IV of 1882.

Persons to be deemed tenants.

**4.** A person lawfully cultivating any land belonging to another persons shall be deemed to be a tenant if such land is not cultivated personally by the owner and if such person is not—

(*a*) a member of the owner's family, or

(*b*) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owners, family, or

(*c*) a mortgagee in possession.

*Explanation* [5][(*I*)].—A person shall not be deemed to be a tenant under this section if such person has been on an application made by the owner of the land as provided under section 2-A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a tenant.

Bom. XXIX of 1939.

[5][*Explanation II.*—Where any land is cultivated by a widow or a minor or a person who is subject to physical or mental disability or a serving member of the armed forces through a tenant then notwithstanding anything contained in Explanation I to clause (*6*) of section 2, such tenant shall be deemed to be a tenant within the meaning of this section.]

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[1] Clauses (*16A*) and (*16B*) were inserted by Bom. 13 of 1956, s. 2(*14*).
[2] This clause was substituted for the original, *ibid*,, s. 2(*15*).
[3] This clause was substituted for the original, *ibid*,, s. 2(*16*).
[4] This clause was inserted by Bom. 15 of 1957, s. 2(*a*).
[5] The existing Explanation was renumbered as Explanation I and Explanation II was inserted by Bom. 38 of 1957, s. 3.

Protected tenants.

[1][**4A.** For the purposes of this Act, a person shall be recognized to be a protected tenant, if such person has been deemed to be a protected tenant under sections 3, 3A and 4 of the Bombay Tenancy Act, 1939, referred to in Schedule I to this Act. Bom. XXIX of 1939.

Tenancy not to be terminated by efflux of time.

**4B.** No tenancy of any land [2][other than the tenancy of the land duly sanctioned under section 36 or section 36A of the Maharashtra Land Revenue Code, 1966)] shall be terminated merely on the ground that the period fixed by agreement or usage for its duration has expired.]

Ceiling area.

[3][**5.** (*1*) For the purposes of this Act, the ceiling area of lands shall be—

(*a*) 48 acres of jirayat land, or

(*b*) 24 acres of seasonally irrigated land or paddy or rice land, or

(*c*) 12 acres of perennially irrigated land.

(*2*) Where the land held by a person consists of two or more kinds of land specified in sub-section (*1*), the ceiling area of such holding shall be determined on the basis of one acre of perennially irrigated land being equal to two acres of seasonally irrigated land or paddy or rice land, or four acres of jirayat land.

[4][*Explanation.*—In calculating the ceiling area, *warkas* land shall be excluded.]

Economic holding.

**6.** (*1*) For the purposes of this Act, an economic holding shall be—

(*a*) 16 acres of jirayat land, or

(*b*) 8 acres of seasonally irrigated land, or paddy or rice land, or

(*c*) 4 acres of perennially irrigated land.

(*2*) Where the land held by a person consists of two or more kinds of land specified in sub-section (*1*), an economic holding shall be determined on the basis applicable to the ceiling area under sub-section (*2*) of section 5.

[5][*Explanation.*—In calculating an economic holding, *warkas* land shall be excluded.]

Irrigated land.

**6A.** For the purposes of this Act,—

(*a*) irrigated land, whether perennially or seasonally irrigated, shall not include land irrigated by sources other than canals or bandharas within the meaning of the Bombay Irrigation Act, 1879, or any lift irrigation system constructed or maintained by the State Government; Bom. VII of 1879.

(*b*) seasonally irrigated land shall include alluvail land and land situated in the bed of a river and seasonally flooded by the water of such river.

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[1] Sections 4A and 4B were inserted by Bom. 13 of 1956.

[2] This portion was inserted by Mah. 35 of 1974, Sch.

[3] These sections were substituted for sections 5, 6, 7, 8 and 9 by Bom. 13 of 1956, s. 4.

[4] This Explanation was added by Bom. 15 of 1957, s. 3.

[5] This Explanation was added, *ibid.*, s. 4.

Power of Government to vary ceiling area and economic holding.

**7.** Notwithstanding anything contained in sections 5 and 6, it shall be lawful for the State Government, if it is satisfied that it is expedient so to do in the public interest, to vary, by notification in the *Official Gazette*, the acreage of the ceiling area or economic holding, or the basis of determination of such ceiling area or economic holding, under sub-section (*2*) of section 5, regard being had to—

(*a*) the situation of the land,

(*b*) its productive capacity,

(*c*) the fact that the land is located in a backward area, and

(*d*) any other factors which may be prescribed.

Rent and its maximum and minimum.

**8.** (*1*) Subject to the provisions of this Act,—

(*a*) but notwithstanding any law, custom, usage, agreement or the decree or order of a court, the rent payable shall be paid annually, and in cash;

(*b*) such rent shall not exceed five times the assessment payable in respect of the land or twenty rupees per acre, whichever is less, and shall not be less than twice such assessment:

Provided that where the amount equal to twice the assessment exceeds the sum of twenty rupees per acre, the rent shall be twice the assessment.

(*2*) For the purpose of this section "assessment" means—

Bom. V of 1879.

(*i*) in areas in which a settlement has been made under Chapter VIII-A of the Bombay Land Revenue Code, 1879, or in which the assessment has been fixed under section 52 of the said Code the assessment so settled or fixed;

(*ii*) in areas to which rule 19N of the Land Revenue Rules (1921) applies such assessment as may be leviable under that rule;

Bom. XXXIX of 1954.

(*iii*) in areas to which the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 applies the assessment fixed under section 7 of that Act;

(*iv*) in areas in which the assessment is payable in crop share or produce, such assessment as may be fixed by the State Government in accordance with the principles laid down in rule 19-O of the Land Revenue Rules (1921).

(*3*) If by custom, usage, agreement or the decree or order of a court, the amount of rent payable is less than the maximum or minimum specified in sub-section (*1*), the amount so payable shall be the rent in respect of the land.

*Explanation.*—In respect of any land which is partially or wholly exempt from the payment of land revenue, the full amount of assessment leviable in respect of such land shall be deemed to be the assessment in respect thereof for the purpose of sub-section (*1*), as if the land was not exempt from the payment of land revenue either partially or wholly.

Rate of rent payable by tenant to his landlord.

**9.** (*1*) Subject to the maximum and minimum limits of rent fixed under section 8, the Mamlatdar shall for each village, or group of villages or for any area in such village or group, within his jurisdiction, fix the rate of rent payable by a tenant for the lease of different classes of land situate in such village, or group of villages, or areas, as the case may be.

[1][[2][Provided that this sub-section shall not apply to rent payable in accordance with the provisions of sub-section (*3*) of section 8 where it is lower than the rent at the rate fixed by the Mamlatdar under this section.]

[1] This proviso was added by Bom. 15 of 1957, s. 5.

[2] This proviso was substituted for the original by Bom. 38 of 1957, s. 4.

(*2*) In arriving at such rate the Mamlatdar shall have regard to the rents, prevalent in the locality, the productivity of the lands, the prices of commodities and such other factors as may be prescribed.

(*3*) The rate of rent so fixed shall continue for a period of five years and shall be liable to be revised by the Mamlatdar thereafter at the end of each successive period of five years:

Provided that the rate of rent so fixed, if not revised at the end of any such period, shall continue until it is so revised.

(*4*) The rent payable by a tenant to his landlord in respect of any land in a village, or group of villages, or areas, shall be at the rate fixed under sub-section (*1*):

Provided that the Mamlatdar or the Collector, subject to the provisions of section 8, may at any time during any such period of five years, on an application made to him in this behalf,—

(*i*) reduce the rent, if he is satisfied that on account of the deterioration of the land by flood, or other cause beyond the control of the tenant, the land has been wholly or partially rendered unfit for cultivation, or

(*ii*) enhance the rent, if he is satisfied that on account of any improvement made in the land, at the expense of the landlord, there has been an increase in the agricultural produce thereof.

Quantum of rent payable by tenant to landlord.

**9A.** (*1*) The rent payable by a tenant shall, subject to the maximum and minimum fixed under section 8, be the rent at the rate fixed under section 9 in respect of the class of land to which the land held by the tenant belongs [1][or where rent payable under the operation of sub-section (*3*) of section 8 is lower than the rent at the rate fixed under section 9, such lower rent]:

[2][Provided that, where any land held by a tenant is wholly or partially exempt from the payment of land-revenue and the rent payable in respect of such land is at the rate fixed under section 9, then the amount of rent shall be increased by a sum equal to the aggregate of the following amounts, that is to say,—

(*i*) the amount of full assessment leviable in respect of such land,

(*ii*) the amounts of the cesses mentioned in clauses (*b*), (*c*) and (*d*) of sub-section (*1*) of section 10A, levied or leviable in respect of such land under the relevant law,

and the tenant shall be liable to pay rent as so increased:

Provided further that, if the amount of rent as so increased payable by the tenant for any year exceeds the value of one-sixth of the produce of the land in that year, the tenant shall be entitled to deduct from the rent for that year the amount so in excess, and the quantum of rent payable by the tenant to his landlord for that year shall be deemed to have been reduced to the extent of such deduction.]

(*2*) If there is a dispute regarding the class to which any land belongs, either of the parties to the dispute may apply to the Mamlatdar who shall, after making an inquiry, decide the dispute.

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[1] This portion was substituted for the original by Bom. 38 of 1957, s. 5.
[2] These provisoes were added by Mah. 9 of 1961, s. 2.

Landlord not liable to make contribution towards cost of cultivation.

**9B.** Notwithstanding any law, usage or agreement or the decree or order of a court in the case of land in respect of which the rent has been fixed under section 9, a landlord shall not be liable to make any contribution towards the cultivation of the land in the possession of his tenants.

Liability of tenant to payment until rent is fixed under preceding sections.

**9C.** Until the rent is fixed in accordance with the provisions of the preceding sections, a tenant shall, subject to the maximum provided under section 8, be liable to pay to the landlord the rent at the rate at which it was payable immediately before the commencement of the Amending Act, 1955 ; and if such rent was payable in crop share or produce, either partly or wholly, the value of such crop share or produce shall be determined in the prescribed manner.

Refund of rent recovered in contravention of the provisions of the Act and other penalties.

**10.** If any landlord recovers rent from any tenant in contravention of the provisions of section [1][8, 9, 9A, or 9C] he shall forthwith refund the excess amount recovered to the tenant and shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar in this behalf and shall also be liable to such penalty as may be prescribed by rules made under this Act.

Liability of tenant to pay land revenue and certain other cases.

[2][**10A.** (*1*) Subject to the provisions of sub-section (*2*), every tenant shall be liable to pay in respect of the land held by him as a tenant—

Bom. V of 1879.

(*a*) the land revenue in accordance with the provisions of the Bombay Land Revenue Code, 1879,

Bom. VII of 1879.

(*b*) the irrigation cess in accordance with the provisions of the Bombay Irrigation Act, 1879,[3]*

Bom. VI of 1923.

(*c*) the cess levied under section 93 of the Bombay Local Boards Act, 1923 as amended in Schedule II to this Act [4][and]

Bom. VI of 1933.

[5][(*d*) the cess levied under section 89-B of the Bombay Village Panchayats Act, 1933.]

(*2*) If the aggregate amount of—

(*i*) the land revenue payable by a tenant under clause (*a*) of sub-section (*1*),

(*ii*) the cess payable by him under [6][clauses (*c*) and (*d*)] of sub-section (*1*), and

(*iii*) the rent payable by him to the landlord under section 9 or 9C, as the case may be,

for any year exceeds the value of one-sixth of the produce of such land in that year, the tenant shall be entitled to deduct from the rent for that year the amount so in excess, and the quantum of rent payable by the tenant to his landlord for that year shall be deemed to have been reduced to the extent of such deduction.

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[1] These figures, letters and word were substituted for the figures and word "6, 7, 8, or 9" by Bom. 13 of 1956, s. 5.

[2] This section was inserted by Bom. 13 of 1956, s. 6.

[3] The word " and " was deleted by Bom. 38 of 1957, s. 6 (*1*) (*i*).

[4] This word was inserted, *ibid*, s. 6 (*1*) (*ii*).

[5] This clause was inserted, *ibid*, s. 6 (*1*) (*iii*).

[6] These words, brackets and letters were substituted for the word, brackets and letter " clause (*c*) " *ibid*, s. 6 (2).

(*3*) Nothing in sub-sections (*1*) and (*2*) shall apply to any land held by—

(*a*) a tenant in a Scheduled area;

(*b*) a tenant who is paying to the landlord the rent [1]* * * * * under sub-section (*3*) of section 8 [2][until such tenant is deemed to have purchased the land under section 32 or purchases the land under section 32F or 32-O and the purchase price is determined under section 32H];]

[3][(*c*) a tenant, where such land is wholly or partially exempt from the payment of land revenue.]

Abolition of all cesses etc.

**11.** [4][(*1*) Notwithstanding any agreement, usage or law, it shall not be lawful for any landlord to levy any cess, rate, vero, huk or 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.

[5][(*2*) Nothing in sub-section (*1*) shall affect the liability of a tenant to pay any of the cesses under section 10A.]

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[1] The words " agreed upon between him and the landlord " were deleted by Bom. 38 of 1957, s. 6 (*3*).
[2] This portion was inserted by Bom. 63 of 1958, s. 3.
[3] Clause (*c*) was inserted by Mah. 9 of 1961, s. 3.
[4] This section was renumbered as sub-section (*1*) of that section by Bom. 13 of 1956, s. 7.
[5] This sub-section was inserted, *ibid.*

12. [*Enquiries as regards reasonable rent.*] *Deleted by Bom. 13 of 1956, s. 8.*

Suspensions or remissions of rent.

Bom. V of 1879.

13. (*1*) Notwithstanding anything contained in section 84A of the Bombay Land Revenue Code, 1879, whenever from any cause the payment of the whole land revenue payable to Government [1]* * * 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.

(*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 section 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 three years immediately preceding the date of the application made under section 86 of the said Code.

(*5*) If any landlord fails to suspend or remit the payment of rent as provided in this section, he shall be liable to refund to the tenant the amount recovered by him in contravention of this section. The tenant may apply to the Mamlatdar for the recovery of the amount and the Mamlatdar may after making an inquiry make an order for the refund [2][and for inflicting such penalty on the landlord as may be prescribed].

Termination of tenancy for default of tenant.

[3][14. (*1*) Notwithstanding any law, agreement or usage, or the decree or order of a court, the tenancy of any land shall not be terminated—

(*a*) unless the tenant—

(*i*) has failed to pay the rent for any revenue year before the 31st day of May thereof:

(*ii*) has done any act which is destructive or permanently injurious to the land;

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[1] The words "by a landlord" were deleted by Bom. 13 of 1956, s. 9 (*1*).
[2] These words were added, *ibid*, s. 9 (*2*).
[3] This section was substituted for the original, *ibid*, s. 10.

(*iii*) has sub-divided, sub-let or assigned the land in contravention of section 27 ;

(*iv*) has failed to cultivate it personally ; or

(*v*) has used such land for a purpose other than agriculture or allied pursuits ; and

(*b*) unless the landlord has given three months' notice in writing informing the tenant of his decision to terminate the tenancy and the ground for such termination, and within that period the tenant has failed to remedy the breach for which the tenancy is liable to be terminated.

(*2*) Nothing in sub-section (*1*) shall apply to the tenancy of any land held by a permanent tenant unless by the conditions of such tenancy the tenancy is liable to be terminated on any of the grounds mentioned in the said sub-section.]

Termination of tenancy by surrender thereof.

[1][**15.** (*1*) A tenant may terminate the tenancy in respect of any land at any time by surrendering his interest therein in favour of the landlord ;

Provided that such surrender shall be in writing, and verified before the Mamlatdar in the prescribed manner.

(*2*) Where a tenant surrenders his tenancy, the landlord shall be entitled to retain the land so surrendered for the like purposes, and to the like extent, and in so far as the conditions are applicable subject to the like conditions, as are provided in sections 31 and 31A for the termination of tenancies.

[2][(*2A*) The Mamlatdar shall, in respect of the surrender verified under sub-section (*1*), hold an inquiry and decide whether the landlord is entitled under sub-section (*2*) to retain the whole or any portion of the land so surrendered, and specify the extent and particulars in that behalf].

(*3*) The land, or any portion thereof, which the landlord is not entitled to retain under sub-section (*2*), shall be liable to be disposed of in the manner provided under clause (*c*) of sub-section (*2*) of section 32P.]

Bar to eviction from dwelling house.

**16.** (*1*) If in any village, 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 [3][any three defaults] 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 [4][section 31].

Tenant to be given first option of purchasing site on which he has built a dwelling house.

**17.** (*1*) If a landlord to whom the site referred to in section 16 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*) of the first option of purchasing the site at a value determined by the Tribunal.

(*2*) The landlord intending to sell such site shall give notice in writing to the tenant requiring him to state within three months from the date of service of such notice whether he is willing to purchase the site.

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[1] This section was inserted by Bom. 13 of 1956, s. 11.

[2] This sub-section was inserted by Bom. 38 of 1957, s. 7.

[3] These words were substituted for the words "a default", by Bom. 13 of 1956 s. 12 (*1*).

[4] These words and figures were substituted for the words, brackets and figures "sub-section (*1*) of section 34", *ibid.*, s. 12 (*2*).

(*3*) If within the period of three 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 Tribunal for the determination of the value of the site. On receipt of such application the Tribunal after giving notice to the tenant and after holding an inquiry shall determine the value of the site [1][which shall not exceed 20 times the annual rent thereof]. The Tribunal may, by an order in writing require the tenant to deposit the amount of value of such site [2][within one year] 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 Tribunal 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 either on payment of such compensation for the value of the structure of such dwelling house as may be determined by the Tribunal or allow the tenant at his option to remove the materials of the structure.

(*5*) Any sale of a site held in contravention of this section shall be null and void.

Tenant's right to purchase site referred to in section 16.

[3][**17A.** (*1*) If a tenant referred to in section 16 intends to purchase the site on which a dwelling house is built, he shall give notice in writing to the landlord to that effect.

(*2*) If the landlord refuses, or fails, to accept the offer and to execute the sale-deed within three months from the date thereof, the tenant may apply to the Tribunal for the determination of the reasonable price of the land which shall not exceed 20 times the annual rent thereof; and thereupon the provisions for the determination and payment of the price and the issue of a certificate of purchase contained in the next succeeding section shall apply thereto.

Tenant to be deemed to have purchased sites referred to in section 16 from specified date.

**17B.** (*1*) After the commencement of the Amending Act, 1955, the State Government may, by notification in the *Official Gazette*, direct a record of rights relating to the sites and the houses thereon in villages to be made in the manner prescribed.

(*2*) On the completion of such record of rights, the State Government may, by notification in the *Official Gazette*, specify a date on which the tenants referred to in section 16 whose names are entered in such record or their successors-in-title shall be deemed to have purchased the site of such dwelling house free from encumbrances at the price to be fixed by the Tribunal, being a price not exceeding 20 times the annual rent for the site.

(*3*) As soon as may be thereafter, the Tribunal shall publish or cause to be published a notice in such village within its jurisdiction in which all such sites are situate and shall, as far as practicable, issue notice to each such landlord and tenant and to any other person interested in such site to appear before it on the date specified in the notice. The notice published in a village shall be affixed in the Chavdi or at such public place as the Tribunal may direct.

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[1] These words and figures were inserted by Bom. 13 of 1956, s. 13.
[2] These words were substituted for the words "within three months", *ibid.*
[3] These sections were inserted, *ibid.*, s. 14.

(*4*) The Tribunal shall, after giving ar opportunity to such landlord, tenant and other person interested to be heard and after holding an inquiry, determine the price of the site.

(*5*) On the determination of the price of the site under sub-section (*4*), the tenant shall deposit the amount of such price with the Tribunal—

(*a*) either in lump sum within one year from such date, or

(*b*) in such instalments not exceeding three with simple interest at the rate of 4½ per cent. per annum, and at such intervals during the period not exceeding three years and on or before such dates,

as may be fixed by the Tribunal and the Tribunal shall direct that the amount deposited in lump sum or the amount of the instalments deposited at each interval shall be paid in accordance with the provisions of section 32Q so far as they are applicable.

(*6*) On the deposit of the amount of the price in lump sum or of the last instalment of such price, the Tribunal shall, on payment of a prescribed fee, grant a certificate in the prescribed form, to the tenant declaring him to be the purchaser of the site. Such certificate shall be conclusive evidence of the sale.

(*7*) If the tenant fails to pay any instalment or or before the date fixed by the Tribunal under sub-section (*5*), the amount of such instalment and the interest thereon shall be recovered as an arrear of land revenue.

(*8*) If after holding an inquiry under sub-section (*4*), the Tribunal is satisfied that the tenant is not willing to purchase the site, the Tribunal shall issue a certificate to the landlord to that effect. On the issue of such certificate the landlord shall be entitled to evict the tenant and dispose of the site in such manner as he may think fit either on payment of such compensation for the value of the structure of such dwelling house as may be determined by the Tribunal, or after allowing the tenant, at his option, to remove the materials of the structure.]

Dwelling houses of agricultural labourers, etc.

[1][**18.** The provisions of sections 16, 17, 17A and 17B shall apply—

(*a*) to the dwelling houses and sites thereof occupied by agricultural labourers and artisans in any village ; and

(*b*) to the lands held on lease in any village by persons carrying on an allied pursuit for the purpose of such pursuit.]

Tenant's rights to trees planted by him.

**19.** If a tenant has planted or plants any trees on any land leased to him he shall be entitled to the produce and the wood of such trees during the continuance of his tenancy and shall on the termination of his tenancy be entitled to such compensation for the said trees as may be determined by the Mamlatdar :

Provided that a tenant shall not be entitled to compensation under this section if the tenancy is terminated by surrender on the part of the tenant :

Provided further that the landlord shall during the continuance of the tenancy, be entitled to the rent of the land as if the trees had not been planted.

[1] This section was substituted for the original by Bom. 13 of 1956, s. 15.

Right to produce of naturally growing trees.

20. (*1*) A tenant shall during the continuance of his tenancy be entitled to two-thirds of the total produce of trees naturally growing on the land, the landlord being entitled to one-third of the produce of such trees.

(*2*) If there is any dispute regarding the right to the produce of such trees or the apportionment of such produce as provided under sub-section (*1*) the tenant or the landlord may apply to the Mamlatdar. Such application shall be made in such form as may be prescribed.

(*3*) On receipt of such application, the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit.

21. [*Sub-letting of land by or on behalf of person in military, naval or air service, of the Union not to terminate tenancy.*] *Deleted by Bom. 13 of 1956, s. 16.*

Tenants responsible for maintenance of boundary marks.

Bom. V of 1879.

22. 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 the 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 tenant.

Repairs of protective bunds.

23. (*1*) Notwithstanding any agreement, usage or custom to the contrary, if it appears to the [1][State] Government that the construction, maintenance or repairs of any bunds protecting any land held by a tenant is neglected due to a dispute between the landlord and the tenant or for any other reason, it may by an order in writing direct that the construction, maintenance or repairs shall be carried out by such persons as may be specified in the order and the cost thereof shall be recoverable from the person in actual possession of the land as arrears of land revenue.

(*2*) The person from whom the costs are recovered under sub-section (*1*) shall be entitled to recover the same or any part thereof from any person who under any agreement, usage or custom is wholly or partially liable to construct, maintain or repair the bunds.

(*3*) Notwithstanding anything contained in sub-section (*1*), it shall be lawful for the tenant of any land, the protective bunds of which are neglected, to construct, maintain or repair such bunds at his costs and the costs so incurred by him shall on application made by him to the Mamlatdar be recoverable by him from the landlord according to his liability under the agreement, usage or custom. The costs of the proceedings of the tenant's application shall also be recoverable from the landlord in case the landlord is held wholly or partially liable to pay the costs incurred by the tenant for construction, maintenance or repairs to the bunds.

Relief against termination of tenancy in certain cases.

24. 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 proceeding for ejectment 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 for non-payment of rent.

25. [2][(*1*)] Where any tenancy of any land held by any tenant is terminated for payment of rent and the landlord files any proceeding to eject the tenant, the Mamlatdar shall call upon the tenant to tender to the landlord the rent in arrears together with the cost of the proceeding, within [3][three months] from the date of

[1] This word was substituted for the word "Provincial", by the Adaptation of Laws Order, 1950.
[2] Section 25 was renumbered as sub-section (*1*) of the said section by Bom. 33 of 1952, s. 5.
[3] These words were substituted for the words "fifteen days" by Bom. of 13 1956, s. 17(*1*).

order, and if the tenant complies with such order, the Mamlatdar shall, in lieu of making an order for ejectment, 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:

[1][Provided that if the Mamlatdar is satisfied that in consequence of total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Mamlatdar may, for reasons to be recorded in writing, direct that the arrears of rent together with the costs of the proceedings if awarded, shall be paid within one year from the date of the order and that if before the expiry of the said period the tenant fails to pay the said arrears of rent and costs, the tenancy shall be deemed to be terminated and the tenant shall be liable to be evicted.]

[2][(2) Nothing in this section] shall apply to any tenant whose tenancy is terminated for non-payment of rent if he has failed for any three years to pay rent [3][and the landlord has given intimation to the tenant to that effect within a period of three months on each default.].

Tenancy to be in abeyance during usufructuary mortgage in favour of tenant.

[4][25A. If any land is mortgaged by a landlord by way of a usufructuary mortgage to a tenant cultivating such land, the tenancy of such land shall be in abeyance during the period the mortgage subsists. After the expiry of the said period it shall, notwithstanding any other law for the time being in force, be lawful to the tenant to continue to hold the land on the terms and conditions on which he held it before the mortgage was created.]

Receipts for rent.

26. (*1*) In the absence of an express intimation in writing to the contrary by a tenant, 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 the payment is made.

[5][(2) When any amount of rent is received in respect of any land by a landlord or by a person on behalf of such landlord, the landlord or, as the case may be, the person shall at the time, when such amount is received by him, give a written receipt therefor in such form and in such manner as may be prescribed.]

Sub-division, sub-letting and assignment prohibited.

[6][27. (*1*) [7][Save as otherwise provided in section 32F no sub-division] or sub-letting of the land held by a tenant or assignment of any interest therein shall be valid:

Provided that nothing in this sub-section shall prejudicially affect the rights of a permanent tenant:

Provided further that if the tenant dies,—

(*i*) if he is a member of a joint family, the surviving members of the said family, and

(*ii*) if he is not a member of a joint family, his heirs,

shall be entitled to partition and sub-divide the land leased subject to the following conditions:—

(*a*) each sharer shall hold his share as a separate tenant,

(*b*) the rent payable in respect of the land leased shall be apportioned among the sharers, as the case may be, according to the share allotted to them,

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[1] This proviso was added, by Bom. 33 of 1952, s. 5(*1*).

[2] These brackets, figure and words were substituted for the words "Provided that nothing in this section", *ibid*, s. 5(*2*).

[3] These word were substituted for the words and figures "within the period specified in section 14" by Bom. 13 of 1956, s. 17(*2*).

[4] Section 25A was inserted by Bom. 34 of 1951, s. 2.

[5] Sub-section (*2*) was substituted for the original by Bom. 63 of 1958, s. 4.

[6] Section 27 was substituted for the original by Bom. 13 of 1956, s. 18.

[7] These words were substituted for the words "No sub-division" by Bom. 38 of 1957, s. 8.

(*c*) the area allotted to each sharer shall not be less than the unit which the State Government may, by general or special order, specify in this behalf having regard to the productive capacity and other circumstances relevant to the full and efficient use of the land for agriculture,

(*d*) if such area is less than the unit referred to in clause (*c*), the sharers shall be entitled to enjoy the income jointly, but the land shall not be divided by metes and bounds,

(*e*) if any question arises regarding the apportionment of the rent payable by the sharers, it shall be decided by the Mamlatdar, whose decision shall be final.

(*2*) Notwithstanding anything contained in sub-section (*1*), it shall be lawful for a tenant,—

(*a*) who is a widow, minor or a person subject to any physical or mental disability, or a serving member of the armed forces, to sub-let such land held by her or him as a tenant ; or

(*b*) who is a member of a co-operative farming society and as such member to sub-let, assign, mortgage or to create a charge on his interest in the land in favour of such society, or in consideration of a loan advanced by any person authorised under section 54 of the Bombay Agricultural Debtors Relief Act, 1947.

Bom. XXV. III of 1947.

(*3*) Notwithstanding anything contained in sub-section (*1*), it shall also be lawful for a tenant to mortgage or create a charge on his interest in the land in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883, the Agriculturists' Loans Act, 1884, or the Bombay Non-Agriculturists' Loans Act, 1928, or in favour of a co-operative society in consideration of a loan advanced to him by such co-operative society, and without prejudice to any other remedy, open to the State Government or the co-operative society, as the case may be, in the event of his making default in payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government or the co-operative society, as the case may be, to cause his interest in the land to be attached and sold and the proceeds to be applied in payment of such loan.]

XIX of 1883. XII of 1884. Bom. III of 1928.

Bar to attachment, seizure or sale by process of Court.

28. Save as expressly provided in this Act or as provided in the Bombay Co-operative Societies Act, 1925, or the Bombay Agricultural Debtors Relief Act, 1947, for the recovery of loans permitted under section 27, any interest in the land held by him as a tenant shall not be liable to be attached, seized or sold in execution of a decree or order of a Civil Court.

Bom. VII of 1925. Bom. XXV. III of 1947.

Procedure of taking possession.

*29. (*1*) A tenant or an agricultural labourer or artisan 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. The application shall be made in such form as may be prescribed [1][and within a period of two years from the date on which the right to obtain possession of the land or dwelling house is deemed to have accrued to the tenant, agricultural labourer or artisan, as the case may be.]

(*2*) [2][Save as otherwise provided in sub-section (*3A*), no landlord] shall obtain possession of any land or dwelling house held by a tenant except under an order of the Mamlatdar. For obtaining such order he shall make an application in the prescribed form [3][and within a period of two years from the date on which the right to obtain possession of the land or dwelling house, as the case may be, is deemed to have accrued to him.]

(*3*) On receipt of application under sub-section (*1*) or (*2*) the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit:

[4][Provided that where an application under sub-section (*2*) is made by a landlord in pursuance of the right conferred on him under section 31, the Mamlatdar shall first decide, as preliminary issues, whether the conditions specified in clauses (*c*) and (*d*) of section 31A and sub-sections (*2*) and (*3*) of section 31B are satisfied. If the Mamlatdar finds that any of the said conditions is not satisfied, he shall reject the application forthwith.]

[5][(*3A*) Where a landlord proceeds for termination of the tenancy under sub-section (*1*) of section 43-1B, then, notwithstanding anything contained in this Act, the application for possession of the land shall be made to the Collector, who shall after holding an inquiry in the prescribed manner, pass such order thereon as he deems fit.]

(*4*) Any person taking possession of any land or dwelling house except in accordance with the provisions of [6][sub-section (*1*), (*2*) or as the case may be, (*3A*)], shall be liable to forfeiture of crops, if any, grown in the land in addition to payment of costs as may be directed by the Mamlatdar or by the Collector and also to the penalty prescribed in section 81.

Provisions of section 29 apply to sites used for allied pursuits.

[7][29A. The provisions of section 29 shall apply to the sites used for allied pursuits as they apply to the sites of dwelling houses of an agricultural labourer or artisan in regard to taking possession of any land or dwelling house under the provisions of this Act.]

Rights and privileges of tenants not to be affected.

[8][30. Save as provided in this Act, the rights or privileges of any tenant under 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 shall not be limited or abridged.]

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*Section 4 of Bom. XLV of 1951 reads as under :—

Pending applications appeals, revision applications not to be dismissed if filed within period of two years.

4. If at the date when this Act comes into force an application under section 29 of the said Act is pending before the Mamlatdar or the Tribunal, or an appeal or an application for revision arising out of such application is pending before the Collector or the Bombay Revenue Tribunal, as the case may be, on such date, such application, appeal or application for revision shall not be dismissed only on the ground that the said application under section 29 of the said Act was not made within the period of limitation, if it was made within the period prescribed by section 29 of the said Act as amended by this Act.

[1] These words were added by Bom. 45 of 1951 s. 2 (*i*).

[2] These words were substituted for the words "No landlord" by Mah. 39 of 1964, s. 2, Schedule.

[3] These words were added by Bom. 45 of 1951.

[4] This proviso was inserted by Bom. 38 of 1957, s. 9.

[5] Sub-section (*3A*) was inserted by Mah. 39 of 1964, s. 2, Sch.

[6] These words, brackets, figures and letter were substituted for the words, brackets and figures "sub-section (*1*) or (*2*), as the case may be" *ibid.*,

[7] Section 29A was inserted by Bom. 13 of 1956, s. 19.

[8] This section was substituted for the original by Bom. 38 of 1957, s. 10.

## CHAPTER III.

### [1][Special Rights and Privileges of Tenants and Provisions for Distribution of Land for Personal Cultivation.]

*(I) Termination of tenancy for personal cultivation and non-agricultural use.*

Landlord's right to terminate tenancy for personal cultivation and non-agricultural purpose.

[2][31. (*1*) Notwithstanding anything contained in sections 14 and 30 but subject to sections 31A to 31D (both inclusive), a [3][landlord (not being a landlord within the meaning of Chapter III-AA) may], after giving notice and making an application for possession as provided in sub-section (*2*), terminate the tenancy of any land (except a permanent tenancy), if the landlord *bona fide* requires the land for any of the following purposes :—

(*a*) for cultivating personally, or

(*b*) for any non-agricultural purpose.

(*2*) The notice required to be given under sub-section (*1*) shall be in writing, shall state the purpose for which the landlord requires the land and shall be served on the tenant on or before the 31st day of December 1956. A copy of such notice shall, at the same time, be sent to the Mamlatdar. An application for possession under section 29 shall be made to the Mamlatdar on or before the 31st day of March 1957.

(*3*) Where a landlord is a minor, or a widow, or a person subject to mental or physical disability [4]* * * * * then such notice may be given [5][and an application for possession under section 29 may be made],—

(*i*) by the minor within one year from the date on which he attains majority ;

(*ii*) by the successor in title of a widow within one year from the date on which her interest in the land ceases to exist ;

(*iii*) within one year from the date on which mental or physical disability ceases to exist ; and

[6]* * * * * * * *

[7][Provided that where a person of such category is a member of a joint family, the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section unless before the 31st day of March 1958 the share of such person in the joint family has been separated by metes and bounds and the Mamlatdar on inquiry, is satisfied that the share of such person in the land is separated having regard to the area, assessment, classification and value of the land, in the same proportion as the share of that person in the entire joint family property, and not in a larger proportion.]

Conditions of termination of tenancy.

**31A.** The right of a landlord to terminate a tenancy for cultivating the land personally under section 31 shall be subject to the following conditions :—

(*a*) If the landlord at the date on which the notice is given and on the date on which it expires has no other land of his own or has not been cultivating personally any other land, he shall be entitled to take possession of the land leased to the extent of a ceiling area.

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[1] This heading was substituted for the original by Bom. 13 of 1956, s. 21.
[2] These sections were substituted for sections 31 and 32. *ibid.*, s. 22.
[3] This portion was substituted for the words " landlord may " by Mah. 39 of 1964, s. 2, Sch.
[4] The words " or a serving member of the armed forces " were deleted, *ibid.*
[5] These words were inserted by Bom. 38 of 1957, s. 11 (*1*).
[6] Clause (*iv*) was deleted by Mah. 39 of 1964, s. 2, Sch.
[7] This proviso was inserted by Bom. 38 of 1957, s. 11 (*2*).

(*b*) If the land cultivated by him personally is less than a ceiling area, the landlord shall be entitled to take possession of so much area of the land leased as will be sufficient to make up the area in his possession to the extent of a ceiling area.

(*c*) The income by the cultivation of the land of which he is entitled to take possession is the principal source of income for his maintenance.

[1][(*d*) The land leased stands in the record of rights or in any public record or similar revenue record on the 1st day of January 1952 and thereafter during the period between the said date and the appointed day in the name of the landlord himself, or of any of his ancestors [2][(but not of any person from whom title is derived, whether by assignment or Court sale or otherwise)], or if the landlord is a member of a joint family, in the name of a member of such family.]

(*e*) If more tenancies than one are held under the same landlord, then the landlord shall be competent to terminate only the tenancy or tenancies which are the shortest in point of duration.

**31B.** In no case a tenancy shall be terminated under section 31— No termination of tenancy in contravention of Bom. LXII of 1947 or if tenant is member of co-operative farming society.

(*1*) in such manner as will result in leaving with a tenant, after termination, less than half the area of the land leased to him, or

Bom. LXII of 1947. (*2*) in such a manner as will result in a contravention of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act 1947, or in making any part of the land leased a fragment within the meaning of that Act, or

(*3*) if the tenant has become a member of a co-operative farming society and so long as he continues to be such member.

**31BB.** [*Certain provisions of Act not to apply to landlords on ceasing to be serving members of armed forces.*] *Deleted by Mah. 39 of 1964, s. 3.*

**31C.** The tenancy of any land left with the tenant after the termination of the tenancy under section 31 shall not at any time afterwards be liable to termination again on the ground that the landlord *bona fide* requires that land for personal cultivation. Landlord not entitled to terminate tenancy for personal cultivation of land left with tenant.

**31D.** If, in consequence of the termination of the tenancy under section 31 any part of the land leased is left with the tenant, the rent shall be apportioned in the prescribed manner in proportion to the area of the land left with the tenant. Apportionment of rent after termination of tenancy for land left with tenant.

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[1] This clause was substituted for the original by Bom. 15 of 1957, s. 7.

[2] This portion was inserted and shall be deemed to have been inserted on the 1st day of August 1956 by Mah. 9 of 1961, s. 4.

*(II) Purchase of land by tenants.*

Tenants deemed to have purchased land on tillers' day.

32. [1][(*1*)] On the first day of April 1957 (hereinafter referred to as "the tillers' day") every tenant shall, [2][subject to the other provisions of this section and the provisions of] the next succeeding sections, be deemed to have purchased from his landlord, free of all encumbrances subsisting thereor on the said day, the land held by him as tenant, if—

(*a*) such tenant is a permanent tenant thereof and cultivates land personally ;

(*b*) such tenant is not a permanert tenart but cultivates the land leased personally ; and

(*i*) the landlord has not given notice of termination of his tenancy under section 31 ; or

(*ii*) notice has been given under section 31, but the lardlord has not applied to the Mamlatdar on or before the 31st day of March 1957 under section 29 for obtaining possession of the land ; [3][or]

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[1] This section was renumbered as sub-section (*1*) by Bom. 15 of 1957, s. 8.

[2] These words were substituted for the words "subject to the provisions of" by Bom. 63 of 1958, s. 5 (*1*).

[3] This word was added by Bom. 38 of 1957, s. 12 (*1*).

[1][(*iii*) the landlord has not terminated this tenancy on any of the grounds specified in section 14, or has so terminated the tenancy but has not applied to the Mamlatdar on or before the 31st day of March 1957 under section 29 for obtaining possession of the lands :]

Provided that if an application made by the landlord under section 29 for obtaining possession of the land has been rejected by the Mamlatdar or by the Collector in appeal or in revision by the [2][Maharashtra Revenue Tribunal] under the provisions of this Act, the tenant shall be deemed to have purchased the land on the date on which the final order of rejection is passed. The date on which the final order of rejection is passed is hereinafter referred to as " the postponed date " :

[3][Provided further that the tenant of a landlord who is entitled to the benefit of the proviso to sub-section (*3*) of section 31 shall be deemed to have purchased the land on the 1st day of April 1958, if no separation of his share has been effected before the date mentioned in that proviso.]

[4][(*1A*) (*a*) Where a tenant, on account of his eviction from the land by the landlord, before the 1st day of April 1957, is not in possession of the land on the said date but has made or makes an application for possession of the land under sub-section (*1*) of section 29 within the period specified in that sub-section, then if the application is allowed by the Mamlatdar, or as the case may be, in appeal by the Collector or in revision by the [2][Maharashtra Revenue Tribunal], he shall be deemed to have purchased the land on the date on which the final order allowing the application is passed.

(*b*) Where such tenant has not made an application for possession within the period specified in sub-section (*1*) of section 29 or the application made by him is finally rejected under this Act, and the land is held by any other person as tenant on the expiry of the said period or on the date of the final rejection of the application, such other person shall be deemed to have purchased the land on the date of the expiry of the said period or as the case may be, on the date of the final rejection of the application.]

[5][(*1B*) Where a tenant who was in possession on the appointed day and who on account of his being dispossessed before the 1st day of April 1957 otherwise than in the manner and by an order of the Tahsildar as provided in section 29, is not in possession of the land on the said date and the land is in the possession of the landlord or his successor-in-interest on the 31st day of July 1969 and the land is not put to a non-agricultural use on or before the last mentioned date, then, the Tahsildar shall, notwithstanding anything contained in the said section 29, either *suo motu* or on the application of the tenant, hold an inquiry and direct that such land shall be taken from the possession of the landlord or, as the case may be, his successor-in-interest, and shall be restored to the tenant ; and thereafter, the provisions of this section and sections 32A to 32R (both inclusive) shall, in so far as they may be applicable, apply thereto, subject to the modification that the tenant shall be deemed to have purchased the land on the date on which the land is restored to him :

Provided that, the tenant shall be entitled to restoration of the land under this sub-section only if he undertakes to cultivate the land personally and of so much thereof as together with the other land held by him as owner or tenant shall not exceed the ceiling area.

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[1] This sub-clause was inserted by Bom. 38 of 1957, s. 12(2).
[2] These words were substituted for the words " Bombay Revenue Tribunal " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
[3] This proviso was added by Bom. 38 of 1957, s. 12(3).
[4] Sub-section (*1A*) was inserted by Bom. 63 of 1958, s. 5(*2*).
[5] Sub-section (*1B*) was inserted by Mah. 49 of 1969, s. 2. Sch.

*Explanation.*—In this sub-section, "successor-in-interest" means a person who acquires the interest by testamentary disposition or devolution on death.]

[1][(2) Where by custom, usage or agreement or order of a Court, any *warkas* land belonging to the landlord is used by the tenant for the purpose of rab manure in connection with rice cultivation in the land held by him as tenant—

(*a*) the whole of such *warkas* land, or

(*b*) as the case may be, such part thereof as the Tribunal may determine in cases where such *warkas* land is jointly used by more persons than one for the purpose of rab manure,

shall be included in the land to be deemed to have been purchased by the tenant under sub-section (*1*) :

Provided that in cases referred to in clause (*b*) the Tribunal may determine that such *warkas* land shall be jointly held by persons entitled to use the same, if in the opinion of the Tribunal, the partition of such *warkas* land by metes and bounds is neither practicable nor expedient in the interest of such persons.]

[2][(*3*) In respect of the land deemed to have been purchased by a tenant under sub-section (*1*),—

[3][(*a*) the tenant-purchaser shall be liable to pay to the former landlord compensation for the use and occupation of the land, a sum equal to the rent of such land every year, and]

(*b*) the [4][former landlord] shall continue to be liable to pay to the State Government the dues, if any, referred to in clauses (*a*), (*b*), (*c*) and (*d*) of sub-section (*1*) of section 10A, where [5][the tenant-purchaser] is not liable to pay such dues under sub-section (*3*) of that section

until the amount of the purchase price payable by [5][the tenant-purchaser] to the [4][former landlord] is determined under section 32H.]

[6][(*4*) Where any land held by a tenant is wholly or partially exempt from the payment of land revenue and is deemed to have been purchased by him under sub-section (*1*) or under section 32F, section 320 or section 33C then—

(*a*) the tenant-purchaser shall in respect of such land, be liable to pay the full land revenue leviable thereon, and

(*b*) the State Government shall, with effect from the date on which the tenant is deemed to have purchased the land, but so long only as the tenure on which the land was held by the landlord continues and is not abolished, pay annually to the former landlord—

(*i*) where such land is wholly exempt from the payment of land revenue, a cash allowance of an amount equal to the full land revenue leviable on such land ; and

(*ii*) in other cases, an amount equal to the difference between the full land revenue leviable on such land and the land revenue payable thereon immediately before the said date.]

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[1] This sub-section was inserted by Bom. 15 of 1957, s. 8.
[2] Sub-section (*3*) was inserted by Bom. 63 of 1958, s. 5(*3*).
[3] Clause (*a*) was substituted for the original by Mah. 9 of 1961, s. 6 (*a*).
[4] These words were substituted for the word "landlord", *ibid.*, s. 6 (*b*).
[5] These words were substituted for the words "the tenant", *ibid.*, s. 6 (*b*).
[6] Sub-section (*4*) was added by Mah. 8 of 1963, s. 2.

Tenants deemed to have purchased upto ceiling area.

**32A.** A tenant shall be deemed to have purchased land under section 32—

(*1*) in the case of a tenant who does not hold any land as owner but holds land as tenant in excess of the ceiling area, up to the ceiling area ;

(*2*) in the case of a tenant who holds land as owner below the ceiling area, such part of the land only as will raise his holding to the extent of the ceiling area.

When tenants not deemed to have purchased lands.

**32B.** If a tenant holds land partly as owner and partly as tenant but the area of the land held as owner is equal to or exceeds the ceiling area, he shall not be deemed to have purchased the land held by him as a tenant under section 32.

When tenants entitled to choose lands to be purchased.

**32C.** If a tenant holds the land separately from more than one landlord, the tenant shall, subject to the rules made by the State Government in this behalf, be entitled to choose the area and the location of the land to be purchased from each of such landlords :

Provided that the area so chosen shall not, as far as may be practicable, be other than a survey number or a sub-division of a survey number.

When tenants deemed to have purchased fragments.

**32D.** [1][(*1*)] If the land held on tenancy is only a fragment, the tenant shall be deemed to have purchased such fragment under section 32 notwithstanding anything contained in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

Bom. LXII of 1947.

[1][(*2*) If the tenancy of the land is attached to a holding or part thereof under section 29A of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, the tenant shall notwithstanding anything to the contrary contained in that Act, be deemed, in the circumstances set out in section 32, to have purchased the land held on such tenancy.]

Bom. LXII of 1947.

Disposal of balance of lands after purchase by tenants.

**32E.** The balance of any land after the purchase by the tenant under section 32 shall be disposed of in the manner laid down in section 15 as if it were land surrendered by the tenant.

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[1] Section 32D was renumbered as sub-section (*1*) of that section and sub-section (*2*) was added by Bom. 38 of 1957, s. 13.

**32F.** (*1*) Notwithstanding anything contained in the preceding sections— Right of tenant to purchase where landlord is minor etc.

(*a*) where the landlord is a minor, or a widow, or a person subject to any mental or physical disability [1] * * * the tenant shall have the right to purchase such land under section 32 within one year from the expiry of the period during which such landlord is entitled to terminate the tenancy under section 31 [2][and for enabling the tenant to exercise the right of purchase, the landlord shall send an intimation to the tenant of the fact that he has attained majority, before the expiry of the period during which such landlord is entitled to terminate the tenancy under section 31] :

[3][Provided that where a person of such category is a member of a joint family, the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section unless before the 31st day of March 1958 the share of such person in the joint family has been separated by metes and bounds and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated, having regard to the area, assessment, classification and value of the land, in the same proportion as the share of that person in the entire joint family property, and not in a larger proportion.]

(*b*) where the tenant is a minor, or a widow, or a person subject to any mental or physical disability or a serving member of the armed forces, then subject to the provisions of clause (*a*), the right to purchase land under section 32 may be exercised—

(*i*) by the minor within one year from the date on which he attains majority ;

(*ii*) by the successor-in-title of the widow within one year from the date on which her interest in the land ceases to exist ;

(*iii*) within one year from the date on which the mental or physical disability of the tenant ceases to exist ;

(*iv*) within one year from the date on which the tenant ceases to be a serving member of the armed forces :

[3][Provided that where a person of such category is a member of a joint family, the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section unless before the 31st day of March 1958 the share of such person in the joint family has been separated by metes and bounds and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated, having regard to the area, assessment, classification and value of the land, in the same proportion as the share of that person in the entire joint family property, and not in a larger proportion ]

[4][(*1A*) A tenant desirous of exercising the right conferred on him under sub-section (*1*) shall give an intimation in that behalf to the landlord and the Tribunal in the prescribed manner within the period specified in that sub-section: ]

[5][Provided that, if a tenant holding land from a landlord (who was a minor and has attained majority before the commencement of the Tenancy and Agricultural Lands Laws (Amendment) Act, 1969) has not given intimation as required by this sub-section but being in possession of the land on such commencement is desirous of exercising the right conferred upon him under sub-section (*1*), he may give such intimation within a period of two years from the commencement of that Act.]

Mah. XLIX of 1969.

(*2*) The provisions of sections 32 to 32E (both inclusive) and sections 32G to 32R (both inclusive) shall, so far as may be applicable, apply to such purchase.

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[1] The words " or a serving member of the armed forces " were deleted by Mah. 39 of 1964, s. 2, Sch.
[2] These words and figures were added by Mah. 49 of 1969, s. 2, Sch.
[3] This proviso was added by Bom. 38 of 1957, s. 14(*1*).
[4] This sub-section was inserted, *ibid.*, s. 14(*2*).
[5] This proviso was added by Mah. 49 of 1969, s. 2, Sch.

Tribunal to issue notices and determine price of land to be paid by tenants.

**32G.** (*1*) As soon as may be after the tillers' day the Tribunal shall publish or cause to be published a public notice in the prescribed form in each village within its jurisdiction calling upon—

(*a*) all tenants who under section 32 are deemed to have purchased the lands,

(*b*) all landlords of such lands, and

(*c*) all other persons interested therein,

to appear before it on the date specified in the notice. The Tribunal shall issue a notice individually to each such tenant, landlord and also, as far as practicable, other persons calling upon each of them to appear before it on the date specified in the public notice.

(*2*) The Tribunal shall record in the prescribed manner the statement of the tenant whether he is or is not willing to purchase the land held by him as a tenant.

(*3*) Where any tenant fails to appear or makes a statement that he is not willing to purchase the land, the Tribunal shall by an order in writing declare that such tenant is not willing to purchase the land and that the purchase is ineffective :

Provided that if such order is passed in default of the appearance of any party, the Tribunal shall communicate such order to the parties and any party on whose default the order was passed may within 60 days from the date on which the order was communicated to him apply for the review of the same.

(*4*) If a tenant is willing to purchase, the Tribunal shall, after giving an opportunity to the tenant and landlord and all other persons interested in such land to be heard and after holding an inquiry, determine the purchase price of such land in accordance with the provisions of section 32H and of sub-section (*3*) of section 63A:

[1][Provided that where the purchase price in accordance with the provisions of section 32H is mutually agreed upon by the landlord and the tenant, the Tribunal after satisfying itself in such manner as may be prescribed that the tenant's consent to the agreement is voluntary may make an order determining the purchase price and providing for its payment in accordance with such agreement.]

(*5*) In the case of a tenant who is deemed to have purchased the land on the postponed date the Tribunal shall, as soon as may be after such date determine the price of the land.

(*6*) If any land which, by or under the provisions of any of the Land Tenures Abolition Acts referred to in Schedule III to this Act, is regranted to the holder thereof on condition that it was not transferable, such condition shall not be deemed to affect the right of any person holding such land on lease created before the regrant and such person shall as a tenant be deemed to have purchased the land under this section, as if the condition that it was not transferable was not the condition of regrant.

Purchase price and its maxima.

**32H.** [2][(*1*) Subject to the additions and deductions as provided in sub-sections (*1A*) and (*1B*), the purchase price shall be reckoned as follows, namely :—

(*i*) in the case of a permanent tenant who is cultivating the land personally the purchase price shall be the aggregate of the following amounts, that is to say,—

(*a*) an amount equal to six times the rent of the land ;

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[1] This proviso was added by Bom. 38 of 1957, s. 15.

[2] This portion was substituted for the original sub-section (*1*) except the Explanations thereto by Bom. 63 of 1958, s. 6 (*1*).

(*b*) the amount of the arrears of rent, if any, lawfully due on the tillers' day or the postponed date ;

(*c*) the amounts, if any, paid by or recovered from the landlord as land revenue and cesses referred to in clauses (*a*), (*b*), (*c*) and (*d*) of sub-section (*1*) of section 10A, in the event of the failure on the part of the tenant to pay the same ;

(*ii*) in the case of other tenants, the purchase price shall be the aggregate of the following amounts, that is to say,—

(*a*) such amount as the Tribunal may determine not being less than 20 times the assessment and not more than 200 times the assessment ;

(*b*) the value of any structures, wells, and embankments constructed and other permanent fixtures made and trees planted by the landlord on the land ;

(*c*) the amount of the arrears of rent, if any, lawfully due on the tillers' day or the postponed date ;

(*d*) the amounts, if any, paid by or recovered from the landlord as land revenue and other cesses referred to in clauses (*a*), (*b*), (*c*) and (*d*) of sub-section (*1*) of section 10A, in the event of the failure on the part of the tenant to pay the same.]

*Explanation* [1][*1*].—For the purposes of calculating the price under this sub-section, the amount of water rate, if any, levied under section 55 of the Bombay Land Revenue Code, 1879, and included in such assessment, shall be excluded.

Bom. V of 1879.

[2][*Explanation 2.*—For the purposes of this sub-section, the expression "assessment" shall have the meaning assigned to it in section 8.]

[3][(*1A*) Where a tenant to whom sub-sections (*1*) and (*2*) of section 10A do not apply, has, after the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955, paid in respect of the land held by him as tenant land revenue and other cesses referred to in sub-section (*1*) of that section on account of the failure of the landlord to pay the sume, a sum, equal to the total amount so paid by the tenant until the date of the determination of the purchase price shall be deducted from the aggregate of the amounts determined under sub-section (*1*).

Bom. XIII of 1956.

(*1B*) (*a*) On the amount arrived at in accordance with the provisions of sub-sections (*1*) and (*1A*), there shall be calculated interest at 4½ per cent. per annum for the period between the date on which the tenant is deemed to have purchased the land under section 32 and the date of the determination of the purchase price.

(*b*) (*i*) The amount of interest so calculated shall be added to, and

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[1] This Explanation was numbered as Explanation (*1*) by Bom. 15 of 1957, s. 9.
[2] This Explanation was added, *ibid.*
[3] Sub-sections (*1A*) and (*1B*) were inserted by Bom. 63 of 1958, s. 6 (*2*).

(*ii*) the amount of [1][compensation for use and occupation of the land], if any, paid by [2][the tenant-purchaser to the former landlord] and the value of any products of trees planted by [3][such landlord] if such products are removed by [3][that landlord] during the said period shall be deducted from the amount so arrived at.]

(*2*) The State Government may, by general or special order, fix different minima and maxima for the purpose of sub-clause (*a*) of clause (*ii*) of sub-section (*1*) in respect of any kind of land held by tenants in any backward area. In fixing such minima and maxima, the State Government shall have regard to the rent payable for the land and the factors specified in sub-section (*3*) of section 63A.

Sub-tenant of permanent tenant to be deemed to have purchased land.

**32I.** (*1*) Where a permanent tenant has sub-let the land held by him, the sub-tenant shall, to the extent and subject to the conditions specified in sections 32 to 32E (both inclusive), be deemed to have purchased the land on the tillers' day.

(*2*) The purchase price thereof shall be determined in the manner provided in clause (*ii*) of sub-section (*1*) of section 32H.

(*3*) Out of the purchase price payable by such sub-tenant the amount equal to six times the rent shall, in lump sum, be payable to the owner and the balance shall be paid to the permanent tenant.

(*4*) The provisions of sections 32 to 32H (both inclusive) and sections 32J to 32R (both inclusive), in so far as they may be applicable, shall apply to the purchase of the land by such sub-tenant and the payment to be made, to and on behalf of the permanent tenant.

**32J.** [*Appeal to State Government against decision of Tribunal.*] *Deleted by Mah. 8 of 1963, s. 3*.*

Mode of payment of price by [5][tenant-purchaser] [6][and the power of Tribunal to recover purchase price.]

**32K.** (*1*) On the determination of the purchase price [4][payable under section 32H], the [5][tenant-purchaser],—

(*i*) if he is a permanent tenant, shall deposit with the Tribunal the entire amount of the purchase price within one year from such date as may be fixed by the Tribunal:

Provided that if the Tribunal is satisfied that such [5][tenant-purchaser] has failed to make the payment within the time specified for any reason beyond his control, the Tribunal may extend the period by a period not exceeding one year;

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[1] These words were substituted for the word "rent" by Mah. 9 of 1961, s. 6(*a*).

[2] These words were substituted for the words "the tenant to the landlord", *ibid.*, s. 6(*b*).

[3] These words were substituted for the words "the landlord", *ibid.*, s. 6 (*c*).

[4] This portion was substituted for the words, figures and letter "under section 32G" by Bom. 63 of 1958, s. 7(*1*).

[5] These words were substituted for the words "tenant" by Mah. 9 of 1961, s. 8.

[6] These words were added by Mah. 31 of 1965, s. 2 (*c*).

* Section 3 of Mah. 8 of 1963 also provides as under—

"Provided that any appeal at the commencement of the Bombay Tenancy and Agricultural Lands (Second Amendment) Act, 1962 pending before the State Government shall stand transferred to the Collector and shall be disposed of accordingly." Mah. VIII of 1963.

(*ii*) if he is not a permanent tenant, shall deposit with the Tribunal the entire amount of the price—

(*a*) either in lump sum within one year from such date, or

(*b*) in such annual instalments not exceeding twelve with simple interest at the rate of 4½ per cent. per annum on or before such dates as may be fixed by the Tribunal ; and

the Tribunal shall direct that the amount deposited in lump sum or the amount of instalments deposited shall be paid to the [1][former landlord].

[2][(*1A*) If a tenant-purchaser is unable to deposit with the Tribunal the entire amount of the purchase price in lump sum before the expiry of the period fixed under clause (*ii*) of sub-section (*1*), he may deposit with the Tribunal within three months after the expiry of such period or six months from the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1964, whichever is later an amount equal to one-twelfth of the purchase price, and also an amount equal to one year's interest at the rate of 4½ per cent. per annum on the balance ; and apply to the Tribunal to pay the balance in instalments. On such deposit being made, the Tribunal shall grant the tenant-purchaser such reasonable facility (not exceeding eleven annual instalments) for payment of the balance as it deems fit.

Mah. XXXI of 1965.

(*1B*) Where a tenant-purchaser,—

(*a*) fails to pay the price in lump sum within the period referred to in clause (*ii*) of sub-section (*1*), or

(*b*) is in arrears of four instalments, where the number of instalments fixed is four or more, and all the instalments in any other case, he may during the period of six months from the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1964, or from the date of default of the payment of price in lump sum, or of the last instalment, whichever is later apply to the Tribunal to condone the default on the ground that he, for sufficient reasons, was incapable of paying the price in lump sum or the instalments within time ; and if the Tribunal after holding such inquiry as it thinks fit, is satisfied with the reasons given, it may allow further time—

Mah. XXXI of 1965.

(*i*) of one year to the tenant-purchaser to pay the price in lump sum, or

(*ii*) for payment of the arrears, and may, for that purpose, increase the total number of instalments to sixteen.]

(*2*) During any period for which payment of rent is suspended or remitted under section 13, the [3][tenant-purchaser] shall not be bound to pay the purchase price in lump sum or the amount of any instalments fixed under this section or any interest thereon, if any.

[4][(*3*) If a tenant-purchaser fails to pay the entire amount of the purchase price within the period fixed under the provisions of this section or is in arrears of four instalments where the number of instalments fixed is four or more, and all the instalments in any other case, the amount of the purchase price remaining unpaid and the amount of interest thereon at the rate of 4½ per cent. per annum, if any, shall be recoverable by the Tribunal as an arrear of land revenue.]

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[1] These words were substituted for the words " landlord " by Mah. 9 of 1961, s. 8.
[2] Sub-sections (*1A*) and (*1B*) were inserted by Mah. 31 of 1965, s. 2 (*a*).
[3] These words were substituted for the word " tenant " by Mah. 9 of 1961, s. 8.
[4] Sub-section (*3*) was added by Mah. 31 of 1965, s. 2(*b*).

**32L.** [*Purchase price recoverable as arrears of land revenue.*] *Repealed by Mah. 31 of 1965 s. 3.*

Purchase to be ineffective on [1][tenant purchaser's] failure to pay purchase price * * *

**32M.** (*1*) On the deposit of the price in lump sum or of the last instalment of such price, the Tribunal shall issue a certificate of purchase in the prescribed form, to the [1][tenant-purchaser] in respect of the land. Such certificate shall be conclusive evidence of purchase. [2][In the event of failure of recovery of purchase price as arrears of land revenue under sub-section (*5*) of section 32K, the purchase shall] be ineffective and the land shall be at the disposal of the [3][Tribunal] under section 32P and any amount deposited by such [1][tenant-purchaser] towards the price of the land shall be refunded to him.

[6][(*2*) Where the purchase of any land has become ineffective for default of payment in time of the price in lump sum or in instalments, but the tenant-purchaser, has nevertheless continued in possession at the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1964, then the purchase of the land shall not be deemed to be ineffective, until the Tribunal fails to recover the amount of the purchase price under sub-section (*3*) of section 32K.] Mah. XXXI of 1965.

Certain purchases not to become ineffective.

[7][**32MM.** Where the purchase of any land has become ineffective under sub-section (*1*) of section 32M for default of payment in time of the price in lump sum, but the tenant-purchaser has nevertheless continued in possession at the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960, then the purchase of the land shall, notwithstanding the provisions of section 32M, not be deemed to be ineffective, and the tenant-purchaser may, within a period of six months form such commencement apply to the Tribunal to condone the default on the ground referred to in sub-section (*2*) of section 32M ; and if the Tribunal, after holding such inquiry as it thinks fit, is satisfied of the sufficiency of the reasons given by the tenant-purchaser, it may allow a further period of one year to pay the price in lump sum, and thereupon the provisions of section 32M shall apply as they apply on deposit of the price in lump sum, or as the case may be, on failure to pay it ; but the Tribunal shall not allow any further time for paying the price.] Mah. IX of 1961.

Landlord's right to recover rent when purchase becomes ineffective.

**32N.** [8][(*1*) Where any purchase of land becomes ineffective, the former landlord shall be entitled to recover from his former tenant compensation for use and occupation of the land equal to the rent thereof and any such compensation due may be recovered from the former tenant as an arrear of land revenue, and paid to the former landlord. The amount so recoverable shall be deducted from the amount, if any, to be refunded to the former tenant.]

(*2*) If within three months from the date on which the purchase of any land has become ineffective the [9][former landlord] fails to refund [10][former-tenant] the amount paid after deducting any [11][compensation referred to in sub-section (*1*)] due to him, it shall be recovered from him as an arrear of land revenue and paid to the [10][former-tenant].

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[1] These words were substituted for the word " tenant " by Mah. 9 of 1961, s. 10 (*a*) (*i*).
[2] These words were substituted by Mah. 31 of 1965, s. 4.
[3] This word was substituted for the word " Collector" by Mah. 9 of 1961, s. 10 (*a*) (*iii*).
[4] These words were substituted for the word " tenant's ", *ibid.*, s. 10 (*c*).
[5] The words " in lump sum or in instalments within given period " were deteled by Mah. 31 of 1965, s. 4(*c*).
[6] Sub-section (*2*) was substituted, *ibid.*, s. 4 (*b*).
[7] Section 32 MM was inserted by Mah. 9 of 1961, s. 11.
[8] Sub-section (*1*) was substituted for the original, *ibid*, s. 12 (*a*).
[9] These words were substituted for the word " landlord ", *ibid.*, s. 12 (*b*).
[10] These words were substituted for the word " tenant ", *ibid.*, s. 12 (*b*).
[11] This portion was substituted for the word " rent ", *ibid.*, s. 12 (*c*).

Right of tenant whose tenancy is created after tillers' day to purchase land.

**320.** (*1*) In respect of any tenancy created after the tillers' day [1][by a landlord (not being a serving member of the armed forces)] notwithstanding any agreement or usage to the contrary, a tenant cultivating personally shall be entitled within one year from the commencement of such tenancy to purchase from the landlord the land held by him or such part thereof as will raise the holding of the tenant to the ceiling area

[2]* * * * * * *

[3][(*1A*) A tenant desirous of exercising the right conferred on him under sub-section (*1*) [4]* * * shall give an intimation in that behalf to the landlord and the Tribunal in the prescribed manner within the period specified in that sub-section.]

(*2*) The provisions of sections 32 to 32N (both inclusive) and of sections 32P, 32Q and 32R in so far as they may be applicable shall apply to the purchase of the land by a tenant under sub-section (*1*) [4]* * *

Power of [6][Tribunal]to resume and dispose of land not purchased by tenant.

**32P.** (*1*) Where the purchase of any land by tenant under section 32 becomes ineffective under section 32G or 32M or where a tenant fails to exercise the right to purchase the land held by him within the specified period under section 32F, [5][32O, 33C or 43-1D], the [6][Tribunal] may *suo motu* or on an application made in this behalf [7]* * [8][and in cases other than those in which the purchase has become ineffective by reason of section 32G or 32M, after holding a formal inquiry] direct that the land shall be disposed of in the manner provided in sub-section (*2*).

(*2*) Such direction shall provide—

(*a*) that [9]* * * * * * the [10][former tenant ] be summarily evicted ;

(*b*) that the land shall, subject to the provisions of section 15, be surrendered to the [11][former landlord] ;

(*c*) that if the entire land or any portion thereof cannot be surrendered in accordance with the provisions of section 15, the entire land or such portion thereof, as the case may be, notwithstanding that it is a fragment, shall be, disposed of by sale to any person in the following order of priority (hereinafter called "the priority list") :—

(*i*) a co-operative farming society, the members of which are agricultural labourers, landless persons or small holders or a combination of such persons;

(*ii*) agricultural labourers ;

(*iii*) landless persons ;

(*iv*) small holders ;

(*v*) a co-operative farming society of agriculturists (other than small holders) who hold either as owner or tenant or partly as owner and partly as tenant, landless in area than an economic holding and who are artisans ;

(*vi*) an agriculturist (other than a small holder) who holds either as owner or tenant or partly as owner and partly as tenant, landless in area than an economic holding and who is an artisan ;

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[1] These words and brackets were inserted by Mah. 9 of 1961, s. 13(*a*).
[2] Sub-section (*1AA*) was deleted by Mah. 39 of 1964, s. 2, Sch.
[3] This sub-section was inserted by Bom. 38 of 1957, s. 16.
[4] The word, brackets, figure and letters " or (*1AA*) "were deleted by Mah. 39 of 1964, s. 2, Sch.
[5] These, figures, letters and word, were substituted for the word, figures and letter " or 32O " by Mah. 39 of 1964, s. 2, Sch.
[6] This word was substituted for the word " Collector " by Mah. 9 of 1961, s. 14(*a*).
[7] The words " and after holding a formal inquiry " were deleted by Mah. 8 of 1963, s. 4(*a*).
[8] This portion was inserted by Mah. 9 of 1961, s. 14(*b*).
[9] The words " the tenancy in respect of the land shall be terminated and " were deleted, *ibid*, s. 14(*c*).
[10] These words were substituted for the word "tenant" *ibid*, s. 12(*b*).
[11] These words were substituted for the word " landlord " *ibid*, s. 12(*b*).

(*vii*) any other co-operative farming society ;

(*viii*) any agriculturist who holds either as owner or tenant or partly as owner and partly as tenant land larger in area than an economic holding but less in area than the ceiling area ;

(*ix*) any person, not being an agriculturist, who intends to take to the profession of agriculture :

[1][Provided that the State Government may, by notification in the *Official Gazette*, give, in relation to such local areas as it may specify, such priority in the above order as it thinks fit to any class of persons who, by reason of the acquisition of their land for any development project approved for the purpose by the State Government, have been displaced, and require to be re-settled.]

(*3*) Where any land is to be surrendered in favour of the [2][former landlord], under sub-section (*2*), the [2][former landlord] shall not be entitled to the possession thereof until any amount refundable to the [3][former tenant] is refunded to him or recovered from the [2][former landlord] ; and until such refund or recovery is made, the [3][former tenant] shall continue to hold the land on the same terms on which it was held by him previously.

(*4*) Where any land or portion thereof cannot be surrendered in favour of the landlord and where such land or portion is offered for sale under sub-section (*2*), but no person comes forward to purchase such land or portion, as the case may be, shall vest in the State Government and the [4][Tribunal] shall determine the price of such land or portion in accordance with the provisions of section 63A and the amount of the price so determined shall, subject to the provisions of section 32Q, be paid to the owner thereof.

(*5*) Where any land is sold under sub-section (*2*), the [4][Tribunal] shall determine the price of the land in accordance with the provisions of section 63A and the price so determined shall be payable by annual instalments not exceeding six with simple interest at the rate of 4½ per cent per annum as the [4][Tribunal] may determine and the price of the land recovered from the purchaser shall, subject to the provisions of section 32Q be paid to the owner thereof.

[5][(*6*) On the deposit of the last instalment of the purchase price, the Tribunal shall issue a certificate of purchase in the prescribed form to the purchaser in respect of the land. Such certificate shall be conclusive evidence of purchase. If the purchaser is at any time in arrears of two instalments, then unless the Tribunal after holding such inquiry as it thinks fit is satisfied with the reasons given and allows a further period not exceeding one year to pay the arrears, the purchase shall be ineffective and the amount deposited by such purchaser shall be refunded to him.]

**Amount of purchase price to be applied towards satisfaction of debts.**

**32Q.** (*1*) During an inquiry held under section 32G the Tribunal shall determine any encumbrances lawfully subsisting on the land on the tillers' day.

(*2*) (*a*) If total amount of the encumbrances is less than the purchase price so determined,—

(*i*) where the purchase price is paid in lump sum it shall be deducted from the purchase price and the balance paid to the [6][former landlord] ;

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[1] This proviso was added by Bom. 15 of 1957, s. 10.
[2] These words were substituted for the word "landlord" by Mah. 9 of 1961, s. 14(*e*).
[3] These words were substituted for the word "tenant", *ibid*, s. 14(*e*).
[4] This word was substituted for the word "Collector", *ibid*, s. 14(*a*).
[5] Sub-section (*6*) was inserted by Mah. 8 of 1963, s. 4 (*b*).
[6] These words were substituted for the word "landlord" by Mah. 9 of 1961.

(*ii*) where the purchase price is made payable in instalments, the Tribunal shall deduct such amount from such instalments towards the payment of the encumbrances :

Provided that where under any agreement, award, the decree or order of a court or any law, the amount of the encumbrances is recoverable in instalments, the Tribunal shall deduct such amount as it deems reasonable from the instalments so payable.

(*b*) If the total amount of the encumbrance is more than the amount so determined, the purchase price in lump sum or the instalments, as the case may be, shall be distributed in the order of priority. If any person has a right to receive maintenance or alimony from the profits of the land, the Tribunal shall also make deductions for payment out of the purchase price.

(*3*) If such question involves any question of law regarding the validity of the [1][encumbrance or the claim] of the holder of the encumbrance or any question regarding the amount due in respect of the encumbrance, then notwithstanding anything contained in section 85A, the Tribunal shall in the manner prescribed refer the question for decision to the Judge of the Presidency Small Causes Court, or the Civil Judge within the territorial limits of whose jurisdiction the land is situate. On receipt of such reference the Judge concerned shall, after giving notice to the parties concerned, try the questions referred to and record findings thereon and send the same to the Tribunal. The Tribunal shall then give the decision in accordance with the said findings.

(*4*) Nothing in this section shall affect the rights of holder of any such encumbrances to proceed to enforce against the [2][former landlord] his right in any other manner or any other law for the time being in force.

Purchaser to be evicted if he fails to cultivate personally.

**32R.** If at any time after the purchase of the land under any of the foregoing provisions, the purchaser fails to cultivate the land personally, he shall unless the Collector condones such failure for sufficient reasons, be evicted and the land shall be disposed of in accordance with the provisions of section 84C.]

Right of [3]* * * tenants to exchange land.

**33.** (*1*) Notwithstanding anything contained in this Act or any other law or any agreement or usage, the [3]* * * tenants holding lands [4]* * * * as such [3]* * * tenants may agree and may make an application to the Mamlatdar in the prescribed form for the exchange of their tenancies in respect of the lands held by them as [3]* * * tenants.

(*2*) On receipt of the application, the Mamlatdar after giving notice to the landlords concerned and after making an inquiry may sanction the exchange on such terms and conditions as may be prescribed and may issue certificates in the prescribed form to the applicants.

(*3*) The certificates so issued shall be conclusive of the fact of such exchange against the landlords and all persons interested in the lands exchanged.

(*4*) Each of the two [3]* * * tenants shall on exchange hold the land on the same terms and conditions on which it was held by the original tenant, immediately before the exchange subject to such modifications as may have been sanctioned by the Mamlatdar.

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[1] These words were substituted for the words " encumbrance, the claim " by Bom. 38 of 1957, s. 17.
[2] These words were substituted for the word " landlord " by Mah. 9 of 1961, s. 15(*b*).
[3] The word " protected " was deleted by Bom. 13 of 1956, s. 23(*ii*).
[4] The words " in the same village " were deleted, *ibid*, s. 23(*i*).

[1][*(II-A) Termination of tenancy by landlords, and purchase by tenants, of lands to which section 88C applies.*

Definitions.

**33A.** For the purposes of sections 33B and 33C,—

(*i*) 'certificated landlord' means a person who holds a certificate issued to him under sub-section (*4*) of section 88C [2][but does not include a landlord within the meaning of Chapter III-AA holding a similar certificate]; and

(*ii*) 'excluded tenant' means a tenant of land to which sections 32 to 32R (both inclusive) do not apply by virtue of sub-section (*1*) of section 88C.

Special right of certificated landlord to terminate tenancy for personal cultivation.

**33B.** (*1*) Notwithstanding anything contained in section 31, 31A or 31B a certificated landlord may, after giving notice and making an application for possession as provided in sub-section (*3*) terminate the tenancy of an excluded tenant, if the landlord *bona-fide* requires such land for cultivating it personally.

(*2*) The notice may be given and an application made by a certificated landlord under sub-section (*3*), notwithstanding that in respect of the same tenancy an application of the landlord made in accordance with sub-section (*2*) of section 31—

(*i*) is pending before the Mamlatdar or in appeal before the Collector or, in revision before the Maharashtra Revenue Tribunal, on the date of the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960 Mah. IX of 1961. (hereinafter referred to in this section as 'the commencement date'), or

(*ii*) has been rejected by any authority before the commencement date.

(*3*) The notice required to be given under sub-section (*1*) shall be in writing, and shall be served on the tenant—

(*a*) before the first day of January 1962, but

(*b*) if an application under section 88C is undisposed of and pending on that date then within three months of his receiving such certificate,

and a copy of the notice shall, at the same time, be sent to the Mamlatdar. An application for possession of the land shall be made thereafter under section 29 to the Mamlatdar before the 1st day of April 1962, in the case falling under (*a*) and within three months of his receiving the certificate in the case falling under (*b*).

(*4*) Where the certificated landlord belongs to any of the following categories, namely :—

(*a*) a minor,

(*b*) a widow,

[3]* * * * *

(*d*) a person subject to any physical or mental disability,

ther, if he has not given notice and not made an application as required by sub-sections (*1*) and (*3*), such notice may be given and such application made—

(*A*) by the landlord within one year from the date on which he,—

(*i*) in the case of category (*a*), attains majority;

[4]* * * *

(*iii*) in the case of category (*d*), ceases to be subject to such physical or mental disability; and

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[1] This heading and sections 33A to 33C were inserted by Mah. 9 of 1961, s. 16.

[2] This portion was inserted by Mah. 39 of 1964, s. 2, Sch.

[3] Clause (*c*) was deleted, *ibid.*

[4] Item (*ii*) was deleted, *ibid.*

(*B*) in the case of a widow, by the successor-in-title within one year from the date on which widow's interest in the land ceases :

Provided that, where a person belonging to any category is a member of a joint family, the provisions of this sub-section shall not apply if any one member of the joint family does not belong to any of the categories mentioned in this sub-section, unless the share of such person in the joint family has been separated by metes and bounds before the 31st day of March 1958 and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated, (having regard to the area, assessment, classification and value of the land) in the same proportion as the share of that person in the entire joint family property, and not in a larger proportion.

(*5*) The right of a certificated landlord to terminate a tenancy under this section shall be subject to the following conditions, that is to say,—

(*a*) If any land is left over from a tenancy in respect of which other land has already been resumed by the landlord or his predecessor-in-title, on the ground that that other land was required for cultivating it personally under section 31 (or under any earlier law relating to tenancies then in force), the tenancy in respect of any land so left over shall not be liable to be terminated under sub-section (*1*).

(*b*) The landlord shall be entitled to terminate a tenancy and take possession of the land leased but to the extent only of so much thereof as would result in both the landlord and the tenant holding thereafter in the total an equal area for personal cultivation—the area resumed or the area left with the tenant being a fragment, notwithstanding, and notwithstanding anything contained in section 31 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

Bom. LXII. of 1947.

(*c*) The land leased stands in the Record of Rights (or in any public record or similar revenue record) on the 1st day of January 1952 and thereafter until the commencement date in the name of the landlord himself, or of any of his ancestors (but not of any person from whom title is derived by assignment or Court sale or otherwise), or if the landlord is a member of a joint family, in the name of a member of such family.

(*6*) The tenancy of any land left with the tenant after the termination of the tenancy under this section shall not at any time afterwards be liable to termination again on the ground that the landlord *bona fide* requires that land for personal cultivation.

(*7*) If, in consequence of the termination of the tenancy under this section, any part of the land leased is left with the tenant, the rent shall be apportioned in the prescribed manner in proportion to the area of the land so left with the tenant.

**33C.** (*1*) Notwithstanding anything contained in sub-section (*1*) of section 88C, every excluded tenant holding land from a certificated landlord shall, except as otherwise provided in sub-section (*3*), be deemed to have purchased from the landlord, on the first day of April 1962, free from all encumbrances subsisting thereon on the said day, the land held by him as tenant, if such land is cultivated by him personally, and

Tenants of lands mentioned in section 88C to be deemed to have purchased land and other incidental provisions.

(*i*) the landlord has not given notice of termination of tenancy in accordance with sub-section (*3*) of section 33B, or

(*ii*) the landlord has given such notice, but has not made an application thereafter under section 29 for possession as required by the said sub-section (*3*), or

(*iii*) the landlord, not belonging to any of the categories specified in sub-section (*4*) of section 33B, has not terminated the tenancy on any of the grounds specified in section 14, or has so terminated the tenancy but has not applied to the Mamlatdar on or before the 31st day of March 1962 under section 29 for possession of the land :

Provided that, where the landlord has made such application for possession, the tenant shall, on the date on which the application is finally decided, be deemed to have purchased the land which he is entitled to retain in possession after such decision.

(*2*) (*a*) Where a tenant, on account of his eviction from the land by the landlord before the 1st day of April 1962, is not in possession of the land on the said date, but has made or makes an application for possession of the land under sub-section (*1*) of section 29 within the period specified in that sub-section, then if the application is allowed by the Mamlatdar, or as the case may be, in appeal by the Collector or in revision by the Maharashtra Revenue Tribunal, he shall be deemed to have purchased the land on the date on which the final order allowing the application is passed.

(*b*) Where such tenant has not made an application for possession within the period specified in sub-section (*1*) of section 29 or any application made by him is finally rejected under this Act, and the land is held by any other person as tenant on the expiry of the said period or on the date of the final rejection of the application, such other person shall be deemed to have purchased the land on the date of the expiry of the said period or, as the case may be, on the date of the final rejection of the application.

(*3*) Where the certificated landlord, belonging to any of the categories specified in sub-section (*4*) of section 33B, has not given notice of temination of the tenancy of an excluded tenant in accordance with sub-section (*3*) of that section, or has given such notice but has not made an application thereafter under section 29 for possession as required by the said sub-section (*3*), such excluded tenant shall have the right to purchase the land held by him as tenant within one year from the expiry of the period specified in sub-section (*4*) of section 33B :

Provided that, where the tenancy is terminated and application for possession is made in accordance with the provisions of sub-section (*4*) of section 33B, the tenant shall, within one year from the date on which such application is finally decided be entitled to purchase the land which he is entitled to retain in possession after such decision.

(*4*) An excluded tenant desirous of exercising the right conferred on him under sub-section (*3*) shall accordingly inform the landlord and the Tribunal in the prescribed manner within the period of one year during which he is entitled to exercise such right under sub-section (*3*).

(*5*) The provisions of sections 32 to 32R (both inclusive) shall, so far as may be applicable, apply to the purchase of land by an excluded tenant under this section.]

Vesting of estate in management.

45. [1][(*1*) On the publication of the notification under section 44, the estate in respect of which the notification has been published shall, so long as the management continues, vest in the [2][State] Government. Such management shall be deemed to commence from the date on which the notification is published and the [2][State] Government shall appoint a Manager to be in charge of such estate.]

[3][(*2*) Notwithstanding the vesting of the estate in the State Government under sub-section (*1*), the tenant holding the lands on lease comprised in the estate shall, save as otherwise provided in this Chapter, continue to have the same right and shall be subject to the same obligations, as they have or are subject under the preceding Chapters in respect of the lands held by them on lease.]

Effect of declaration of management.

46. On the publication of the notification under section 44, the following consequences shall ensue :—

(*1*) All proceedings then pending in any Civil Court in respect to the debts and liabilities enforceable against the estate shall be stayed ; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended ;

(*2*) So long as the management continues no fresh proceedings, processes, executions or attachments shall be instituted in or issued, enforced or executed by any Civil Court in respect of such debts and liabilities ;

(*3*) So long as the management continues the holder of the estate shall be incompetent—

(*a*) to enter into any contract involving the estate in pecuniary liability,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom :

Provided that nothing contained in this section shall be deemed to preclude the Manager from letting and the holder from taking the whole or a part of such estate or such terms consistent with this Act as may be agreed upon between the parties ;

(*4*) So long as the management continues, no person other than the Manager shall be competent to mortgage, charge, lease or alienate such estate or any part thereof.

Manager's powers.

47. (*1*) The Manager shall during the management of the estate have all the powers which the holder thereof might as such have exercised and shall receive and recover all rents and profits due in respect of the property under management.

(*2*) For the purposes of recovering such rents and profits the Manager shall have, in addition to any powers possessed by the holder, all the powers possessed by the Collector under the law for the time being in force for securing and recovering land revenue due to Government.

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[1] Section 45 was renumberd as sub-section (*1*) of the said section by Bom. 33 of 1952, s. 12.
[2] Th s word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] Sub-section (*2*) was added by Bom. 33 of 1952, s. 12.

Manager to pay costs of management, etc.

**48.** (*1*) From the sums received or recovered under section 47, the Manager shall pay—

(*i*) the costs of management including the costs of necessary repairs ;

(*ii*) the Government revenue and all debts and liabilities for the time being, due or incurred to the [1][Government] in respect of the property under management ;

(*iii*) the rent, if any, due to any superior holder ir respect of the said estate ;

(*iv*) such periodical allowance as the Collector may from time to time fix for the maintenance and other expenses of the holder and of such members of his family as the Collector directs ;

(*v*) the costs of such improvements of the said estate as he thinks necessary and as approved by the Collector.

(*2*) The residue shall be retained by the Manager for the liquidation, in the manner hereinafter provided, of the debts and liabilities other thar those mentioned in sub-section (*1*) and also for the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from Government by the Manager under this Act. The balance, if any, shall be paid to the holder.

Notice to claimants.

**49.** Or the publication of the order of management, the Manager shall publish ir the *Official Gazette*, a notice calling upon all persons having claims against the estate under management to notify the same ir writing to such Manager within two months from the date of the publication. He shall also cause copies of such notice to be exhibited at such several places as he thirks fit.

Claim to contain full particulars.

**50.** (*1*) Every such claimant shall, along with his claim, present full particulars thereof.

(*2*) Every document on which the claimant finds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

(*3*) If the document be an entry in ary book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identificatior, and, after examining and comparing the copy with the original, shall return the book to the claimant.

(*4*) If any document in possession or under the cortrol of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such documert in evidence on the claimant's behalf at the investigation of the case.

Claim not duly notified to be barred.

**51.** Every such claim other than the claim of the [1][Government] not informed to the Manager within the time and in the manner required by such notice shall, except as provided hereinafter, be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

Provided that when proof is made to the Manager that the claimant was unable to comply with the provisions of section 49, the Manager may receive such claim within the further period of two months from the expiration of the original period of two months.

Determination of debts and liabilities.

**52.** The Manager shall inquire ir to the history and merits of every claim received under preceding sections and shall in accordance with the rules to be made under this Act determine the amount of the debts and liabilities, if any, justly due to the several claimants.

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[1] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[1][*(III) Restriction upon holding land in excess of ceiling area.*

**34.** [*Maximum land that can be held by a person.*] *Deleted by Mah. 27 of 1961, s. 48, Second Schedule.*

[2][**34A.** Every person holding land in the charge of more than one Village Accountant whether as owner or tenant or partly as owner and partly as tenant on the 31st day of March 1957, shall within the prescribed period furnish in the prescribed manner true particulars of all the land so held by him to each of the Mamlatdars within whose jurisdiction any piece of such land is situate.] Holders of land to furnish particulars of land to Mamlatdar.

**35.** [*Provision of section 34 to apply to land, coming into possession of person on gift, etc.*] *Deleted by Mah. 27 of 1961, s. 48, Second Schedule.*

[3][**35A.** (*1*) Where the Mamlatdar, *suo motu* or on an application made to him in this behalf, has reason to believe that the total area of land held by any person, whether as owner or tenant or partly as owner and partly as tenant, has exceeded the ceiling area or the area permitted to be held under sub-section (*2*) of section 34, whether on account of— Determination of excess land cases.

(*i*) the restoration of any land to the possession of such person under sub-section (*2*) of section 84B, or

(*ii*) the retention of any land with such person by virtue of the transfer of the land to such person not being declared to be invalid by the Mamlatdar under the proviso to sub-section (*1*) of section 84B or the proviso to sub-section (*2*) of section 84C, or by virtue of an order under the proviso to sub-section (*4*) of section 84C,

he shall, after holding an enquiry and after giving an opportunity to such person of being heard, determine whether the total area of land held by such person exceeds the ceiling area or the area permitted under sub-section (*2*) of section 34 and, if so, the extent and particulars of such excess land.

(*2*) The excess land determined under sub-section (*1*) shall be at the disposal of the Tribunal under section 32P.]

**36.** If, as a result of any redistribution or transfer of land under the provisions of this Act, any area in excess of the economic holding or ceiling area which a person is entitled to hold under this Act is left over as a fragment, the Collector may [4]* * * * * permit such fragment to remain with either of the holders of the land, having regard to the efficient use thereof for agricultural purposes. Fragment in excess of economic holding or ceiling area may be permitted to remain with holder.

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[1] This portion was substituted for sections 34 to 36 by Bom. 13 of 1956, s. 24.
[2] This section was inserted by Bom. 38 of 1957, s. 19.
[3] Section 35A was inserted by Mah. 9 of 1961, s. 18.
[4] The words and figures "notwithstanding the restrictions imposed under sections 34 and 35" were deleted by Mah. 27 of 1961, s. 48, Second Schedule.

Landlord to restore possession if he fails to cultivate within one year.

**37.** (*1*) If after the landlord takes possession of the land after the termination of the tenancy [1][under section 31], [2][33B or section 34 of this Act as it stood immediately before the commencement of the Amending Act, 1956] he fails to use it for any of the purposes specified in the notice given under [3][section 31], [2][33B or section 34 of this Act as it stood immediately before the commencement of the Amending Act 1956] 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 twelve years from the date on which he took such possession, the landlord shall forthwith restore possession of the land to the tenant whose tenancy was terminated by him, unless he has obtained from the tenant his refusal in writing to accept the tenancy on the same terms and conditions or has offered in writing to give possession of the land to the tenant on the same terms and conditions and the tenant has failed to accept the offer within three months of the receipt thereof.

(*2*) After the tenant has recovered possession under sub-section (*1*) 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.

(*3*) If the landlord has failed to restore possession of the land to the tenant as provided in sub-section (*1*) he shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar for the loss suffered by the tenant on account of eviction.

[4][(*4*) The provisions of this section shall not apply to a landlord who becomes a serving member of the armed forces ; and on that account, fails to use the land, or ceases to use it, for any of the purposes specified in the notice referred to in sub-section (*1*) and within the period specified in that sub-section.]

**38.** [*Circumstances in which landlord shall be deemed to cultivate personally.*] *Deleted by Bom. 13 of 1956, s. 26.*

Application for recovery of possession by tenant.

**39.** If at any time the tenant makes an application to the Mamlatdar and satisfies him that the landlord has failed to comply within a reasonable time with the provisions of section 37, the tenant shall be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required by section 37.

Continuance of tenancy on death of tenant.

[5][**40.** (*1*) Where a tenant (other than a permanent tenant) dies, the landlord shall be deemed to have continued the tenancy on the same terms and conditions on which such tenant was holding it at the time of his death, to such heir or heirs of the deceased tenant as may be willing to continue the tenancy.

(*2*) Where the tenancy is inherited by heirs other than the widow of the deceased tenant, such widow shall have a charge for maintenance on the profits of such land.]

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[1] These words and figures were substituted for the words and figures "under section 34" by Bom. 13 of 1956, s. 25 (*1*).

[2] This portion was inserted by Mah. 9 of 1961, s. 19.

[3] These words and figures were substituted for the words, brackets and figures "sub-section (*1*) of section 34" by Bom. 13 of 1956, s. 25 (*2*).

[4] This sub-section was inserted by Mah. 39 of 1964, s. 2, Sch.

[5] This section was substituted for the original by Bom. 13 of 1956, s. 27.

Compensation for improvement made by tenant.

**41.** (*1*) A [1]* tenant who has made an improvement on the land held by him shall, if his tenancy is terminated under the provisions of this Act, be entitled to compensation for such improvement. For determining the amount of the compensation the tenant shall apply to the Mamlatdar in the prescribed form.

(*2*) The compensation to which a tenant shall be entitled under sub-section (*1*) shall be the estimated value of such improvement at the time of the termination of his tenancy. 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 [2][including permanent fixtures].

Tenant's right to erect farm-house.

**42.** A [1]* tenant shall be entitled to erect a farm-house on the land held by him as a [1]* tenant.

Restriction on transfers of land purchased or sold under this Act.

[3][**43.** (*1*) No land purchased by a tenant under section 32, 32F, [4][32I, 32O, [5][33C or 43-1D]] or sold to any person under section 32P or 64 shall be transferred by sale, gift, exchange, mortgage, lease or assignment or partitioned without the previous sanction of the Collector. [6][Such sanction shall be given by the Collector in such circumstances, and subject to such conditions, as may be prescribed by the State Government :

Provided that, no such sanction shall be necessary where the land is to be mortgaged in favour of Government or a society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925, for raising a loan for effecting any improvement of such land.

Bom. VII of 1925.

(*2*) Any transfer or partition of land in contravention of sub-section (*1*) shall be invalid.]

## [7][CHAPTER III-AA.

### SPECIAL PROVISIONS FOR TERMINATION OF TENANCY BY LANDLORDS WHO ARE OR HAVE BEEN SERVING MEMBERS OF THE ARMED FORCES ; AND FOR PURCHASE OF THEIR LANDS BY TENANTS.

Definition.

**43-1A.** In this Chapter, unless the context requires otherwise, " landlord " means a landlord (including a certificated landlord within the meaning of section 33A) who is, or has ceased to be, a serving member of the armed forces ; and in relation to the land of a landlord who is dead, includes his widow, son, son's son, unmarried daughter, father or mother.

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[1] The word " protected " was deleted by Bom. 13 of 1956, s. 28.
[2] These words were inserted, *ibid.*
[3] This section was substituted for the original, *ibid.*, s. 29.
[4] This portion was substituted for " 32I or 32O " by Mah. 9 of 1961, s. 20 (*i*).
[5] This portion was substituted for the word, figures and letter " or 33C " by Mah. 39 of 1964, s. 2, Sch.
[6] This portion was added by Mah. 9 of 1961, s. 20 (*ii*).
[7] Chapter III-AA was inserted by Mah. 39 of 1964, s. 2, Sch.

Right of landlord to terminate the tenancy.

**43-1B.** (*1*) Notwithstanding anything contained in the foregoing provisions of this Act, but subject to the provisions of this section, it shall be lawful to a landlord at any time after the commencement of the Tenancy and Agricultural Lands Laws (Amendment) Act, 1964, to terminate the tenancy of any land and obtain possession thereof, but— Mah. XXX. IX of 1964.

(*a*) of so much of such land as will be sufficient to make up the total land in his actual possession equal to the ceiling area ; and

(*b*) where the landlord is a member of a joint family, only to the extent of his share in the land (not exceeding the ceiling area) held by the joint family, provided that, the Mamlatdar on inquiry is satisfied that such share has (regard being had to the area, assessment, classification and value of land), been separated by metes and bounds in the same proportion as his share in the entire joint family property and not in a larger proportion.

(*2*) No tenancy of any land shall be terminated under sub-section (*1*), unless a notice in writing is given to the tenant, and an application for possession under sub-section (*3A*) of section 29 is made to the Collector :

Provided that in the case of a landlord who has ceased to be a serving member of the armed forces, such notice shall be given and application made within two years from the date of such cesser ; and if he dies before the expiry of these two years without giving such notice or making such application, then within two years from the date of his death.

(*3*) Nothing in this Chapter shall—

(*a*) apply to a tenancy of land created (after obtaining possession thereof under the provisions of this Chapter) by a landlord who has ceased to be a serving member of the armed forces ; but the provisions of section 32-O shall apply to such tenancy as they apply in relation to a tenancy created after the tillers' day ;

(*b*) entitle a landlord who has ceased to be a serving member of the armed forces (as a result of his being duly dismissed or discharged after a court martial or on account of bad character or as a result of desertion) or who has not been attested, to terminate the tenancy of his land under this section.

(*4*) Nothing in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, shall affect the termination of any tenancy under this Chapter. Bom. LXII of 1947.

Transfer of pending proceedings to Collector and State Government.

**43-1C.** All proceedings for recovery or restoration of possession of land filed under section 31 or 33B by a landlord pending immediately before the commencement of the Tenancy and Agricultural Lands Laws (Amendment) Act, 1964, before a Mamlatdar shall, (subject to any rules made as respects such transfer or any matter incidental thereto) on such commencement, stand transferred to the Collector, and all such proceedings pending in appeal before the Collector or in revision before the Maharashtra Revenue Tribunal shall likewise stand transferred to the State Government ; and such proceedings shall be deemed to have been instituted for restoration of the land before the Collector under section 43-1B, or as the case may be, pending in revision before the State Government under section 73A and be disposed of accordingly. Mah. XXX. IX of 1964.

Right of tenant to purchase land from landlord.

**43-1D.** (*1*) Notwithstanding anything contained in the foregoing provisions of this Act, or any law, agreement, custom or usage to the contrary, but subject to the provisions of this section, a tenant holding land from a landlord shall, subject to the provisions of section 32A, be entitled to purchase from the landlord—

(*a*) where the landlord fails to make an application as required by section 43-1B, the entire land so held by him, and

(*b*) in any other case, such part of the land held by the tenant as is left with him after the termination of tenancy under section 43-1B.

(*2*) The right to purchase land under sub-section (*1*) shall be exercised within one year from the date on which possession of the land is obtained by the landlord in pursuance of the provisions of section 43-1B ; or as the case may be, after the expiry of the period referred to in the proviso to sub-section (*2*) of section 43-1B ; and intimation of exercise of the right shall be sent to the landlord and the Tribunal in the prescribed manner within the period aforesaid.

(*3*) The provisions of sections 32 to 32E (both inclusive) and section 32G to 32N (both inclusive) and sections 32P, 32Q and 32R shall apply to the purchase of the land by a tenant under sub-section (*1*) as those provisions apply in relation to the purchase of land under section 32.

Saving.

Mah. XXXIX of 1964.

**43-1E.** Nothing in this Chapter shall apply in relation to land, which before the commencement of the Tenancy and Agricultural Lands Laws (Amendment) Act, 1964 is purchased by any tenant under the provisions of Chapter III.]

## [1][CHAPTER III-A.

### Special Provisions for Lands held on Lease by Industrial or Commercial Undertakings and by Certain Person for the Cultivation of Sugarcane and Other Notified Agricultural Produce.

Some of the provisions not to apply to leases of land obtained by industrial or commercial undertakings, certain co-operative societies or for cultivation of sugarcane or fruits or flowers.

**43A.** (*1*) The provisions of sections 4B, 8, 9, 9A, 9B, 9C, 10, 10A, 14, 16, 17, 17A, 17B, 18, 27, 31 to 31D (both inclusive), 32 to 32R (both inclusive), [2][33A, 33B, 33C,] [3]* * 43, 63, 63A, 64 and 65, shall not apply to—

(*a*) [4][land leased to or held by ] any industrial or commercial undertaking (other than a Co-operative Society) which in the opinion of the State Government *bona fide* carries on any industrial or commercial operations and which is approved by the State Government ;

(*b*) leases of land granted to any bodies or persons other than those mentioned in clause (*a*) for the cultivation of sugarcane or the growing of fruits or flowers or for the breeding of livestock ;

(*c*) to lands held or leased by such co-operative societies as are approved in the prescribed manner by the State Government which have for their objects the improvement of the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture and allied pursuits.

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[1] Chapters III-A and III-B were inserted by Bom. 13 of 1956, s. 30.
[2] These figures and letters were inserted by Mah. 9 of 1961, s. 21.
[3] The figures " 34, 35 " were deleted by Mah. 27 of 1961, s. 48, Second Schedule.
[4] These words were substituted for the words " leases of land granted to, or for the benefit of " by Bom. 38 of 1957, s. 20 (*1*).

(*2*) The State Government may by notification in the *Official Gazette* in this behalf direct that the provisions of the said sections shall not apply to a lease of land obtained by any person for growing any other class of agricultural produce to which it is satisfied that it will not be expedient in the public interest to apply the said provisions. Before the issue of such notification, the State Government shall direct an inquiry to be made by an officer authorised in this behalf by the State Government and shall give all persons who are likely to be affected by such notification, an opportunity to submit their objections.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), it shall be lawful for the State Government to direct, by notification in the *Official Gazette* that the leases [1][or lands, as the case may be ] to which the provisions of sub-sections (*1*) and (*2*) apply, shall be subject to such conditions as may be specified in the notification, in respect of—

(*a*) the duration of the lease ;

(*b*) the improvements to be made on the land and the formation of co-operative farming societies for that purpose and financial assistance to such societies ;

(*c*) the payment of land revenue, irrigation cess, local fund cess and any other charges payable to the State Government or any local authority ; or

(*d*) any other matter referred to in sections mentioned in sub-section (*1*).

Reasonable rent of land to which section 43A applies.

**43B.** Notwithstanding any agreement, usage, decree or order of a court or any other authority, in the case of any land to which section 43A applies, the rent payable shall be reasonable rent as determined under the following clauses :—

(*1*) A landlord or a tenantof such land may make an application in writing to the Mamlatdar for the determination of the reasonable rent in respect of such land.

(*2*) On receipt of such application, the Mamlatdar shall give notice thereof to the other party to the lease and after holding an inquiry shall determine the reasonable rent.

(*3*) In determining the reasonable rent regard shall be had to the following factors :—

(*a*) profits of agriculture of similar lands in the locality,

(*b*) prices in the locality of the particular crop for the growing of which the land is leased,

(*c*) the improvements made in the land by the lessee or the landlord,

(*d*) the assessment payable in respect of land,

(*e*) the profits realised by the lessee on account of the lease of the land,

(*f*) profits earned by an industrial or commercial undertaking by the manufacture or sale of articles made out of the produce of the land leased,

(*g*) such other factors as may be prescribed.

(*4*) The reasonable rent determined by the Mamlatdar under clause (*2*) shall, with effect from [2][the date specified by the Mamlatdar] in that behalf, be deemed to be the rent fixed under the lease in lieu of the rent, if any, agreed between the parties.

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[1] These words were inserted by Bom. 38 of 1957, s. 20 (*2*).

[2] These words were substituted for the words " the date of the order of the Collector made " *ibid.*, s. 21.

## CHAPTER III-B.

### SPECIAL PROVISIONS IN RESPECT OF AREAS WITHIN THE LIMITS OF A MUNICIPALITY OR A CANTONMENT.

Certain provisions not to apply to municipal or cantonment areas.

**43C.** [1][Nothing in sections 31] to 32R (both inclusive) [2][, 33A, 33B, 33C] and 43 shall apply to lands in the areas within the limits of—

(*a*) Greater Bombay,

Bom. IX of 1949.

(*b*) a municipal corporation constituted under Bombay Provincial Municipal Corporations Act, 1949,

Bom. III of 1925.

(*c*) a municipal borough constituted under the Bombay Municipal Boroughs Act, 1925,

Bom. of 1901.

(*d*) a municipal district constituted under the Bombay District Municipal Act, 1901,

(*e*) a cantonment, or

Bom. IV of 1955.

(*f*) any area included in a Town Planning Scheme under the Bombay Town Planning Act, 1954:

Provided that if any person has acquired any right as a tenant under this Act on or after the 28th December 1948, the said right shall not be deemed to have been affected by the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952, or [3]* * * by the Amending Act, 1955, notwithstanding the fact that either of the said Acts has been made applicable to the area in which such land is situate.

Bom. IX of 1952.

†**43D.** [*Termination of tenancy.*] *Deleted by Mah. 10 of 1977, s. 3.*

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[1] These words and figures were substituted for the words and figures " Nothing in section 32 " by Mah. 10 of 1977, s. 2(*1*).

[2] These figures and letters were inserted by Mah. 9 of 1961, s. 22.

[3] The brackets, words, figures and letter " (save as expressly provided in section 43D), " were deleted by Mah. 10 of 1977, s. 2(*2*).

† Section 6 of Mah. 10 of 1977 reads as follows :—

" 6. Notwithstanding the deletion of section 43D of the Bombay Tenancy Act and of section 61 of the Vidarbha Tenancy Act, where proceedings for termination of tenancies are pending before the appropriate authority under any such Act and the landlord has taken possession of the land on or before the date of introduction of the Maharashtra Tenancy Laws and the Maharashtra Regional and Town Planning (Amendment) Bill, 1976, in the Maharashtra Legislative Assembly, then such proceedings shall be continued and disposed of by such authority, as if, this Act had not been passed, in all other cases, notwithstanding any judgement, decree or order of any court, tribunal or authority, such pending proceedings, shall abate, and the tenant shall continue to hold the land in accordance with the provisions of the Bombay Tenancy Act, or as the case may be, the Vidarbha Tenancy Act. " Savings.

## CHAPTER IV

### MANAGEMENT OF ESTATES HELD BY LANDHOLDERS.

Powers to assume management of landholder's estate.

**44.** Notwithstanding any law for the time being in force, usage or custom or the terms of contract or grant, when the [1][State] Government is satisfied that on account of the neglect of a landholder or disputes between him and his tenants the cultivation of his estate has seriously suffered, or when it appears to the [1][State] Government that it is necessary [2][for the said purpose or for the purpose of] ensuring the full and efficient use of land for agriculture to assume management of any landholder's estate, a notification announcing such intention shall be published in the *Official Gazette*, and the Collector shall cause notice of the substance of such notification to be given at convenient places in the locality where the estate is situated. Such notification shall be conclusive.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words "for the purpose of improving the economic and social condition of peasants or" by Bom. 33 of 1952, s. 11.

Power to rank debts and fix interest.

**53.** If such amount cannot be paid at once, the Manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest, if any, to be paid thereon, respectively from the date of the final decision thereon, to the date of the payment and discharge thereof.

Scheme for liquidation.

**54.** When the total amount of the debts and liabilities including those due and incurred to the [1][Government] has been finally determined, the Manager shall prepare and submit to the Collector a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Provisions of scheme.

**55.** Every liquidation scheme shall further provide for the continuance of the payments to be made by the Manager and for the repayment of money, if any, which the Manager proposes to borrow from Government under this Act and may provide for the improvement of the estate under management either from the said income or with the aid of the funds raised as aforesaid or partly in one of such ways and partly in the other.

Effects of sanctioning scheme.

**56.** When the Collector sanctions the liquidation scheme, he shall notify the fact of such sanction at such place and in such manner as the [2][State] Government may from time to time by rule direct ; and thereupon—

(*i*) all proceedings, processes, executions and attachments stayed or suspended under section 46 shall be forever barred ;

(*ii*) every debt or liability due or owing to any person which was provable before the Manager shall be extinguished, and such person shall be entitled to receive under the liquidation scheme the amount, if any, finally awarded to him under the preceding sections in respect of such debt or liability.

Power to remove mortgagee in possession.

**57.** (*1*) If the estate under management or any part thereof be in the possession of a mortgagee or a conditional vendee, the Manager, at any time after the liquidation scheme has been sanctioned as aforesaid, may by an order in writing require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

(*2*) If such incumbrancer refuses or neglects to obey such order, the Manager may without resorting to a Civil Court enter upon the property and summarily evict therefrom the said incumbrancer or any other person obstructing or resisting on his behalf.

(*3*) Nothing in this section shall be held to affect the right of any incumbrancer to receive under the liquidation scheme the amount, if any, awarded to him under this Act.

Power to sell or lease.

**58.** Subject to the rules made under this Act, the Manager after the liquidation scheme has been sanctioned as aforesaid, shall have power to sell or grant on lease all or any part of the estate under the management :

Provided that the estate or any part thereof shall not be sold o leased for a period exceeding ten years without the previous permission of the Collector :

[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Provincial", *ibid.*

Provided further that the Collector shall not give such permission unless he is satisfied that such sale or lease is necessary for the benefit of the estate [1][or unless such sale is in favour of [2][a tenant under section 32, 32F, 32I, or 32O]]. The decision of the Collector shall be final.

Manager's receipt a discharge.

**59.** The Manager's receipt for any moneys, rents or profits raised or received by him under this Act shall discharge the person paying the same therefrom or from being concerned to see to the application thereof.

Holder of estate dying.

**60.** (*1*) If the holder of the estate dies after the publication of the order of management, the management shall continue and proceed in all respects as if the holder were still living.

(*2*) Any person succeeding to the whole or any part of the estate under management shall, while such management continues, be subject in respect of such estate to the disabilities imposed under this Act.

(*3*) No Civil Court shall, during the continuance of the management, issue any attachment or other process against any portion of the estate under management for or in respect of any debt or liability incurred by any such person either before or after his said succession.

Termination of management.

**61.** The [3][State] Government, when it is of opinion that it is not necessary to continue the management of the estate, by order published in the *Official Gazette* direct that the said management shall be terminated. On the termination of the said management, the estate shall be delivered into the possession of the holder, or, if he is dead, of any person entitled to the said estate together with any balances which may be due to the credit of the said holder. All acts done or purporting to be done by the Manager during the continuance of the management of the estate shall be binding on the holder or to any person to whom the possession of the estate has been delivered.

Manager deemed to be public servant.

**62.** The Manager appointed under this Chapter shall be deemed to be a public servant under section 21 of the Indian Penal Code. XLV of 1860.

## CHAPTER V.

### RESTRICTIONS ON TRANSFERS OF AGRICULTURAL LANDS, MANAGEMENT OF UNCULTIVATED LANDS AND ACQUISITION OF ESTATES AND LANDS.

Transfers to non-agriculturists barred.

**63.** (*1*) Save as provided in this Act,—

(*a*) no sale (including sales in execution of a decree of a Civil Court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue), gift, exchange or lease of any land or interest therein, or

(*b*) no mortgage of any land or interest therein, in which the possession of the mortgaged property is delivered to the mortgagee,

shall be valid in favour of a person who is not an agriculturist [4][or who being an agriculturist [5][will, after such sale, gift, exchange, lease or mortgage, hold land exceeding two-thirds of the ceiling area determined under the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961] or who is not an agricultural labourer] : Mah. XXV of 1961.

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[1] These words and figures were inserted by Bom. 33 of 1952, s. 13.

[2] These words, figures and letter were substituted for the words and figures "a protected tenant under section 32" by Bom. 13 of 1956, s. 31.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] These words were inserted by Bom. 13 of 1956, s. 32 (*1*).

[5] This portion was substituted for the words "cultivates personally land not less than the ceiling area whether as an owner or tenant or partly as owner and partly as tenant" by Mah. 27 of 1961, s. 48, Second Schedule.

Provided that the Collector or an officer authorised by the [1][State] Government in this behalf may grant permission for such sale, gift, exchange, lease or mortgage, on such conditions as may be prescribed.

[2][*Explanation.*—For the purpose of this sub-section the expression 'agriculturist' includes any person who as a result of the acquisition of his land for any public purpose has been rendered landless, for a period not exceeding ten years from the date possession of his land is taken for such acquisition.]

[3][(*1A*) Where any condition subject to which permission to transfer was granted is contravened, then the land in respect of which such permission was granted shall be liable to be forfeited in accordance with the provisions of section 84CC.

(*1B*) Where permission is granted to any transfer of land under sub-section (*1*) any subsequent transfer of such land shall also be subject to the provisions of sub-section (*i*)].

(*2*) Nothing in this section shall be deemed to prohibit the sale, gift, exchange or lease of a dwelling house or the site thereof or any land appurtenant to it in favour of an agricultural labourer or an artisan [4][or a person carrying on any allied pursuit.]

[5][(*3*) Nothing in this section shall apply or be deemed to have applied to a mortgage of any land or interest therein effected in favour of a co-operative society as security for the loan advanced by such society [6][or any transfer declared to be a mortgage by a court under section 24 of the Bombay Agricultural Debtors' Relief Act, 1947.]]

Bom. XXV III of 1947.

[7][(*4*) Nothing in section 63A shall apply to any sale made under sub-section (*1*)].

[8][**63A.** (*1*) Except as otherwise expressly provided in this Act, the price of any land sold or purchased under the provisions of this Act shall consist of the following amounts, namely :— Reasonable price of land for the purpose of its sale and purchase.

(*a*) an amount not being less than 20 times the assessment levied or leviable in respect of the land and not being more than 200 times such assessment excluding, however, for the purpose of calculation, the amount of water rate, if any, levied under section 55 of the Bombay Land Revenue Code, 1879 and included in such assessment ;

Bom. V of 1879.

(*b*) the value of any structures, wells and embankments constructed, permanent fixtures made and trees planted on the land.

(*2*) Where under the provisions of this Act any land is sold or purchased by mutual agreement, such agreement shall be registered before the Mamlatdar, and the price of the land shall, subject to the limits specified in sub-section (*1*), be such as may be mutually agreed upon by the parties. In the case of disagreement between the parties, the price shall be determined by the Tribunal having regard to the factors mentioned in this section.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This Explanation was added by Mah. 4 of 1966, s. 2.
[3] Sub-sections (*1A*) and (*1B*) were inserted by Mah. 8 of 1963, s. 5.
[4] These words were inserted by Bom. 13 of 1956, s. 32(*2*).
[5] This sub-section was added by Bom. 12 of 1951, s. 6.
[6] These words and figures were inserted by Bom. 13 of 1956, s. 32(*3*).
[7] This sub-section was added, *ibid*, s. 32(*4*).
[8] This section was inserted, *ibid*, s. 33.

(*3*) Where in the case of a sale or purchase of any land under this Act, the Tribunal or the Mamlatdar has to fix the price of such land under this Act, the Tribunal or the Mamlatdar, as the case may be, shall, subject to the quantum specified in sub-section (*1*), fix the price having regard to the following factors, namely :—

(*a*) the rental values of lands used for similar purposes in the locality ;

(*b*) the structures and wells constructed and permanent fixtures made and trees planted, on the land by the landlord or tenant ;

(*c*) the profits of agriculture of similar lands in the locality ;

(*d*) the prices of crops and commodities in the locality ;

(*e*) the improvements made in the land by the landlord or the tenant ;

(*f*) the assessment payable in respect of the land ; and

(*g*) such other factors as may be prescribed.]

[1][*Explanation.*—For the purposes of this section the expression "assessment" shall have the meaning assigned to it in section 8.]

**Sale of agricultural land to particular person.**

[2][**64.** (*1*) Where a landlord intends to sell any land, he shall apply to the Tribunal for determining the reasonable price thereof. The Tribunal shall thereupon determine the reasonable price of the land in accordance with the provisions of section 63A. The Tribunal shall also direct that the price shall be payable either in lump sum or in annual instalments not exceeding six carrying simple interest at 4½ per cent. per annum :

Provided that in the case of sale of the land in favour of a permanent tenant when he is in possession thereof, the price shall be at six times the annual rent.

(*2*) After the Tribunal has determined the reasonable price, the landlord shall simultaneously in the prescribed manner make an offer—

(*a*) in the case of agricultural land—

(*i*) to the tenant in actual possession thereof, notwithstanding the fact that such land is a fragment, and

(*ii*) to all persons and bodies mentioned in the priority list ;

(*b*) in the case of a dwelling house, or a site of a dwelling house or land appurtenant to such house when such dwelling house, site or land is not used or is not necessary to carry on agricultural operations in the adjoining lands—

(*i*) to the tenant thereof ;

(*ii*) to the person residing in the village who is not in possession of any dwelling house :

Provided that if there are more than one such person the offer shall be made to such person or persons and in such order of priority as the Collector may determine in this behalf having regard to the needs of the following persons, namely :—

(*i*) an agricultural labourer,

(*ii*) an artisan,

(*iii*) a person carrying on an allied pursuit,

(*iv*) any other person in the village.

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[1] This Explanation was added by Bom. 15 of 1957, s. 12.

[2] This section was substituted for the original by Bom. 13 of 1956, s. 34.

(*3*) The persons to whom such offers are made shall intimate to the landlord within one month from the date of receipt of the offer whether they are willing to purchase the land at the price fixed by the Tribunal.

(*4*)(*a*) If only one person intimates to the landlord under sub-section (*3*) his willingness to accept the offer made to him by the landlord under sub-section (*2*), the landlord shall call upon such person by a notice in writing in the prescribed form to pay him the amount of the reasonable price determined by the Tribunal or to deposit the same with the Tribunal within one month or such further period as the landlord may consider reasonable from the date of receipt of the notice by such person.

(*b*) If more than one person intimate to the landlord under sub-section (*3*) their willingness to accept the offers made to them by the landlord under sub-section (*2*), the landlord shall call upon by a notice in writing in the prescribed form the person having the highest priority in the order of priority given in sub-section (*2*) to pay him the amount of the reasonable price determined by the Tribunal or to deposit the same with the Tribunal within one month or such further period as the landlord may consider reasonable from the date of receipt of the notice by such person.

(*5*) If the person to whom a notice is given by the landlord under sub-section (*4*) fails to pay the amount of the reasonable price to the landlord or to deposit the same with the Tribunal within the period referred to in sub-section (*4*) such person shall be deemed to be not willing to purchase the land and the landlord shall call upon in the manner provided in sub-section (*4*) the person who stands next highest in the order of priority and who has intimated his willingness to the landlord under sub-section (*3*).

(*6*) If any dispute arises under this section regarding—

(*a*) the offer made by the landlord under sub-section (*2*), or

(*b*) the notice given by the landlord under sub-section (*4*) or (*5*), or

(*c*) the payment or deposit of the reasonable price, or

(*d*) the execution of the sale deed,

such dispute shall be decided by the Tribunal.

(*7*) (*a*) Notwithstanding anything contained in the foregoing provisions of this section a landlord may after obtaining the previous permission of the Tribunal as provided in the next succeeding clause (*b*) sell any land notwithstanding the fact that such land is a fragment to the tenant in actual possession thereof at a price mutually agreed upon between him and the tenant subject to the provisions of section 63A.

(*b*) The landlord shall make an application in writing to the Tribunal for permission to sell the land at such price. On receipt of the application, the Tribunal shall grant the permission if, on holding an inquiry, it is satisfied that the price has been agreed to voluntarily by the tenant].

(*8*) Any sale made in contravention of this section shall be invalid.

(*9*) If a tenant refuses or fails to purchase the land or a dwelling house offered to him under this section, and the land or the dwelling house, as the case may be, is sold to any other person under this section, the landlord shall be entitled to evict such tenant and put the purchaser in possession].

Bom. VII of 1925.

[1][64A. Nothing in sections 63 and 64 shall apply to sales effected by or in favour of a co-operative society under the Bombay Co-operative Societies Act, 1925].

Exemption to sales by or in favour of co-operative societies.

**65.** (*1*) If it appears to the [2][State] Government that for any two consecutive years, any land has remained uncultivated [3][or the full and efficient use of the land has not been made for the purpose of agriculture, through the default of the holder or any other cause whatsoever not beyond his control] the [2][State] Government may, after making such inquiry as it thinks fit, declare that the management of such land shall be assumed. The declaration so made shall be conclusive.

Assumption of management of lands which remained uncultivated.

(*2*) On the assumption of the management, such land shall vest in the [2][State Government during the continuance of the management and the provisions of Chapter IV shall *mutatis mutandis* apply to the said land :

[4][Provided that the manager may in suitable cases give such land on lease at rent even equal to the amount of its assessment :

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[1] This section was inserted by Bom. 12 of 1951, s. 7.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words " through default of either the landlord or tenant or any other cause whatsoever ", by Bom. 13 of 1956, s. 35 (*1*).

[4] This portion was substituted for the original proviso, *ibid.*, s. 35. (*2*).

Provided further that, if the mangement of the land has been assumed under sub-section (*1*) on account of the default of the tenant, such tenant shall cease to have any right or privilege under Chapter II or III, as the case may be, in respect of such land, with effect from the date on and from which such management has been assumed.]

Acquisition of estate or land under management or interest therein.

**66.** (*1*) If at any time it appers to the [1][State] Government that any estate or land, the management of which has been assumed under the provisions of this Act or the interest of any other person in such estate or land should in the public interest, be compulsorily acquired, it shall be lawful for the [1][State] Government to publish a notification to that effect in the *Official Gazette*. The notification so published shall be conclusive that the estate, land or interest is needed to be acquired in public interest.

(*2*) On the publication of the notification, the Collector shall cause publicity to be given to it at convenient places in the locality and also give notices to the holder of the estate, land or interest and to all persons known or believed to be interested therein.

(*3*) The Collector shall then make an inquiry in the prescribed manner to determine the value of the estate, land or interest which has been acquired. For the said purpose the Collector 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 :— V of 1908.

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath, and

(*c*) compelling the production of documents.

(*4*) In determining the value the Collector shall take into consideration—

(*a*) the assessment payable in respect of the estate or land,

(*b*) the profits of agriculture and cultivation of the estate or land and of similar estates and lands in the locality,

(*c*) the prices of crops and commodities in the locality,

(*d*) exemption from assessment and other privileges enjoyed by the holder and other persons interested in respect of the land, estate and interest,

(*e*) Any other matter which may be prescribed.

(*5*) After determining the value of the estate, land or interest the Collector shall make an award which shall contain—

(*a*) the particulars of the estate, land or interest,

(*b*) the compensation which in his opinion should be allowed for the land,

(*c*) the apportionment of the compensation among all persons known, or believed to be interested.

(*6*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence as between the Collector and persons interested whether they have respectively appeared before the Collector or not of all the particulars including area and value of the estate, land or interest and the apportionment of compensation.

(*7*) When the Collector has made an award, the estate, land or interest therein shall vest in the [2][Government] free from all incumbrances.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This word was substituted for the word "Crown", *ibid.*

[CHAPTER V-A—CONSTRUCTION OF WATER COURSE THROUGH LAND OF ANOTHER]

*Deleted by Mah. 41 of 1966, s. 334 (Schedule K).*

## CHAPTER VI.

### [1][PROCEDURE AND JURISDICTION OF TRIBUNAL, MAMLATDAR AND COLLECTOR ; APPEALS AND REVISION.]

[2][67. (*1*) For the purposes of this Act, there shall be a Tribunal called the Agricultural Lands Tribunal for each taluka or mahal or for such area as the State Government may think fit : Tribunal.

[3][Provided that it shall be lawful for the State Government, by notification in the *Official Gazette*, from time to time to alter the local limits of the jurisdiction of the Tribunal or to abolish the Tribunal so constituted or reconstitute the Tribunal for such area as may be specified in the notification ; and in any such case, to arrange for transfer of proceedings pending before any Tribunal on the date of such alteration or reconstitution.]

(*2*) The State Government may appoint an officer not below the rank of a Mamlatdar to be the Tribunal and to exercise the powers and perform the duties and functions of the Tribunal under this Act in a taluka or mahal or any other area referred to in sub-section (*1*):

Provided that the State Government may for any area constitute a Tribunal, consisting of not less than three members of whom—

(*a*) at least one shall be a person who is holding or has held a judicial office not lower in rank than that of a civil judge under the Bombay Civil Courts Act, 1869, or who is qualified to practise as a lawyer in the [4][State of Maharashtra] ; and

XIV of 1869.

(*b*) one shall be appointed to be the President of the Tribunal ;

and the Tribunal so constituted shall exercise the powers and perform the duties and functions of the Tribunal under this Act.

*Explanation.*—In this section ' lawyer ' means any person entitled to appear and plead for another in Court in the [5][Bombay area of the State of Maharashtra] and includes an advocate, a vakil and an attorney of the [6][High Court of Maharashtra].

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[1] This heading was substituted for the heading " Procedure and Jurisdiction of Tribunal and Mamlatdars and Appeals " by Mah. 39 of 1964, s. 2, Schedule.

[2] Section 67 was substituted for the original by Bom. 63 of 1958, s. 8.

[3] This proviso was added by Mah. 8 of 1963, s. 6. Section 10 of Mah. 8 of 1963 reads as under :—

" 10. The amendments made to the principal Act by section 6 shall be deemed to have been made and to have come into force on the 11th day of July 1958 and notwithstanding the judgment, decree or order of any Court or Tribunal, anything done or any action taken in the exercise or purported exercise of any powers or duties conferred or imposed under section 67 as amended by this Act, (ncluding the abolition and reconstitution of Tribunals effected, or the alteration of local limits of jurisdiction of Tribunals, and any transfer of proceedings made) shall be deemed to have been validly and effectually done or taken under section 67 of the principal Act as amended by this Act, and accordingly, no suit or legal proceedings shall be entertained or continued in any Court or Tribunal on the ground only that the provisions of the said section as amended by this Act were not in force on the date when such thing was done or action taken." Validation of things done and action taken.

[4] These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[5] These words were substituted for the words "pre-Reorganisation State of Bombay, excluding the transferred territories," *ibid.*

[6] These words were substituted for the words " High Court of Bombay ", *ibid.*

Duties of the Tribunal.

**68.** It shall be the duty of the Tribunal—

(*a*) to determine the value of the site of a dwelling house under section 17 ;

[1][(*b*) to determine the purchase price of land under section 32G, 63A, or 64 ;

(*c*) to decide any dispute under sections 32 to 32R (both inclusive)] ;

[2][(*cc*) to dispose of land under section 32P;]

(*d*) to perform such other functions in carrying out the provisions of this Act, as may be prescribed or as may be directed by the [3][State] Government.

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[1] These clauses were substituted for the original by Bom. 13 of 1956, s. 38.
[2] Clause (*cc*) was inserted by Mah. 9 of 1961, s. 23.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Powers of the Tribunal.

69. (*1*) The Tribunal shall have the same powers in making inquiries under this Act 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 affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ; and

(*c*) compelling the production of documents.

(*2*) The Tribunal shall have also such other powers as may be prescribed. The Tribunal shall have powers to award costs.

(*3*) The orders of the Tribunal shall be given effect to in the manner provided in section 73.

Duties of the Mamlatdar.

70. For the purposes of this Act the following shall be the duties and functions to be performed by the Mamlatdar :—

(*a*) to decide whether a person is an agriculturist ;

(*b*) to decide whether a [1][person is, or was at any time in the past, a tenant] or a protected tenant [2][or a permanent tenant] ;

[3][(*c*) to determine the rates of rent under section 9 ;

(*d*) to decide dispute regarding class of land under section 9A] ;

(*f*) to determine the amount of compensation under section 10 for the contravention of sections [4][8, 9, 9A and 9C] ;

[5] * * * * * * *

(*h*) to determine the amount to be refunded to a tenant under section 13(*5*) ;

(*i*) to determine the amount of compensation for trees to which a tenant is entitled under section 19 ;

(*j*) to determine any dispute regarding the right to produce of trees naturally growing under section 20 ;

(*k*) to determine the cost of repairing protective bunds under section 23 ;

[6][(*kk*) to hold an inquiry and restore possession of land under sub-section (*1B*) of section 32 ;]

(*l*) to sanction exchange of tenancies under section 33 ;

(*m*) to determine the amount of compensation payable to [7] * * * tenant for any improvement under section 41 ;

[8][(*ma*) to determine what is reasonable rent under section 43B ;

(*mb*) to issue a certificate under section 84A, and decide under section 84B or 84C whether a transfer or acquisition of land is invalid and to dispose of land as provided in section 84C ;

(*mc*) to decide references under section 85A ;

(*md*) to decide any dispute under section 88C ;

[9] * * * * * * * *]

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[1] These words were deemed always to have been substituted for the words " person is a tenant " by Mah. 49 of 1969, s. 2, Sch.
[2] These words were inserted by Bom. 13 of 1956, s. 39 (*1*).
[3] These clauses were substituted for the original clauses (*c*), (*d*) and (*e*), *ibid.*, s. 39(*2*).
[4] These figures, letters and word were substituted for the figures and word " 6 to 9 ", *ibid.*, s. 39(*3*).
[5] Clause (*g*) was deleted, *ibid.*, s. 39 (*4*).
[6] Clause (*kk*) was inserted by Mah. 49 of 1969, s. 2, Sch.
[7] The word " protected " was deleted, by Bom. 13 of 1956, s. 39 (*5*).
[8] These clauses were inserted, *ibid.*, s. 39 (*6*).
[9] Clause (*me*) was deleted by Mah. 9 of 1961, s. 24.

(*n*) to take measures for putting the tenant or landlord or the agricultural labourer or artisan [1][or person carrying on an allied pursuit] into the possession of the land or dwelling house under this Act ; [2] *

[3] * * * * * * * *

(*o*) to decide such other matters as may be referred to him by or under this Act.

Commencement of proceedings.

**71.** Save as expressly provided by or under this Act, all inquiries and other proceedings before the Mamlatdar or Tribunal shall be commenced by an application which shall contain the following particulars :—

(*a*) the name, age, profession and place of residence of the applicant and the opponents ;

(*b*) a short description and situation of the property of which possession is sought, or the amount of the claim, as the case may be ;

(*c*) the circumstances out of which the cause of action arose ;

(*d*) a list of the applicant's documents, if any, and of his witnesses, and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of the hearing ;

(*e*) such other particulars as may be prescribed.

Procedure.

**72.** In all inquiries and proceedings commenced on the presentation of applications under section 71 the Mamlatdar or the Tribunal shall exercise the same powers as the Mamlatdar's court under the Mamlatdars' Court's Act, 1906, and shall [4][save as provided in section 29] follow the provisions of the said Act as if the Mamlatdar or the Tribunal were a Mamlatdar's Court under the said Act and the application presented was a plaint presented under section 7 of the said Act. In regard to matters which are not provided for in the said Act, the Mamlatdar or the Tribunal shall follow the procedure as may be prescribed by the [5][State] Government. Every decision of the Mamlatdar or the Tribunal shall be recorded in the form of an order which shall state reasons for such decision. Bom II of 1906.

Distribution of business amongst Mamlatdars.

[6][**72AA.** Where in any taluka or mahal in addition to the Mamlatdar appointed, under section 12 of the Bombay Land Revenue Code, 1879, or as the case may be, in addition to the Mahalkari appointed under section 13 of the said Code one or more officers are appointed by the State Government to perform the duties of a Mamlatdar under this Act in such taluka or mahal, each such officer shall dispose of such inquiries or proceedings commenced under section 71 as the Mamlatdar or as the case may be, the Mahalkari subject to the control of the Collector, may by general or special order, refer to him.] Bom. V of 1879.

Power of Collector to transfer proceedings.

[7][**72A.** The Collector may, after due notice to the parties, by order in writing transfer any proceeding under this Act pending before a Mamlatdar in his district from such Mamlatdar to any other Mamlatdar in his district and the Mamlatdar to whom the proceeding is so transferred shall thereupon exercise jurisdiction under this Act in such proceeding :

Provided that any order issued to village officers under sub-section (*2*) of section 73 shall be issued by the Mamlatdar to whom such village officers are subordinate.]

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[1] These words were inserted by Bom. 13 of 1956, s. 39(7).
[2] The word "and" was deleted, *ibid.*
[3] Clause (*na*) was deleted by Mah. 41 of 1966, s. 334 (Schedule K).
[4] These words and figures were inserted by Bom. 45 of 1951, s. 3.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
[6] Section 72AA was inserted by Bom. 63 of 1958, s. 9.
[7] This section was inserted by Bom. 12 of 1951, s. 8.

(*c*) give an intimation of the transfer to the Mamlatdars, the landlord and the tenants concerned.

(*3*) The Mamlatdar to whom the applications are so transferred shall exercise jurisdiction in respect thereof under this Act :

Provided that any order to be issued to village officers under sub-section (*2*) of section 73 shall be issued by or through the Mamlatdar to whom such village officers are subordinate.

Designated Tribunal to conduct proceedings in respect of land held by the same tenant in different areas.

**72C.** (*1*) If in the course of a proceeding under section 32G in respect of any tenant, the Tribunal finds that such tenant holds as a tenant other land outside its jurisdiction, then the Tribunal shall refer the case in the prescribed manner to the Collector if the other land is in the same district, and to the Divisional Officer, if the other land is in another district and to the State Government if the other land is in another division.

(*2*) On receipt of the reference, the Collector or the Divisional Officer or the State Government, as the case may be, shall—

(*a*) call for the details of such land in the prescribed form from the Tribunal within whose jurisdiction the land is situate ;

(*b*) taking into consideration the extent of land held by the tenant as tenant situate within the jurisdiction of different Tribunals, direct that the proceeding under sections 32G, 32H, 32I, 32K, 32L, 32M, 32N and 32Q, in respect of all the lands held by the tenant as tenant shall be conducted and disposed of by the Tribunal designated for the purpose, and transfer the case accordingly ; and

(*c*) give an intimation of the transfer to the Tribunal, the landlords and the tenant concerned.

(*3*) The Tribunal designated under sub-section (*2*) shall exercise jurisdiction under this Act in respect of all the said lands :

Provided that any order to be issued to village officers under sub-section (*2*) of section 73 shall be issued by or through the Mamlatdar to whom such village officers are subordinate.]

Execution of order for payment of money or for restoring possession.

**73.** (*1*) Any sum the payment of which has been directed by an order of the Mamlatdar or the Tribunal including an order awarding costs shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

(*2*) An order of the Mamlatdar or the Tribunal awarding possession or restoring the possession or use of any land shall be executed in the manner provided in section 21 of the Mamlatdars' Courts Act, 1906, as if it was the decision of the Mamlatdar under the said Act :

Bom. II of 1906.

[1][Provided that such order shall not be executed till the expiry of the period of appeal [2][or, as the case may be, of application for revision as provided] in section 79.]

[3][(*3*) An order or decision of the Mamlatdar in execution proceedings conducted under sub-section (*2*), subject to appeal (if any) to the Collector, shall be final.]

---

[1] This proviso was added by Bom. 38 of 1957, s. 23.
[2] These words were inserted by Mah. 9 of 1961, s. 25(*a*).
[3] Sub-section (*3*) was inserted, *ibid*, s. 25 (*b*).

Powers of Collector inquires under sub-section (*3A*) of section 29; provision as respects revision and execution of orders.

[1][**73A.** (*1*) For the purposes of an inquiry under sub-section (*3A*) of section 29, the Collector 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 affidavits,

(*b*) summoning and enforcing attendance of any person and examining him on oath, and

(*c*) compelling the production of documents.

(*2*) The order of the Collector under sub-section (*3A*) of section 29 shall, subject to revision under sub-section (*3*), be final.

(*3*) The State Government may, *suo motu* or on an application from any person interested in the land, call for the record of any such inquiry for the purpose of satisfying itself as to the legality or propriety of the order passed by the Collector and pass such order thereon as it deems fit :

Provided that no such order shall be modified, annulled or reversed, unless an opportunity has been given to the interested parties to appear and to be heard.

(*4*) Every such order of the Collector or of the State Government in revision awarding possession of any land shall be executed in the manner provided for the execution of the orders of the Mamlatdar or Tribunal under section 73.]

Appeals.

**74.** (*1*) An appeal against the orders of the Mamlatdar and the Tribunal may be filed to the Collector in the following cases :—

(*a*) an order under section 4,

[2]* * * *

[3]* * * *

(*d*) an order under section 9,

[4][(*da*) an order under section 9A ;]

(*e*) an order under section 10,

[5]* * * *

(*g*) an order under section 13,

[6][(*ga*) an order under section 15,]

(*h*) an order under section 17,

(*i*) an order under section 19,

(*j*) an order under section 20,

(*k*) an order under section 23,

(*l*) an order under section 25,

---

[1] This section was inserted by Mah. 39 of 1964, s. 2, Sch.
[2] Clause (*b*) was deleted by Bom. 38 of 1957, s. 24(*1*).
[3] Clause (*c*) was deleted by Bom. 13 of 1956, s. 40(*1*).
[4] This clause was inserted, *ibid*, s. 40 (*2*).
[5] Clause (*f*) was deleted by Bom. 13 of 1956, s. 40(*3*).
[6] This clause was inserted by Bom. 38 of 1957, s. 24(*2*).

(*m*) an order under section 29,

[1][(*m*-1) an order under sub-section (*1B*) of section 32,]

[2]* * * * *

[3][(*ma*) an order under sub-section (*2*) of section 32,]

[4][(*mb*) an order under section 31, 32F, 32G, or 32P,]

[5][(*n*) an order under section 32K, 32M, [6][32MM] or 32Q,]

[7][(*na*) an order under section 33B,]

(*o*) an order under section 33,

[8][(*oo*) an order under sub-section (*5*) of section 34,]

(*p*) an order under section 37,

(*q*) an order under section 39,

(*r*) an order under section 41 [9]* *

[10][(*rr*) an order made pursuant to a notification issued under sub-section (*3*) of section 43A ;]

[11][(*ra*) an order under section 43B,]

(*s*) an order under section 64,

[12]* * * * * *

[13][(*u*) an order made under section 84A, 84B, or 84C,

(*v*) an order under section 85A,

(*w*) an order under section 88C.]

(*2*) Save as otherwise provided in this Act, the provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to appeals to the Collector under this Act, as if the Collector were the immediate superior of the Mamlatdar or the Tribunal. The Collector in appeal shall have power to award costs.

Bom. V of 1879.

[14][**74A.** The Collector may, after due notice to the parties, by order in writing— Powers of Collector to transfer and withdraw appeals.

(*a*) transfer any appeal pending before him or before any Assistant or Deputy Collector subordinate to him to any Assistant or Deputy Collector specified in such order, performing the duties and exercising the powers of a Collector and upon such transfer the Assistant Collector or the Deputy Collector, as the case may be, shall have power to hear and decide the appeal as if it was originally filed to him ; or

(*b*) withdraw any appeal pending before any Assistant or Deputy Collector and himself hear and decide the same.]

---

[1] Clause (*m*-1) was inserted by Mah. 49 of 1969, s. 2, Sch.
[2] Clause (*mm*) was deleted by Bom. 13 of 1956, s. 40(*4*).
[3] This clause was inserted by Bom. 15 of 1957, s. 13.
[4] Clause (*mb*) was inserted by Mah. 9 of 1961, s. 26 (*i*).
[5] This clause was substituted for the original by Bom. 13 of 1956, s. 40(*5*).
[6] These figures and letters were inserted by Mah. 9 of 1961, s. 26(*ii*).
[7] Clause (*na*) was inserted, *ibid*, s. 26 (*iii*).
[8] This clause was inserted by Bom. 38 of 1957, s. 24(*3*).
[9] The word " and " was deleted by Bom. 13 of 1956, s. 40(*6*).
[10] Clause (*rr*) was inserted by Bom. 63 of 1958, s. 10.
[11] This clause was inserted by Bom. 13 of 1956, s. 40(*7*).
[12] Clause (*t*) was deleted by Mah. 41 of 1966, s. 334 (Schedule K).
[13] These clauses were added by Bom. 13 of 1956, s. 40 (*8*).
[14] Section 74A was substituted for the original by Bom. 33 of 1952, s. 15.

Appeal against award of Collector.

**75.** (*1*) An appeal against the award of the Collector made under section 66 may be filed to the [1][Maharashtra Revenue Tribunal], notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939. Bom. XII of 1939.

(*2*) In deciding appeals under sub-section (*1*), the [1][Maharashtra Revenue Tribunal] shall exercise all the powers which a court has and [2][subject to the regulations framed by such Tribunal under the Bombay Revenue Tribunal Act, 1939,] follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908. Bom. XII of 1939. V of 1908.

Revision.

**76.** (*1*) Notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939, an application for revision may be made to the [1][Maharashtra Revenue Tribunal] constituted under the said Act against any order of the Collector on the following grounds only:— Bom. XII of 1939.

(*a*) that the order of the Collector was contrary to law;

(*b*) that the Collector failed to determine some material issue of law; or

(*c*) that there was a substantial defect in following the procedure provided by this Act, which has resulted in the miscarriage of justice.

(*2*) In deciding applications under this section the [1][Maharashtra Revenue Tribunal] shall follow the procedure which may be prescribed by rules made under this Act after consultation with the [1][Maharashtra Revenue Tribunal].

Revisional powers of Collector.

[3][**76A.** Where no appeal has been filed within the period provided for it, the Collector may, *suo motu* or on a reference made in this behalf by the Divisional Officer or the State Government, at any time,—

(*a*) call for the record of any inquiry or the proceedings of any Mamlatdar or Tribunal for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of such Mamlatdar or Tribunal, as the case may be, and

(*b*) pass such order thereon as he deems fit:

Provided that [4][no such record shall be called for after the expiry of one year from the date of such order and] no order of such Mamlatdar or Tribunal shall be modified, annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.]

Court-fees.

**77.** Notwithstanding anything contained in the Court-fees Act, 1870, every application or appeal made under this Act to the Mamlatdar, Tribunal, Collector or [1][Maharashtra Revenue Tribunal] shall bear a court-fee stamp of such value as may be prescribed. VII of 1870.

Orders in appeal or revision.

**78.** (*1*) The Collector in appeal and the [1][Maharashtra Revenue Tribunal] in appeal under section 75 and in revision under section 76 may confirm, modify or rescind the order in appeal or revision or its execution or may pass such other order as may seem legal and just in accordance with the provisions of this Act.

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[1] These words were substituted for the words "Bombay Revenue Tribunal" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
[2] This portion was inserted by Bom. 13 of 1956, s. 41.
[3] Section 76A was inserted by Bom. 38 of 1957, s. 25.
[4] These words were inserted by Bom. 63 of 1958, s. 11.

(2) The orders of the Collector in appeal or of the [1][Maharashtra Revenue Tribunal] in appeal or revision shall be executed in the manner provided for the execution of the orders of the Mamlatdar and Tribunal under section 73.

Limitation.

**79.** Every appeal or application for revision under this Act shall be filed within a period of sixty days from the date of the order of the Mamlatdar, Tribunal or Collector as the case may be. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal or application for revision : IX of 1908.

[2][Provided that, an appeal against an order passed by the Mamlatdar under section 31 or 32F or an order passed by the Tribunal under section 32G before the date of the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960, may be filed within a period of six months from the date of such commencement.] Mah. IX of 1961.

Inquiries and proceedings to be judicial proceedings.

**80.** All inquiries and proceedings before the Mamlatdar, the Tribunal, the Collector and the [1][Maharashtra Revenue Tribunal] shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. XLV of 1860.

**80A.** [*Pleaders etc., excluded from appearance.*] *Deleted by Mah. 8 of 1963, s. 7.*

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## CHAPTER VII.

### OFFENCES AND PENALTIES.

Offences and penalties.

**81.** (*1*) Whoever contravenes any provision of any of the sections, sub-sections, or clauses mentioned in the first column of the following Table shall, on conviction, for each such offence, be punishable with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

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[1] These words were substituted for the words "Bombay Revenue Tribunal" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[2] This proviso was added by Mah. 9 of 1961, s. 27.

*Explanation.*—The entries in the second column of the said table headed "subject" are not intended as the definitions of offices described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column.

TABLE

| Section, sub-section or clause. | Subject | Fine which may be imposed. |
|---|---|---|
| 1 | 2 | 3 |
| | | Rs. |
| [1]* | * * * * * * * | * |
| [1]* | * * * * * * * | * |
| [1]* | * * * * * * * | * |
| Section 11 | .. Levy of cess, rate, vero-huk tax or service which has been abolished. | 1,000 |
| Section 26 (*2*) | .. Failure to give written receipt for the amount of rent received. | 100 |
| Section 29 | .. Taking possession of land or dwelling house contrary to section 29. | 1,000 |
| [2][Section 34A | .. Failure to furnish particulars of land or furnishing false particulars. | 25] |
| [3]* | * * * * * * * | * |

(*2*) An offence for the contravention of the provisions of [4][section 11 or sub-section (*2*) of section 26 or section 29] shall be cognizable.

## CHAPTER VIII.

### MISCELLANEOUS.

**82.** (*1*) The [5][State] Government may make rules, for carrying out the purposes of this Act. Rules.

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

[6][(*a*) the other pursuits to be prescribed under clause (*2A*) of section 2 ;
(*b*) the other factors to be prescribed under section 7 and section 9 ;
(*bb*) the manner in which the value of crop share or produce shall be determined under section 9C.]

[1] Entries relating to sections 5, 8 (*3*) and 9 (*3*) were deleted by Bom. 13 of 1956, s. 42 (*1*)(*a*).
[2] This entry was inserted by Bom. 38 of 1957, s. 26.
[3] Entry relating to section 66A was deleted by Mah. 41 of 1966, s. 334 (Schedule K).
[4] This portion was substituted for the words and figures "section 9 or 11" by Bom. 13 of 1956, s. 42 (*2*).
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] These clauses were substituted for the original clauses (*a*) and (*b*) by Bom. 13 of 1956, s. 43 (*1*).

(*c*) the penalty to be recovered under section 10 [1][or to be inflicted under sub-section (*5*) of section 13 ;]

[2][(*d*) the manner of verifying the surrender of a tenancy under section 15 ;]

(*e*) the fees to be paid for the grant of a certificate and the form of such certificate under sub-section (*3*) of section 17 ;

[3][(*ee*) the manner of making record of rights relating to sites and houses thereon under sub-section (*1*), and the fee to be paid and the form of certificate, under sub-section (*6*) of section 17B ;]

(*f*) the manner and the form in which a receipt is to be given by the landlord under section 26 ;

[4][(*g*) the manner of apportionment of rent under section 31D ;

(*ga*) the rules subject to which a tenant shall be entitled to choose the area and location under section 32C ;

[5][(*gaa*) the manner of giving intimation under sub-section (*1A*) of section 32F and sub-section (*1A*) of section 32O ;]

(*gb*) the form of public notice under sub-section (*1*), and the manner of recording statement under sub-section (*2*), of section 32G ;

(*gc*) the form of certificate to be issued under sub-section (*1*) of section 32M ;

(*gd*) the manner of referring a question for decision under sub-section (*3*) of section 32Q ;]

(*h*) the terms and conditions for exchange of lands and the form of certificate to be issued under section 33 ;

[6][(*hh*) the period within which and the manner in which particulars of land are to be furnished to Mamlatdars under section 34A ;]

[7][(*ha*) other factors to be taken into consideration for determining reasonable rent under section 43B ;]

(*i*) the manner of determining debts and liabilities under section 52 ;

(*j*) the manner of notifying liquidation scheme sanctioned under section 56 ;

(*k*) the conditions subject to which permission to acquire land or interests therein may be granted under section 63 ;

[8][(*ka*) other factors to be taken into consideration for determining reasonable price under section 63A ;

(*kb*) the manner in which an offer shall be made and the form in which notice shall be given under section 64 ;]

(*l*) the manner of making inquiry to determine the value of the estate, land or interest acquired and any other matter to be taken into consideration in determining the value under section 66 ;

[9]* * * * * * *

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[1] These words, brackets and figures were inserted by Bom. 13 of 1956, s. 43 (*2*).
[2] This clause was substituted for the original, *ibid.*, s. 43 (*3*).
[3] This clause was inserted, *ibid.*, s. 43 (*4*).
[4] These clauses were inserted, *ibid.*, s. 43 (*5*).
[5] This clause was inserted by Bom. 38 of 1957, s. 37 (*1*).
[6] This clause was inserted, *ibid.*, s. 27 (*2*).
[7] This clause was inserted by Bom. 31 of 1956, s. 43 (*6*).
[8] These clauses were inserted, *ibid.*, s. 43 (*7*).
[9] Clause (*la*) was deleted by Mah. 41 of 1966, s. 334 (Schedule K).

(*m*) the other functions of the Tribunal under section 68;

(*n*) the other powers of the Tribunal under section 69;

(*o*) the other procedure to be followed by the Mamlatdar and Tribunal under section 72;

(*p*) the value of the court-fee stamp payable on an application to the Mamlatdar or Tribunal or on an application or appeal to the Collector or [1][Maharashtra Revenue Tribunal] under section 77;

[2][(*pp*) the manner of disposal of land under sub-section (*3*) of section 84B;]

[3][(*pa*) the manner of grant of land under section 84C;]

[4][(*pb*) the period within which and the form in which an application under section 88C shall be made and the form of certificate to be issued under that section;]

(*q*) any other matter which is or may be prescribed under this Act.

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

[5][(*4*) All rules made under this section shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following, and publish in the *Official Gazette.*]

Delegation of powers [8][and duties].

**83.** The [6][State] Government may, subject to such restrictions and conditions as it may impose, by notification in the *Official Gazette*, delegate to any of its officers not below the rank of an Assistant or Deputy Collector, all or any of the [7][powers conferred or duties imposed] on it by this Act.

Restriction on acquirin land by transfer which is invalid.

[9][**83A.** (*1*) No person shall acquire land by transfer, where such transfer or acquisition is invalid under any of the provisions of this Act.

(*2*) Any person who acquires land in contravention of sub-section (*1*) shall, in the event of the transfer or acquisition being decided to be or declared invalid, be liable to the consequences in section 84 or 84C, as the case may be.]

Summary eviction.

**84.** Any person unauthorisedly occupying or wrongfully in possession of any land—

(*a*) the transfer [10][or acquisition] of which either by the act of parties or by the operation of law is invalid under the provisions of this Act,

(*b*) the management of which has been assumed under the said provisions, or

(*c*) to the use and occupation of which he is not entitled under the said provisions and the said provisions do not provide for the eviction of such persons,

may be summarily evicted by the Collector.

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[1] These words were substituted for the words " Bombay Revenue Tribunal " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[2] This clause was inserted by Bom. 38 of 1957, s. 27 (*3*).

[3] This clause was inserted by Bom. 13 of 1956, s. 43 (*9*).

[4] This clause was inserted by Bom. 38 of 1957, s. 27 (*4*).

[5] Sub-section (*4*) was inserted by Mah. 9 of 1961, s. 28.

[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[7] These words were substituted for the words " powers conferred and shall be deemed to have been substituted on 31st October 1949 " by Mah. 9 of 1961, s. 29 (*a*).

[8] These words were added, *ibid*, s. 29 (*b*).

[9] Section 83-A was inserted, *ibid.*, s. 30.

[10] These words were inserted by Bom. 13 of 1956, s. 44.

(G.C.P.) Mo-B H 5164—9*a*

Validation of transfers made before appointed day.

[1][84A. (*1*) A transfer of any land in contravention of section 63 or 64 as it stood before the commencement of the Amending Act, 1955, made after the 28th day of December 1948 (when the Bombay Tenancy and Agricultural Lands Act, 1948, came into force) and before the 15th day of June 1955 shall not be declared to be invalid merely on the ground that such transfer was made in contravention of the said sections if the transferee pays to the State Government a penalty equal to [2][one per cent.] of the consideration or Rs. 100, whichever is less : Bom. LXVII of 1948.

Provided that, if such transfer is made by the landlord, in favour of the tenant in actual possession, the penalty leviable in respect thereof shall be one rupee :

Provided further that if any such transfer is made by the landlord in favour of of any person other than the tenant in actual possession, and such transfer is made either after the unlawful eviction of such tenant, or results in the eviction of the tenant in actual possession, then such transfer shall not be deemed to be validated [3][unless such tenant has failed to apply for the possession of the land under sub-section (*1*) of section 29 within two years from the date of his eviction from the land.]

(*2*) On payment of such penalty, the Mamlatdar shall issue a certificate to the transferee that such transfer is not invalid.

[4][(*3*) Where the transferee fails to pay the penalty referred to in sub-section (*1*) within such period as may be prescribed, the transfer shall be declared by the Mamlatdar to be invalid and thereupon the provisions of sub-sections (*3*) to (*5*) of section 84C shall apply.]

Certain transfers made between appointed day and commencement of Amending Act, 1955 invalid.

84B. (*1*) Where in respect of a transfer or acquisition of any land made on or after the 15th day of June 1955 and before the commencement of the Amending Act, 1955, the Mamlatdar, *suo motu* or on the application of any person interested in such land, has reason to believe that such transfer or acquisition—

(*a*) was in contravention of section 63 or 64 as it stood before the commencement of the Amending Act, 1955, or

(*b*) is inconsistent with any of the provisions of this Act as amended by the Amending Act, 1955,

the Mamlatdar shall issue a notice in the prescribed form to the transferor, the transferee or the person acquiring such land, as the case may be, to show cause as to why the transfer or acquisition should not be declared to be invalid and shall hold an inquiry and decide whether the transfer or acquisition is or is not invalid :

[5][Provided that, where the transfer or acquisition was in favour of the tenant in possession of the land and the area of the land so transferred together with the area of other land, if any, cultivated personally by the tenant did not exceed the ceiling area, such transfer or acquisition shall not be declared to be invalid if the tenant pays to the State Government a penalty of one rupee within such period not exceeding three months as the Mamlatdar may fix.]

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[1] These sections were inserted by Bom. 13 of 1956, s. 45.
[2] These words were substituted for the words " five per cent. " by Bom. 63 of 1958, s. 12.
[3] These words were added by Bom. 15 of 1957, s. 14 (*1*).
[4] This sub-section was added, *ibid.*, s. 14 (*2*).
[5] This proviso was substituted for the original by Mah. 9 of 1961, s. 31.

(*2*) If after holding such inquiry the Mamlatdar declares the transfer or acquisition to be invalid, he shall direct that the land shall be restored to the person from whom it was acquired, and that the amount of consideration paid, if any, shall be recovered as an arrear of land revenue from the transferor and paid to the transferee and until the amount is so fully paid, the said amount shall be a charge on the land.

[1][(*3*) If the person to whom the land is directed to be restored refuses to take possession of the land, the Mamlatdar shall, subject to the provisions of section 63A, dispose of the land by sale in the prescribed manner in the following order of priority:—

(*i*) the tenant in actual possession of the land if he is not the transferee,

(*ii*) the persons or bodies in the order given in the priority list.

(*4*) The amount of price realised under sub-section (*3*) shall subject to the payment of any encumbrances subsisting on the land, be paid to the [2][transferor].

(*5*) If the transferee refuses to accept the amount paid to him under sub-section (*2*) [3][or the transferor refuses to accept the amount paid to him under sub-section (*4*) the amount shall be forfeited to the State Government].

Disposal of land, transfer or acquisition of which is invalid.

**84C.** (*1*) Where in respect of the transfer or acquisition of any land made on or after the commencement of the Amending Act, 1955, the Mamlatdar *suo motu* or on the application of any person interested in such land has reason to believe that such transfer or acquisition is or becomes invalid under any of the provisions of this Act, the Mamlatdar shall issue a notice and hold an inquiry as provided for in section 84B and decide whether the transfer or acquisition is or is not invalid.

(*2*) If after holding such inquiry, the Mamlatdar comes to a conclusion that the transfer or acquisition of land is invalid, he shall make an order declaring the transfer or acquisition to be invalid :

[4][Provided that, where the transfer of land was made by the landlord to the tenant of the land and the area of the land so transferred together with the area of other land, if any, cultivated personally by the tenant did not exceed the ceiling area, the Mamlatdar shall not declare such transfer to be invalid—

(*i*) if the amount received by the landlord as the price of the land is equal to or less than the reasonable price determined under section 63A and the transferee pays to the State Government a penalty of one rupee within such period not exceeding three months as the Mamlatdar may fix ;

(*ii*) if the amount received by the landlord as the price of the land is in excess of the reasonable price determined under section 63A and the transferor as well as the transferee pays to the State Government each a penalty equal to one-tenth of the reasonable price within such period as the Mamlatdar may fix].

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[1] These sub-sections were inserted by Bom. 38 of 1957, s. 2.
[2] This word was substituted for the word " transferee " by Bom. 63 of 1958, s. 13 (*2*).
[3] This portion was substituted for the word, brackets and figure " or *4*) ", *ibid.*, s. 13 (*3*).
[4] This proviso was substituted for the original by Mah. 9 of 1961, s. 32 (*1*).

(*3*) On the declaration made by the Mamlatdar under sub-section (*2*),—

(*a*) the land shall be deemed to vest in the State Government, free from all encumbrances lawfully subsisting thereon on the date of such vesting, and shall be disposed of in the manner provided in sub-section (*4*) ; the encumbrances shall be paid out of the occupancy price in the manner provided in section 32Q for the payment of encumbrances out of the purchase price of the sale of land but the right of the holder of such encumbrances to proceed against the person liable, for the enforcement of his right in any other manner, shall not be affected ;

(*b*) the amount which was received by the transferor as the price of the land shall be deemed to have been forfeited to the State Government and it shall be recoverable as an arrear of land revenue ; and

(*c*) the Mamlatdar shall, in accordance with the provisions of section 63A determine the reasonable price of the land.

(*4*) After determining the reasonable price, the Mamlatdar shall grant the land on new and impartible tenure and on payment of occupancy price equal to the reasonable price determined under sub-section (*3*) in the prescribed manner in the following order of priority :—

(*i*) the tenant in actual possession of the land ;

(*ii*) the persons or bodies in the order given in the priority list :

[1][ [2]Provided that, where the transfer of land was made by the landlord to the tenant of the land and the area of the land so transferred together with the area of the land, if any, cultivated personally by the tenant did not exceed the ceiling area then]—

(*i*) [3][if the amount] received by the transferor as the price of the land is equal to or less than the reasonable price, the amount forfeited under sub-section (*3*) shall be returned to the transferor and the land restored to the transferee on payment of a penalty of rupee one in each case ; and

(*ii*) [3][if the amount] received by the transferor as the price of the land is in excess of the reasonable price, the Mamlatdar shall grant the land to the transferee on new and impartible tenure and on payment of occupancy price equal to one-tenth of the reasonable price and out of the amount forfeited under sub-section (*3*), the transferor shall be paid back an amount equal to nine-tenths of the reasonable price.]

(*5*) The amount of the occupancy price realised under sub-section (*4*) shall, subject to the payment as aforesaid of any encumbrances subsisting on the land, be credited to the State Government :

Provided that where the acquisition of any excess land was on account of a gift or bequest, the amount of the occupancy price realised under sub-section (*4*) in respect of such land shall, subject to the payment of any encumbrances subsisting thereon, be paid to the donee or legatee in whose possession the land had passed on account of such acquisition.

*Explanation.*—For the purposes of this section "new and impartible tenure" means the tenure of occupancy which is non-transferable and non-partible without the provious sanction of the Collector.]

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[1] This proviso was added by Bom. 38 of 1957, s. 29.

[2] This portion was substituted for the words "Provided that in the case of a transfer by the landlord to the tenant of the land" by Mah. 9 of 1961, s. 32 (*2*) (*a*).

[3] These words were substituted for the words "where the amount", *ibid.*, s. 32 (*2*) (*b*).

[1][84CC. (*1*) Where the Collector *suo motu* or on an application made to him in this behalf has reason to believe that there has been a breach of any of the conditions subject to which permission to transfer land was granted under section 63, he shall issue a notice and hold an inquiry and after giving an opportunity of being heard to the person in whose favour such transfer was made, decide whether there has been any breach of condition of transfer, and on his holding in the affirmative, make an order declaring the transfer to be invalid, unless he holds that the breach was occasioned for reasons beyond the control of such person. Disposal of land, transfer or acquisition of which is invalid for breach of conditions.

(*2*) On making an order under sub-section (*1*), the land shall stand forfeited and transferred to, and shall vest without further assurance in, the State Government.

(*3*) The land vesting in the State Government under sub-section (*2*) shall be disposed of by the Collector to persons or bodies in the order given in sub-section (*2*) of section 32P or in such other manner as the State Government may, by general or special order, direct ; and the encumbrances lawfully subsisting thereon on the date of the vesting shall be paid out of the occupancy price in the manner provided in section 32Q for the payment of encumbrances out of the purchase price of the sale of land, but the right of the holder of such encumbrances to proceed against the person liable, for enforcement of his right in any other manner shall not be affected.]

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[1] Section 84CC was inserted by Mah. 8 of 1963, s. 8.

Temporary leases of land liable to be disposed of under section 32P or 84C.

[1][84D. (*1*) Where any land has become liable to be disposed of under section 32P or 84C, and the [2][Tribunal] or, as the case may be, the Mamlatdar considers that such disposal is likely to take time and that with a view to preventing the land remaining uncultivated it is necessary to take such a step, [3][the Tribunal, or the Mamlatdar may lease the land] for cultivation to any agriculturist who has under personal cultivation land less than the ceiling area, subject to the following conditions:—

(*i*) the lease shall be for a period of one year ;

(*ii*) the lessee shall pay rent at the rate fixed by the Mamlatdar and applicable to the land under section 9 ;

(*iii*) the lessee shall be liable to pay the land revenue and the other cesses specified in sub-section (*1*) of section 10A and payable in respect of the land ;

(*iv*) if the lessee fails to vacate the land on the expiry of the term of the lease, he shall be liable to be summarily evicted by the Mamlatdar.

(*2*) The person holding land on lease under sub-section (*1*) shall not be deemed to be a tenant within the meaning of this Act.

(*3*) The amount of rent realised under sub-section (*1*), shall be—

(*a*) paid to the owner of the land where the lands is liable to be disposed of under section 32P, and

(*b*) forfeited to Government, where the land is liable to be disposed of under section 84C].

Bar of jurisdiction.

85. (*1*) No Civil Court shall have jurisdiction to settle, decide or deal with any question [4][(including a question whether a person is or was at any time in the past a tenant and whether any such tenant is or should be deemed to have purchased from his landlord the land held by him)] which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar or Tribunal, a Manager, the Collector or the [5][Maharashtra Revenue Tribunal] in appeal or revision or the [6][State] Government in exercise of their powers of control.

(*2*) No order of the Mamlatdar, the Tribunal, the Collector or the [5][Maharashtra Revenue Tribunal] or the [6][State] Government made under this Act shall be questioned in any Civil or Criminal Court.

*Explanation.*—For the purposes of this section a Civil Court shall include a Mamlatdar's Court constituted under the Mamlatdars' Courts Act, 1906.

om. of 906.

Suits involving issues required to be decided under this Act.

[7][85A. (*1*) If any suit instituted in any Civil Court involves any issues which are required to be settled, decided or dealt with by any authority competent to settle, decide or deal with such issues under this Act (hereinafter referred to as the " competent authority ") the Civil Court shall stay the suit and refer such issues to such competent authority for determination.

(*2*) On receipt of such reference from the Civil Court, the competent authority shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate its decision to the Civil Court and such court shall thereupon dispose of the suit in accordance with the procedure applicable thereto.

om. of 906.

*Explanation.*—For the purpose of this section a Civil Court shall include a Mamlatdar's Court constituted under the Mamlatdars' Courts Act, 1906.]

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[1] This section was inserted by Bom. 38 of 1957, s. 30.
[2] This word was substituted for the word " Collector " by Mah. 9 of 1961, s. 33 (*a*).
[3] These words were substituted for the words " he may lease the land " *ibid.*, s. 33 (*b*).
[4] These brackets and words were deemed always to have been inserted by Mah. 49 of 1969, s. 2, Sch.
[5] These words were substituted for the words " Bombay Revenue Tribunal " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[7] This section was inserted by Bom. 13 of 1956, s. 46.

Control.

**86.** In all matters connected with this Act, the [1][state] Government shall have the same authority and control over the Mamlatdars and the Collectors acting under this Act as they have and exercise over them in the general and revenue administration.

Indemnity.

**87.** No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Saving in respect of provisions of Land Tenures Abolition Acts.

[2][**87A.** Nothing in this Act shall affect the provisions of any of the Land Tenures Abolition Acts, specified in Schedule III to this Act, in so far as such provisions relate to the conferment of right of an occupant in favour of any inferior holder or tenant in respect of any land held by him.]

Exemption to Government lands and certain other lands.

[3][**88.** [4][(*1*)] [5][Save as otherwise provided in sub-section (*2*), nothing in the foregoing provisions of this Act.] shall apply—

(*a*) to lands belonging to, or held on lease from, the Government ;

(*b*) to any area which the State Government may, from time to time, by notification in the *Official Gazette*, specify as being reserved for non-agricultural or industrial development ;

(*c*) to an estate or land taken [6]* * * * * under the management of the Court of Wards [7][or of a Government Officer appointed in his official capacity as a guardian under the Guardians and Wards Act, 1890]. [8]* * * * * * * VIII of 1890.

[9][(*d*) to an estate or land taken under management by the State Government under Chapter IV or section 65 except as provided in the said Chapter IV or section 65, as the case may be, and in sections 66, 80A, 82, 83, 84, 85, 86 and 87 :]

[10][Provided that from the date on which the land is released from management, all the foregoing provisions of this Act shall apply thereto ; but subject to the modification that in the case of a tenancy, not being a permanent tenancy, which on that date subsists in the land—

(*a*) the landlord shall be entitled to terminate the tenancy under section 31 (or under section 33B in the case of a certificated landlord) within one year from such date ; and

(*b*) within one year from the expiry of the period during which the landlord or certificated landlord is entitled to terminate the tenancy as aforesaid, the tenant shall have the right to purchase the land under section 32 (or under section 33C in the case of an excluded tenant) ; and

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This section was inserted, by Bom. 13 of 1956, s. 47.
[3] These sections were substituted for the original section 88, *ibid.*, s. 48.
[4] Section 88 was renumbered as sub-section (*1*) of that section by Mah. 9 of 1961, s. 34.
[5] These words were substituted for the words "Nothing in the foregoing provisions of this Act," *ibid.*, s. 34 (*1*) (*i*).
[6] The words "under management by the State Government under Chapter IV or section 65 or" were deleted by Bom. 15 of 1957, s. 15 (*1*) (*a*).
[7] These words and figures were inserted, *ibid.*, s. 15 (*1*) (*b*).
[8] The portion beginning with "or to the lands taken under management temporarily" and ending with "rightful holders" was deleted by Mah. 9 of 1961, s. 34 (*1*) (*ii*).
[9] This clause was inserted by Bom. 15 of 1957, s. 15(*2*).
[10] This proviso was substituted for the original by Mah. 9 of 1961, s. 34 (*1*) (*iii*).

tenant shall have the right to purchase the land under section 32 (or under section 33C in the case of an excluded tenant) ; and

(*c*) the provisions of sections 31 to 31D, both inclusive (or sections 33A and 33B in the case of a certificated landlord) and sections 32 to 32R, both inclusive (or sections 33A and 33C in the case of an excluded tenant) shall, so far as may be applicable, apply to the termination of a tenancy or the right to purchase the land, as aforesaid :

Provided further that,—

(*a*) in the case of a permanent tenancy the permanent tenant shall be entitled to purchase the land held by him on permanent tenancy—

(*i*) within one year from the date on which the estate or land is released from management, or

(*ii*) where such estate or land was released from management after the tiller's day but before the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960, within one year from such commencement, and

Mah. IX of 1961.

(*b*) where such permanent tenant is desirous of exercising the right conferred on him under this proviso, he shall accordingly inform the landlord and Tribunal in the prescribed manner within the said period of one year and the provisions of sections 32 to 32R shall, so far as may be applicable, apply to the right of the permanent tenant to purchase the land.]

[1][*Explanation.*—For the purposes of [2][clause (*a*) of sub-section (*1*)] of this section land held as inam or watan for service useful to Government and assigned as remuneration to the person actually performing such service for the time being under section 23 of the Bombay Hereditary Offices Act, 1874, or any other law for the time being in force shall be deemed to be land belonging to Government.]

Bom. II of 1874.

[3][(*2*) If any land held on lease from Government or any part thereof—

(*i*) is held at the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960, by a person under a sub-lease from the lessee and is cultivated personally by such person, or

Mah. IX of 1961.

(*ii*) is sub-let after the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960, by the lessee to any person for cultivation,

Mah. IX of 1961.

and such sub-letting of the land or part thereof is authorised in accordance with the terms of the lease, then all the provisions of this Act except sections 32 to 32R (both inclusive) and section 43 shall, notwithstanding any thing contained in such lease, apply to the land, or as the case may be, the part thereof, held under such sub-lease, as if the person holding it under such sub-lease were a tenant within the meaning of section 4 of this Act and the lessee were the landlord :

Provided that in the case of a sub-lease subsisting on the date of the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960, the lessee shall be entitled to terminate the sub-lease under section 31 within one year from such date and the provisions of sections 31 to 31D (both inclusive) shall so far as may be applicable, apply to the termination of the sub-lease.

Mah. IX of 1961.

*Explanation.*—In sub-section (*2*) of this section, references to a lessee include a reference to a person to whom the entire interest in the land held on lease or in any part thereof has been transferred or assigned.]

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[1] This *Explanation* was added by Bom. 63 of 1958, s. 15.
[2] This portion was substituted for "clause (*a*)" by Mah. 9 of 1961, s. 34(*1*)(*iv*).
[3] Sub-section (*2*) was inserted, *ibid.*, s. 34(*2*).

Special Provisions in respect of tenants of certain lands in villages specified in Schedule IV.

[1][88-AI]. Where any land being land situate in any of the villages specified in Schedule IV was not included within the limits of the former municipalities of Malad, Kandivali, Borivali, and Mulund immediately before the first day of February 1957, and a tenant of the land would have been deemed to have purchased the land under section 32 but for the Government Notification in the Revenue Department, No. TNC. 5157/31/90-M, dated the 29th March 1957, issued under clause (*b*) of section 88 in respect of the said villages, such tenant shall, notwithstanding the said notification, be deemed to have purchased the land under section 32 on the relevant date specified in that section and the provisions of sections 32 to 32R and section 43 shall apply to such purchase accordingly.]

Provisions of Act not to apply to land transferred to or by Bhoodan Samiti.

88A. Nothing in the foregoing provisions shall apply to land transferred to, or by, a Bhoodan Samiti recognized by the State Government in this behalf.

Exemption om certain Provisions to land of local authorities, universities and trusts.

88B. [2][(*1*)] Nothing in the foregoing provisions except sections 3, 4B, 8, 9, 9A, 9B, 9C, 10, 10A, 11, 13 and 27 and the provisions of Chapters VI and VIII in so far as the provisions of the said Chapters are applicable to any of the matters referred to in the sections mentioned above, shall apply—

(*a*) to lands held or leased by a local authority, or University established by law in the [3][Bombay area of the State of Maharashtra] ; and

(*b*) to lands which are the property of a trust for an educational purpose, [4][a hospital, Panjarapole, Gaushala] or an institution for public religious worship :

Provided that—

(*i*) such trust is or is deemed to be registered under the Bombay Public Trusts Act, 1950, and Bom. XXIX of 1950.

(*ii*) the entire income of such lands is appropriated for the purposes of suchtrust ;

[5][(*c*) to lands assigned or donated by any person before the 1st day of August 1956 for the purpose of rendering any of the following services useful to the community, namely :—

maintenance of water works, lighting or filling of water troughs for cattle ;]

[6][(*d*) to lands taken under management temporarily by the Civil, Revenue or Criminal Courts by themselves, or through receivers appointed by them, till the decision of the title of the rightful holders :

Provided that, from the date on which the land referred to in clause (*d*) is released from management, all the foregoing provisions of this Act shall apply thereto ; but subject to the modifications that in the case of a tenancy, not being a permanent tenancy, which on that date subsists in the land—

(*i*) the landlord shall be entitled to terminate the tenancy under section 31 (or under section 33B in the case of a certificated landlord) within one year from such date ; and

(*ii*) within one year from the expiry of the period during which the landlord or certificated landlord is entitled to terminate the tenancy as aforesaid, the tenant shall have the right to purchase the land under section 32 (o under section 33-C in the case of an excluded tenant : and

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[1] Section 88-AI was inserted by Bom. 63 of 1958, s. 16.

[2] Section 88B was renumbered as sub-section (*1*) of that section and sub-section (*2*) was inserted by Bom. 38 of 1957, s. 31.

[3] These words were substituted for the words "pre-Reorganisation State of Bombay, excluding the transferred territories" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[4] These words were substituted for the word "hospital" by Bom. 15 of 1957, s. 16.

[5] Clause (*c*) was added by Bom. 63 of 1958, s. 17.

[6] Clause (*b*) was inseted by Mah. 9 of 1961, s. 35.

(*iii*) the provisions of sections 31 to 31-D, both inclusive, (or sections 33-A and 33-B in the case of a certificated landlord) and sections 32 to 32-R, both inclusive, (or sections 33-A and 33-C in the case of an excluded tenant) shall, so far as may be applicable, apply to the termination of a tenancy or the right to purchase the land, as aforesaid:

Provided further that,—

(*a*) in the case of a permanent tenancy the permanent tenant shall be entitled to purchase the land held by him on permanent tenancy—

(*i*) within one year from the date on which the estate or land is released from management, or

Mah. IX of 1961.

(*ii*) where such estate or land was released from management after the tiller's day but before the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960, within one year from such commencement, and

(*b*) where such permanent tenant is desirous of exercising the right conferred on him under this proviso, he shall accordingly inform the landlord and Tribunal in the prescribed manner within the said period of one year and the provisions of sections 32 to 32-R shall, so far as may be applicable, apply to the right of the permanent tenant to purchase the land.]

[1][(*2*) For the purposes of this section, a certificate granted by the Collector, after holding an inquiry, that the conditions in the proviso to sub-section (*1*) are satisfied by any trust shall be conclusive evidence in that behalf.]

Exemption from certain provisions to lands leased by persons with the annual income not exceeding Rs. 1,500.

88C. (*1*) [2][Save as otherwise provided by sections 33-A, 33-B and 33-C, nothing in sections] 32 to 32-R (both inclusive) shall apply to lands leased by any person if such land does not exceed an economic holding and the total annual income of such person including the rent of such land does not exceed Rs. 1,500:

Provided that the provisions of this sub-section shall not apply to any person who holds such land as a permanent tenant or who has leased such land on permanent tenancy to any other person.

[3][(*2*) Every person eligible to the exemption provided in sub-section (*1*) shall make an application in the prescribed form to the Mamlatdar within whose jurisdiction all or most of the pieces of land leased by him are situate within the prescribed period for a certificate that he is entitled to such exemption.

(*3*) On receipt of such application, the Mamlatdar shall, after giving notice to the tenant or tenants of the land, hold inquiry and decide whether the land leased by such person is exempt under sub-section (*1*) from the provisions of sections 32 to 32R.

(*4*) If the Mamlatdar decides that the land is so exempt, he shall issue a certificate in the prescribed form to such person.

(*5*) The decision of the Mamlatdar under sub-section (*3*), subject to appeal to the Collector, shall be final.]

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[1] Section 88B as renumbered was sub-section (*1*) of that section and sub-section (*2*) was inserted by Bom. 38 of 1957, s. 31.

[2] This portion was substituted for the words "Nothing in sections" by Mah. 9 of 1961, s. 36.

[3] These sub-sections were substituted for the original sub-section (*2*) by Bom. 38 of 1957, s. 32.

Provisions of Act not to apply in relation to certain leases.

[1][88CC. Notwithstanding anything contained in this Act, a person who does not belong to a Scheduled Tribe shall, after the commencement of the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974, not have the right to purchase under this Act the land duly leased to him with the previous sanction of the Collector under the provisions of section 36 or section 36A of the Maharashtra Land Revenue Code, 1966]. Mah. XXXV of 1974. Mah. XLI of 1966.

Sections 32 to 32R not to apply to certain service lands.

[2][88CA. Nothing in sections 32 to 32-R (both inclusive), [3][33-A, 33-B and 33-C] shall apply to land held as inam or watan for service useful to Government but not assigned as remuneration to the person actually performing such service for the time being under section 23 of the Bombay Hereditary Offices Act, 1874, or any other law for the time being in force.] Bom. III of 1874.

Sections 32 to 32R not to apply to *saranjam*.

[4][88CB. Nothing in sections 32 to 32R (both inclusive) shall apply, or shall be deemed ever to have applied to any land held as *saranjam* on the date of the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1962.] Mah. XXXVI of 1962.

Power of Government to withdraw exemption.

[5][88D. (*1*) Notwithstanding anything contained in sections 88, 88A, 88B and 88C, if the State Government is satisfied—

(*i*) in the case of an area referred to clause (*b*) of section 88, that the chances of non-agricultural or industrial development are remote, or that after the eviction of tenants from any land in such area, the land has not been used for a non-agricultural or industrial purpose,

(*ii*) that the lands transferred by a Bhoodan Samiti are not cultivated personally by the transferee or are alienated by them.

(*iii*) in the case of lands referred to in clause (*b*) of section 88-B, that the trust is unable to look after the property or has mismanaged it or that there are disputes between the trust and the tenants, and

(*iv*) in the case of lands referred to in section 88C, that the annual income of the person has exceeded Rs. 1,500 or that the total holding of such person exceeds an economic holding,

the State Government may, by order published in the prescribed manner, direct that with effect from such date as may be specified in the order such land or area, as the case may be, shall cease to be exempted from all or any of the provisions of this Act from which it was exempted under any of the sections aforesaid, and any certificate granted under section 88B or 88C, as the case may be, shall stand revoked.

(*2*) Where any such land or area ceases to be so exempted then in the case of a tenancy subsisting on the date specified in the order issued under sub-section (*1*), the landlord shall be entitled to terminate such tenancy under section 31, within one year from such date and the tenant, unless his tenancy is so terminated, shall have a right to purchase the land within one year from the expiry of the period during which such landlord is entitled to terminate the tenancy. The provisions of sections 31 to 31D (both inclusive) and sections 32 to 32R (both inclusive) shall, so far as may be applicable, apply to such termination of tenancy and to the right of the tenant to purchase the land.]

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[1] Section 88-CC was inserted by Mah. 35 of 1974, Sch.
[2] Section 88CA was inserted by Bom. 63 of 1958, s. 18.
[3] This portion was inserted by Mah. 9 of 1961, s. 37.
[4] Section 88CB was inserted by Mah. 36 of 1962, s. 2.
[5] This section was substituted for the original by Bom. 38 of 1957, s. 33.

89. (*1*) The enactment specified in [1][Schedule I] is hereby repealed to the extent mentioned in the fourth column thereof.

(*2*) But nothing in this Act or any repeal effected thereby—

Bom. V of 1879. (*a*) shall affect the amendments made in section 59 of the Bombay Land Revenue Code, 1879, or sections 6 and 9 of the Khoti Settlement Act, 1880;

Bom. I of 1880. (*b*) shall, save as expressly provided in this Act, affect or be deemed to affect,

(*i*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*ii*) any legal proceeding or remedy in respect of any such right, title, interest, obligation or liability or anything done or suffered before the commencement of this Act,

and any such proceedings shall be continued and disposed of, as if this Act was not passed.

(*3*) Notwithstanding anything contained in sub-section (*2*), all proceedings for the recovery or restoration of the possession of the land under section 7 of the Act so repealed, pending at the date of the commencement of this Act before the Mamlatdar or in appeal before the Collector, shall, notwithstanding anything contained in this section, be deemed to have been instituted and pending before the Mamlatdar or in appeal before the Collector, as the case may be, under this Act and shall be disposed of in accordance with the provisions of this Act.

Bom. XXIX of 1939. (*4*) Any appointment, notification, notice, order, rule or form made or issued under the Bombay Tenancy Act, 1939, shall continue to be in force and deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act or rules made thereunder and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act.

Removal of doubt.

Bom. XXIX of 1939. XLVII of 1947. Bom. IV of 1950. Bom. XXII of 1950. [2][**89A.** It is hereby declared that sections 3, 3A and 4 of the Bombay Tenancy Act, 1939 as set out in Schedule I to this Act as modified from time to time by an Order made under the Extra Provincial Jurisdiction Act, 1947, or by or under any other legislative power (including any modifications made in those sections by the Bombay Merged States (Laws) Act, 1950, and the Bombay Merged Areas, Enclaves and Specified Areas (Amendment of Laws) Act, 1950), in relation to the areas comprised in the merged States as defined in the second mentioned Bombay Act, or in the enclaves as defined in the last mentioned Bombay Act, shall always be deemed to be extended to and to be in force in, those areas on the dates on which this Act was extended to and brought into force respectively in those areas; and accordingly,—

(*a*) all tenants falling under the said section 3, 3A or 4 as so modified, shall at all relevant dates be deemed always to be protected tenants under the respective sections, notwithstanding that their rights as such protected tenants are not recorded in the Record of Rights as required by the said section 3A aforesaid;

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[1] This word and figure were substituted for the words "the Schedule" by Bom. 13 of 1956, s. 49.

[2] Section 89A was inserted by Mah. 8 of 1963, s. 9.

(*b*) all proceedings for recovery or restoration of possession of land filed under section 34 of the Act as it stood immediately before the 1st day of August 1956 (being the date on which the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 (hereinafter referred to as 'the said Act of 1955') came into force) and pending on the commencement of the Bombay Tenancy, and Agricultural Lands (Second Amendment) Act, 1962, before the Mamlatdar or in appeal before the Collector, or any Tribunal or Court shall, notwithstanding any judgment, decree or order of a Court be deemed to have been instituted under section 31 as it stands substituted by the said Act of 1955 and shall be disposed of accordingly.] Bom. XIII of 1956. Mah. VIII of 1963.

Enactments amended.

[1][**90.** The enactments specified in Schedule II shall be amended to the extent mentioned in the fourth column thereof.]

[2][SCHEDULE I.]

*Enactment repealed.*

(*See* section 89.)

| Year. | No. | Short title. | Extent of repeal. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 1939 | XXIX | The Bombay Tenancy Act, 1939. | The whole except sections 3, 3-A and 4 as modified in the following manner, namely :— |
| | | Protected tenants. | 3. A tenant shall be deemed to be a protected tenant in respect of any land if—<br>(*a*) he has held such land continuously for a period of not less than six years immediately preceding either—<br>(*i*) the first day of January 1938, or<br>(*ii*) the first day of January 1945 ; and<br>(*b*) he has cultivated such land personally during the aforesaid period.<br>*Explanation I.*—If the person who held such land on the first day of January 1938 or the first day of January 1945, as the case may be, 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.<br>*Explanation II.*—If the person who held such land on the first day of January 1938 or the first day of January 1945, as the case may be, 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. |

[1] This section was inserted by Bom. 13 of 1956, s. 50.
[2] "The Schedule" was numbered, *ibid*, s. 51.

SCHEDULE I—*contd.*

| Year. | No. | Short title. | Extent of repeal. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| | | | *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. |
| | | | 3A. Every tenant shall, from the eighth day of November 1947 be deemed to be a protected tenant for the purposes of this Act and his rights as such protected tenant shall be recorded in the Record or Rights, unless his landlord has prior to the aforesaid date made an application to the Mamlatdar for a declaration that the tenant is not a protected tenant. Tenants on expiry of one year from coming into force of Bom. XXVI of 1946 to be deemed protected tenants. |
| | | | *Explanation.*—A person shall not be deemed to be a protected tenant if such person has been on an application made by the owner of the land as provided in section 3-A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a protected tenant. |
| | | Bom. XXIX of 1939. | |
| | | | 4. (*1*) Every tenant shall be deemed to be a protected tenant for the purposes of this Act, if he— Tenants evicted after 1st April 1937 to be deemed protected tenants. |
| | | | (*a*) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1937 and was evicted from such land on or after such date otherwise than by order of a competent authority on any of the grounds specified in section 14 of this Act, or |
| | | | (*b*) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1944 and was evicted from such land on or after such date otherwise than by order of a competent authority on any of the grounds specified in section 14 of this Act. |

SCHEDULE I—*concld.*

| Year. | No. | Short title. | Extent of repeal. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| Bom. VIII of 1938. | | | Provided that any tenant who had 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 had paid to the landlord such rent in cases falling under clause (*a*) within four months from the date on which this section came into force in the area in which the land is situated and in cases falling under clause (*b*) within six months from the eighth day of November 1946.<br><br>(*2*) A person who is deemed to be a protected tenant under sub-section (*1*) shall, if he had intimated in writing to the landlord in cases falling under clause (*a*) of sub-section (*1*) within one year after the coming into force of this section in the area in which the land is situated and in cases falling under clause (*b*) of sub-section (*1*) within one year after the eighth day of November 1946, 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—<br><br>(*a*) in cases falling under clause (*a*) of sub-section (*1*)—<br><br>(*i*) if the land has been leased out by the landlord for a period expiring after the 31st day of May immediately following the date of the coming into force of this section in the area in which the land is situated, from the date on which such lease expires ; and<br><br>(*ii*) in other cases, from the 1st day of June immediately following the date of the coming into force of this section in the area in which the land is situated ;<br><br>(*b*) in cases falling under clause (*b*) of sub-section (*1*)—<br><br>(*i*) if the land has been leased out by the landlord for a period expiring after 31st day of May from the date on which such lease expires ;<br><br>(*ii*) in other cases from the 1st day of June 1947 and on so recovering possession, he shall, subject to the provisions of this Act, hold the land on the said terms and conditions.<br><br>(*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 34 of this Act. |

[1][SCHEDULE II.

(*See* Sections 10A and 90.)

| Year. | No. | Short title. | Extent of amendment. |
|---|---|---|---|
| 1 | 2 | 3 | |
| 1879 | V | The Bombay Land Revenue Code, 1879. | (1) After section 84, the following section shall be inserted, namely :— |
| Sections 83 and 84 not to apply to certain tenancies. | | Bom. LXVII of 1948. | "84-IA. The provisions of sections 83 and 84 shall cease to apply to tenancies to which the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, apply." |
| | | | (2) In section 86, for the proviso, the following shall be substituted, namely :— |
| | | | "Provided that such application shall be made before the expiry of the year immediately succeeding the revenue year or the year of the tenancy in which the said rent or land revenue became payable." |
| | | | (3) In section 136, to sub-section (*1*) the following proviso shall be added, namely :— |
| | | Bom. LXVII of 1948. | "Provided that in the case of any land in the possession of a tenant, if such tenant is liable to pay land revenue in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, such tenant shall be primarily liable for the payment of the land revenue in respect of such land." |
| 1879 | VII | The Bombay Irrigation Act, 1879. | In section 56D, for the proviso to sub-section (*1*) the following shall be substituted, namely :— |
| | | Bom. LXVII of 1948. | "Provided that in the case of any land in the possession of a tenant, if such tenant is liable to pay the irrigation cess in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, such tenant shall be primarily liable to pay the irrigation cess, in respect of such land." |
| 1923 | VI | The Bombay Local Boards Act, 1923. | To section 96, the following proviso shall be added, namely :— |
| | | Bom. LXVII of 1948. | "Provided that in the case of any land in the possession of a tenant, if such tenant is liable to pay the cess in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, such tenant shall be primarily liable for the payment of the cess in respect of such land." |

[1] These Schedules were inserted by Bom. 13 of 1956, s. 51.

SCHEDULE II—*contd.*

| Year. | No. | Short title. | Extent of amendment. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 1925 | VII | The Bombay Co-operative Societies Act, 1925 : | In section 24AA,<br>(1) in clause (*i*)—<br>(*a*) after the words "owns any land" the words "or has interest in any land as a tenant" shall be inserted ;<br>(*b*) for the words "on the land owned by him and specified therein" the words "on such land or interest specified in the declaration" shall be substituted ;<br>(2) after clause (*ii*), the following clause shall be inserted, namely :—<br>"(*iia*) any person who has borrowed a loan from a society of which he is a member before the date of the coming into force of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 and has any interest in land as a tenant shall, as soon as possible, make a declaration in the form and to the effect referred to in clause (*i*) and no such person shall unless and until he has made such declaration be entitled to exercise any right as a member of the society ; " ; Bom. 13 of 1956.<br>(3) in clauses (*iii*), (*iv*), (*vi*) and (*vii*) for the word, brackets and figures "or (*ii*)" wherever they occur the brackets, figures, letter and word ", (*ii*) or (*iia*)" shall be substituted ;<br>(4) in clause (*iv*), after the words "of the land" the words "or interest therein" shall be inserted ;<br>(5) in clause (*vi*), after the words "on the land" the words "or interest" shall be inserted ;<br>(6) in clause (*vii*), after the words "on land" the words "or interest" shall be inserted.] |

## SCHEDULE III.

[*See* Sections 32G (*6*) and 87A]

*List of Land Tenures Abolition Acts.*

1. The Bombay Bhagdari and Narwadari Tenures Abolition Act, 1949 (Bom. XXXII of 1949).
2. The Bombay Maleki Tenure Abolition Act, 1949 (Bom. LXI of 1949).
3. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bom. LXII of 1949).
4. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bom. LXIII of 1949).
5. The Bombay Khoti Abolition Act, 1949 (Bom. VI of 1950).

6. The Bombay Paragana and Kulkarni Watans (Abolition) Act, 1950 (Bom. LX of 1950).

7. The Bombay Watwa Vazifdari Rights Abolition Act, 1950 (Bom. LXII of 1950).

8. The Salsette Estates (Land Revenue Exemption Abolition) Act, 1951 (Bom. LXVII of 1951).

9. The Bombay Land Tenures Abolition (Amendment) Act, 1953 (Bom. XXXVIII of 1953).

10. The Bombay Personal Inams Abolition Act, 1952 (Bom. XLII of 1953).

11. The Bombay Merged Territories (Ankadia Tenure Abolition) Act, 1953 (Bom. LXIII of 1953).

12. The Bombay Kauli and Katuban Tenures (Abolition) Act, 1953 (Bom. XLIV of 1953).

13. The Bombay Merged Territories (Baroda Mulgiras Tenure Abolition) Act, 1953 (Bom. XLV of 1953).

14. The Bombay Merged Territories (Baroda Watan Abolition) Act, 1953 (Bom. XLVI of 1953).

15. The Bombay Merged Territories Matadari Tenure Abolition Act, 1953 (Bom. XLVIII of 1953).

16. The Bombay Service Inams (Useful to Community) Abolition Act, 1953 (Bom. LXX of 1953).

17. The Bombay Merged Territories (Janjira and Bhor) Khoti Tenure Abolition Act, 1953 (Bom. LXXI of 1953).

18. The Bombay (Okhamandal Salami Tenure Abolition) Act, 1953 (Bom. I of 1954).

19. The Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (Bom. XXXIX of 1954).

20. The Bombay Bhil Naik Inams Abolition Act, 1955 (Bom. XXI of 1955).

21. The Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955 (Bom. XXII of 1955).]

# THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.

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# BOMBAY ACT No. LXVIII OF 1948.[1]

[THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.]

[*30th December 1948.*]

**An Act to amend the Provincial Insolvency Act, 1920, in its application to the Province of Bombay.**

V of 1920. WHEREAS it is expedient to amend the Provincial Insolvency Act, 1920, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Provincial Insolvency (Bombay Amendment) Act, 1948.

V of 1920. 2. In the Provincial Insolvency Act, 1920,—

Amendment of sections 6 and 6A of Act V of 1920.

(*a*) for clause (*i*) of section 6, the following shall be substituted, namely:—

"(*i*) if, after a creditor has served an insolvency notice on him under this Act 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, either comply with the requirements of the notice or satisfy the Court that 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 be could not lawfully set up in the suit or proceeding in which the decree or order was made against him."

(*b*) in sub-section (*1*) of section 6A, after the words "or his agent" the words ",or to satisfy the Court that 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" shall be inserted.

Validation of certain rules and notices. 3. The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,—

V of 1920. (*a*) the rules including the forms relating to insolvency notices made by the High Court under the Provincial Insolvency Act, 1920, before the date of coming into operation of this Act shall be deemed to have been made under the said Act as amended by this Act, and

(*b*) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the date of coming into operation of this Act shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, Part V, page 512.

# THE BOMBAY HOUSING BOARD ACT, 1948.

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FIRST SCHEDULE.

SECOND SCHEDULE.

# BOMBAY ACT No. LXIX OF 1948[1].

[THE BOMBAY HOUSING BOARD ACT, 1948.]†

[*30th December 1948*]

Amended by Bom. 19 of 1949.
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 49 of 1950
" " " 11 of 1951.
" " " 46 of 1951.
" " " 32 of 1952.
" " " 25 of 1955.
Adapted and modified by the Bombay Housing Board (Reconstitution) Order, 1960.[2]
Adapted and modified by the Bombay Housing Board (Dissolution and Reconstitution) Order, 1960.
Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
Amended by Mah. 7 of 1963.
" " " 3 of 1964.
" " " 10 of 1964.
" " " 28 of 1969.
" " " 56 of 1969.*
" " " 15 of 1971.
Amended by Mah. 28 of 1971.
" " " 31 of 1971.
" " " 23 of 1972.
" " " 35 of 1973**(2-7-1973)‡
" " " 48 of 1973††(11-10-1973).‡
" " " 33 of 1975 (6-9-1975)‡

**An Act to provide for measures to be taken to deal with and satisfy the need of housing accommodation.**

WHEREAS it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purpose of dealing with and satisfying the need of housing accommodation and with that object in view it is necessary to establish a Board and to make certain other provisions hereinafter appearing. It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Short title, extent and commencement.

**1.** (*1*) This Act may be called the Bombay Housing Board Act, 1948.

[3][(*2*) It extends to the Bombay and Hyderabad areas of the State of Maharashtra.]

(*3*) It shall come into force [4][in such local areas of the State, and on such dates as the State Government may, from time to time,] by notification in the *Official Gazette*, direct.

Definitions.

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

(*1*) "adjoining area" means such area as may be specified to be an adjoining area under section 24;

Mah. XV of 1971.

[5][(*1-A*) "apartment" means an apartment within the meaning of the Maharashtra Apartment Ownership Act, 1970;]

(*2*) "betterment charges" means the charges leviable under section 43;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 590.

[2] This Order was published in Government of India, Ministry of Home Affairs, Notification No. G.S.R.-176[8/3/59-SR(R)-12], dated the 12th February 1960.

[3] Sub-section (*2*) was substituted by Mah. 7 of 1963, s. 3(*1*).

[4] These words were substituted for the words "in such area and on such date as the State Government may", *ibid.*, s. 3(*2*).

[5] Clause (*1-A*) was inserted by Mah. 15 of 1971, Sch.

†This Act was extended to the Hyderabad area of the State of Maharashtra (*vide* Mah. 7 of 1963, s. 2).

*Maharashtra Ordinance No. XIII of 1969 was repealed by Mah. 56 of 1969, s. 3.

**Maharashtra Ordinance No. X of 1973 was repealed by Mah. 35 of 1973, s. 6.

‡This indicates the date of commencement of Act.

††Maharashtra Ordinance No. XIII of 1973 was repealed by Mah. 48 of 1973, s. 13.

(*3*) "Board" means the [1][Maharashtra Housing Board] constituted under section 3;

[2][(*3-A*) "Board premises" means any premises belonging to or vesting in the Board or taken on lease by the Board or entrusted to the Board under this Act for management and use for the purposes of this Act;]

(*4*) "building materials" means such commodities or articles as are specified to be building materials for the purposes of this Act by the [3][State] Government by notification in the *Official Gazette*;

[4][(*4-A*) "building" includes a building within the meaning of the Maharashtra Apartment Ownership Act, 1970;] Mah. XV of 1971.

(*5*) "by-laws" means by-laws made under section 68;

[5][(*6*) "Chairman" and "Vice-Chairman" means the Chairman and the Vice-Chairman, respectively of the Board;]

[6][(*6-A*) "competent authority" means an officer appointed as the competent authority under section 53A1;]

[7][(*7*) "Corporation" means the Municipal Corporation of Greater Bombay, or the Municipal Corporation of the City of Poona or of any other City constituted under the Bombay Provincial Municipal Corporations Act, 1949;] Bom. LIX of 1949.

(*8*) "Housing Scheme" means a Housing Scheme made under this Act;

(*9*) "Land" includes benefits to arise out of land and things attached to the earth or permanently fastened and things attached to the earth or permanently fastened to anything attached to the earth;

[8][(*9-A*) "Land Acquisition Act" means—

(*a*) in relation to the Bombay area of the State, the Land Acquisition Act, 1894, and the Land Acquisition (Bombay Amendment) Act, 1948; and I of 1894. Bom. V of 1948.

(*b*) in relation to the Hyderabad area of the State, the Land Acquisition Act (1309 Fasli);] Hyd. IX of 1309 Fasli.

[9][(*10*) "member" means the Chairman [10][, the Vice-Chairman] and other members of the Board;]

[11][(*10AA*) "municipality" means a municipality (including a notified area committee) constituted under the Bombay District Municipal Act, 1901 or the Bombay Municipal Boroughs Act, 1925 or a municipal or town committee constituted under the Hyderabad District Municipalities Act, 1956;] Bom. III of 1901.

[12][(*10A*) "premises" means any [13][land or] building or part of a buliding [14][including any apartment therein] and includes,— Bom. XVII of 1925. Hyd. XVIII of 1956.

(*i*) gardens, grounds and out-houses, if any, appertaining to such building or part of a building; and

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;]

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[1] These words were substituted for the words "each of the Housing Boards" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
[2] Clause (*3-A*) was inserted by Bom. 32 of 1952, s. 2(*1*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
[4] Clause (*4-A*) was inserted by Mah. 15 of 1971, Sch.
[5] Clause (*6*) was substituted by Mah. 48 of 1973, s. 2(*a*).
[6] This clause was substituted by Mah. 3 of 1964, s. 2(*1*).
[7] Clause (*7*) was substituted for the original by Mah. 7 of 1963, s. 4(*1*).
[8] Clause (*9-A*) was inserted, *ibid.*, s. 4(*2*).
[9] This clause was substituted for the original by Mah. 3 of 1964, s. 2(*2*).
[10] These words were inserted by Mah. 48 of 1973, s. 2(*b*).
[11] Clause (*10AA*) was inserted by Mah. 7 of 1963, s. 4(*3*).
[12] Clause (*10A*) was inserted by Bom. 32 of 1952, s. 2(*3*).
[13] These words were inserted by Bom. 25 of 1955, s. 2(*2*).
[14] These words were inserted by Mah. 15 of 1971, Sch.

(*11*) " prescribed " means prescribed by rules;

[1]* * * * * * *

(*13*) " regulations " means regulations made under secton 67;

(*14*) " rules " means rules made under section 66;

[1]* * * * * * *

(*16*) " Tribunal " means the Tribunal constituted under section 49;

(*17*) " year " means the year commencing on the 1st day of April and ending on the 31st day of March ;

Mah. V of 1963. [2][(*18*) " *Zilla Parishad* " means a *Zilla Parishad* constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.]

**2A.** [*Construction of certain references in their application to part of Mysore State to which the Act extends.*] *Omitted by the Bombay Housing Board (Dissolution and Reconstitution) Order, 1960.*

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## CHAPTER II.

### ESTABLISHMENT OF THE BOARD.

Incorporation.

**3.** [3][(*1*) The State Government shall, by notification in the *Official Gazette*, establish for the purposes of this Act a Board by the name of the Maharashtra Housing Board.]

[4]* * * * * * * * *

(*2*) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immoveable and to contract and do all things necessary for the purposes of this Act.

(*3*) For the purposes of this Act and [5][the Land Acquisition Acts,] the Board shall be deemed to be a local authority.

[6][*Explanation.*—The purposes of this Act referred to in sub-section (*3*) include the management and use of lands and buildings belonging to or vesting in the Board under or for the purposes of this Act and the exercise of its rights over and with respect to such lands and buildings for the purposes of this Act.]

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[1] Clauses (*12*) and (*15*) were deleted by Mah. 3 of 1964, s. 2(*3*).

[2] Clause (*81*) was added by Mah. 7 of 1963, s. 4(*4*).

[3] Sub-section (*1*) was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[4] Sub-sections (*1A*) and (*1B*) were omitted by the Bombay Housing Board (Dissolution and Reconstitution) Order, 1960.

[5] These words were substituted for the portion " the Land Acquisition Act, 1894, and the Land Acquisition (Bombay Amendments) Act, 1948, " by Mah. 7 of 1963, s. 5.

[6] This *Explanation* was added by Bom. 11 of 1951, s. 2.

Removal of doubt regarding non-applicability of Bom. LVII of 1947 [or any corresponding law].

[1][3A. For the removal of doubt, it is hereby declared that the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 [2][or any law corresponding thereto for the time being in force in any area to which this Act extends,]—

(*a*) shall not apply nor shall be deemed to have ever applied to any land or building belonging to or vesting in the Board under or for the purposes of this Act;

(*b*) shall not apply nor shall be deemed to have ever applied as against the Board to any tenancies or other like relationship created by the Board in respect of such land or building:

(*c*) but shall apply to any land or building let to the Board.]

Bom. LVII of 1947.

[10][Constitution of Board and removal of members].

[4][4. (*1*) The Board shall consist of a Chairman and a Vice-Chairman appointed by the State Government, and the following other members, that is to say:—

(*a*) twelve non-official members appointed by the State Government as follows:—

(*i*) one member, who in the opinion of the State Government, has special knowledge or practical experience in civil engineering or architecture ;

(*ii*) one member, who in the opinion of the State Government, has special knowledge of financial matters ;

(*iii*) five members representing Greater Bombay and Thana municipal area of whom one shall be from the City of Bombay, two from the Western Suburbs (comprising of H, K, P and R wards) of Greater Bombay and two from the Eastern Suburbs (comprising of L, M, N and T wards) of Greater Bombay and Thana municipal area;

(*iv*) one member representing the Bombay Revenue Division (excluding Greater Bombay and Thana municipal area) ;

(*v*) one member representing the Poona Revenue Division;

(*vi*) one member representing the Aurangabad Revenue Division;

(*vii*) one member representing the tenants of the Board

(*viii*) one member representing the employees of the Board;

(*b*) one officer of Government designated by the State Government in this behalf;

(*c*) the Housing Commissioner, *ex-officio*;

(*d*) the Chief Executive Officer of the Board, *ex-officio*, who shall also be the Secretary of the Board.]

[5][(*1A*) The names of [6][the Chairman, the Vice-Chairman and other members] appointed under sub-section (*1*) shall be published in the *Official Gazette*.]

(*2*) Any member of the Board may at any time resign his office by submitting his resignation to the [7][State] Government:

Provided that the resignation shall not take effect until it is accepted.

[8][(*3*) The State Government may, by notification in the *Official Gazette*, remove from office the Chairman [9][the Vice-Chairman] or any other member who—

(*a*) is, or has become, subject to any of the disqualifications mentioned in section 6; or

(*b*) in the opinion of the State Government has been guilty of any misconduct or neglect or has so abused his position as to render his continuance as member detrimental to the interests thereof or of the general public or is otherwise unfit to continue as member :

Provided that, no person shall be so removed from office unless he has been given an opportunity to show cause against his removal.]

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[1] This section was inserted by Bom. 11 of 1951, s. 3.
[2] These words were inserted by Mah. 7 of 1963, s. 6(*1*).
[3] These words were added, *ibid.*, s. 6(*2*).
[4] This sub-section was substituted by Mah. 48 of 1973, s. 3(*a*).
[5] This sub-section was inserted by Mah. 3 of 1964, s. 3,(*2*).
[6] These words were substituted for the words "the Chairman and other members" by Mah. 48 of 1973, s. 3(*b*).
[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[8] This sub-section was inserted by Mah. 3 of 1964, s. 3(*3*).
[9] These words were inserted by Mah. 48 of 1973, s. 3(*c*).
[10] This marginal note was substituted for the original by Mah. 3 of 1964, s. 3(*4*).

Existing Board for Bombay area to continue until new Board established for the whole area to which Act extends.

[1][4A. Until the Board is duly established under section 3, the existing Board functioning and operating in the Bombay area of the State immediately before the commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, shall be deemed to be the Board established for the purposes of this Act and shall function for the whole area to which this Act extends and on the establishment of the Board under the said section 3—

Mah. VII of 1963.

(*a*) the existing Board shall stand dissolved;

(*b*) all properties, funds and dues which are vested in, or realisable by, the existing Board shall without further assurance vest in and be realisable by, the Board so established ; and

(*c*) all liabilities which were enforceable against the existing Board shall be enforceable against the Board so established.]

Leave of absence of Chairman.

5. The [2][State] Government may from time to time grant to the Chairman such leave as may be admissible under the rules. [3][During the period the Chairman is on leave, the Vice-Chairman shall act as Chairman and, while so acting, shall be deemed for all purposes of this Act to be the Chairman.]

Disqualifications for appointment on Board.

6. (*1*) A person shall be disqualified for being appointed or continuing as [4][the Chairman, the Vice-Chairman or other member] of the Board, if he—

(*a*) holds any office or place of profit under the Board;

(*b*) is of unsound mind;

(*c*) is an uncertificated bankrupt or an undischarged insolvent;

(*d*) has directly or indirectly by himself or by any partner, any share or interest in any contract or employment with, by or on behalf of, the Board, or

(*e*) is a Director or a Secretary, Manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, [5][or

(*f*) has been or is convicted of any offence involving moral turpitude : ]

[6][Provided that, nothing contained in clause (*a*) shall apply to the Chairman, the Vice-Chairman, the Housing Commissioner or the Chief Executive Officer or any employees of the Board appointed by the State Government as a member of the Board.]

(*2*) A person shall not, however, be disqualified under clause (*d*) or (*e*) of sub-section (*1*) or be deemed to have any share or interest in any contract or employment within the meaning of these clauses, by reasons only of his or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in any newspaper in which any advertisements relating to the affairs of the Board is inserted.

(*3*) A person shall not also be disqualified under clause (*d*) or (*e*) of sub-section (*1*) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a shareholder of such company:

Provided that such person discloses to the [2][State] Government the nature and extent of the shares held by him.

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[1] Section 4A was substituted for the original by Mah. 7 of 1963, s. 7.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This portion was substituted for the portion beginning with the words "and any person" and ending with the words "to be the Chairman," by Mah. 48 of 1973, s. 4.
[4] These words were substituted for the words "the Chairman or member", *ibid.*, s. 5(*a*).
[5] This portion was added by Mah. 3 of 1964, s. 4.
[6] This proviso was substituted by Mah. 48 of 1973, s. 5(*b*).

Term of office and conditions of service [of Chairman and members].

7. [1][(*1*) The Chairman and every other member (not being) [2][the Vice-Chairman or] a member *ex-officio* shall hold office for a period of three years from the date of his appointment as Chairman, or as the case may be, other member :

Provided that, the State Government may extend the said period by a further period not exceeding one year :

Provided further that, after the expiry of the period of his appointment a person shall, unless disqualified, be eligible for re-appointment as Chairman or member.]

(*2*) Every member shall receive such allowances as may be prescribed.

[4][(*3*) The Chairman may hold office in an honorary capacity or on payment of remuneration. If any remuneration is to be paid to the Chairman, such remuneration and other conditions of service shall be such as may be prescribed.]

(*4*) The allowances to the members and the remuneration [5][, if any,] to the Chairman shall be paid from the fund of the Board.

Conditions of service and powers and duties of Vice-Chairman.

[6][7A. (*1*) The Vice-Chairman shall devote the whole of his time to the duties of his office and the Housing Commissioner and all other officers of the Board shall be subordinate to him. His term of office and other conditions of service shall be such as may be determined by the State Government from time to time.

(*2*) The Vice-Chairman shall exercise such powers and perform such duties of the Chairman by or under this Act, as the Chairman may, from time to time, by order in writing, delegate to him. He shall exercise such other powers and perform such other duties as are conferred on him by or under this Act or are entrusted to him by the Board or the State Government.]

Vacancy of a member.

8. If a member,—

(*a*) becomes subject to any of the disqualifications mentioned in section 6,

(*b*) tenders his resignation in writing to the [7][State] Government, or

(*c*) is absent without the permission of the Board from all the meetings of the Board for a period of two successive months,

he shall cease to be a member.

Vacancy to be filled as early as practicable.

9. Any vacancy of a member of the Board shall be filled in as early as practicable :

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

Proceedings presumed to be good and valid.

10. No disqualification of or defect in the appointment of any person acting as [8][Chairman, Vice-Chairman or any other member] of the Board shall be deemed to vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

Temporary absence of members.

11. If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise not involving the vacation of his appointment, the [7][State] Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

Appointment of officers and servants and creation of posts.

[9][12. (*1*) The Board shall have a Housing Commissioner, [10][a Financial Adviser, a Chief Executive Officer,] one or more Assistant Housing Commissioners, a Chief Accounts Officer and such other officers and servants as the Board may consider necessary for the efficient performance of its functions.

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[1] This sub-section was substituted for the original by Mah. 3 of 1964, s. 5(*1*).
[2] These words were inserted by Mah. 48 of 1973, s. 6.
[3] These words were substituted for the words "of member" by Mah. 3 of 1964, s. 5(*2*).
[4] Sub-section (*3*) was substituted, for the original by Bom. 32 of 1952, s. 3(*1*).
[5] These words wre inserted, *ibid.*, s. 3(*2*).
[6] Section 7A was inserted by Mah. 48 of 1973, s. 7.
[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[8] These words were substituted for the words "Chairman or a member" by Mah. 48 of 1973, s. 8.
[9] This section was substituted for the original by Mah. 3 of 1964, s. 6.
[10] These words were inserted by Mah. 48 of 1973, s. 9(*a*).

(*2*) The appointments of the Housing Commissoner, [1][Financial Adviser, Chief Executive Officer,] Assistant Housing Commissioners and Chief Accounts Officer shall be made by the State Government, and the appointments of other officers and servants of the Board shall be made by the Board :

Provided that, the Board shall not appoint any officer in the scale of pay the maximum of which exceeds one thousand and two hundred rupees a month, without obtaining the previous sanction of the State Govrnment.

(*3*) The Board shall have power to create any post on its establishment :

Provided that, no new post the scale pay of which exceeds one thousand and two hundred rupees per month shall be created by the Board, without the previous sanction of the State Government.]

Conditions of service of officers and servants.

**13.** The remuneration and other conditions of service of the [2]* * Housing Commissioner and other officers and servants of the Board shall be such as may be determined by regulations.

Provident Fund.

[3][**13A.** [4][(*1*) The State Government shall establish a provident fund for the Housing Commissioner, [5][Financial Adviser, Chief Executive Officer,] Assistant Housing Commissioners, Chief Accounts Officer and other officers and servants of the Board and such provident fund (hereinafter called " the said fund ") shall, notwithstanding anything contained in section 8 of the Provident Funds Act, 1925, be deemed to be a Government Provident Fund for the purposes of the said Act; and such fund may be administered by such officers of the State Government, or of the Board, as the State Government may specify in that behalf.] XIX of 1925.

(*2*) The Board shall, in respect of each of its employees who is a subscriber to the said fund, pay into the said fund such portion of the contribution in such manner as the State Government may, from time to time, determine.]

Absorption of existing staff of Bombay Provincial Housing Board by the Board.

**14.** (*1*) The Board shall take over and employ such of the existing staff serving for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46, dated 18th January 1947 as the [6][State] Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the regulations made thereunder :

Provided—

(*a*) that during the period of such employment all matters relating to the pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the members of the said staff shall be regulated by the Bombay Civil Services Rules or such other rules as may from time to time be made by the [6][State] Government ;

(*b*) that any such member shall have a right of appeal to the [6][State] Government against any order of reduction, dismissal or removal from service, fine or any other punishment.

(*2*) All permanent servants of the said staff taken over and employed by the Board under sub-section (*1*) shall have a lien on their posts in the service of the [6][State] Government and the period of their service under the Board shall, on their reversion to the service of the [6][State] Government, be counted for their increments, pension and other matters relating to their service.

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[1] These words were inserted by Mah. 48 of 1973, s. 9 (*b*).
[2] The word " Secretary " was deleted by Mah. 3 of 1964, s. 7.
[3] This section was inserted by Bom. 46 of 1951, s. 5.
[4] This sub-section was substituted by Mah. 3 of 1964, s. 8.
[5] These words were inserted by Mah. 48 of 1973, s. 10.
[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[1][14A. Before the first day of May of every year, the Board shall prepare and maintain a schedule of establishment as on the first day of April of that year showing,— Preparation and maintenance of schedule of establishment.

(*i*) the number, designations and grades and scales of pay of the officers and servants (other than the employees who are paid by the day or whose pay is charged to temporary work), whom it considers necessary and proper to employ for the purposes of this Act ;

(*ii*) the amount and nature of the salary, fees and allowances to be paid by the Board to each such officer or servant;

(*iii*) the amount to be paid by the Board towards leave salary, pension, provident fund or any other purpose in respect of each such officer or servant.]

**15.** No person who has directly or indirectly by himself or his partner or agent any share or interest in any contract, by or on behalf of the Board, or in any employment under, by or on behalf of the Board otherwise t an as an officer or servant thereof, shall become or remain an officer or servant of the Board. General disqualification of all officers and servants.

[2][**16.** (*1*) Subject to any rules made in this behalf, the Board may [3][, and when so directed by the State Government the Board shall,] from time to time appoint one or more Committees for the purpose of securing the efficient discharge of its functions, and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas. Appointment of Committees.

(*2*) Any Committee appointed under sub-section (*1*) shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.

(*3*) The State Government shall appoint a Housing Advisory Council. The functions of the Council shall be to advise Government on such matters as may be determined by the State Government. The Housing Advisory Council shall meet every six months to discharge the functions assigned to it in such manner as may be directed by the State Government.]

*Conduct of Business.*

**17.** The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely :— Meetings of Board.

(*a*) an ordinary meeting shall be held once at least every [4][month],

(*b*) the Chairman may, whenever he thinks fit, call special meetings,

(*c*) every meeting shall be presided over by the Chairman and in his absence, [5][by the Vice-Chairman, and in the absence of both,] by any member chosen by the meeting to preside for the occasion,

(*d*) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes, the person presiding shall have and exercise a second or casting vote,

(*e*) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

[6][**18.** (*1*) The Board may associate with itself, any person whose assistance or advice it may desire for carrying into effect any of the provisions of this Act : Temporary association of persons with Board for particular purpose.

Provided that, the number of persons so associated shall not be more than three.

(*2*) A person associated with the Board under sub-section (*1*) for any purpose shall have the right to take part in the deliberations of the Board relevant to that purpose, but shall not have the right to vote.

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[1] This section was inserted by Mah. 2 of 1964, s. 9.
[2] This section was substituted for the original by Mah. 3 of 1964, s. 10.
[3] These words were inserted by Mah. 48 of 1973, s. 11.
[4] This word was substituted for the word "fortnight", *ibid.*, s. 12(*a*).
[5] These words were inserted, *ibid.*, s. 12(*b*).
[6] This section was substituted for the original by Mah. 3 of 1964, s. 11.

(*3*) The State Government may, by order, depute its representatives to attend any meeting of the Board and to take part in the deliberations of the Board, on such items or subjects as the State Government may specify, but such representatives shall not have the right to vote.]

*Contracts.*

Power to make contracts.

**19.** The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

Execution of contract.

**20.** (*1*) Every contract shall be made on behalf of the Board by the Chairman : Provided that—

(*a*) no contract involving an expenditure of [1][rupees twenty lacs] and more shall be made without the previous sanction of the [2][State] Government,

(*b*) no contract involving an expenditure of [1][five thousand rupees] and more shall, subject to clause (*a*) above, be made without the previous sanction of the Board.

(*2*) Sub-section (*1*) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

Delegation of Board's power to sanction contracts.

**21.** Subject to any rule which the [2][State] Government may make in this behalf, the Board may by order direct that the power conferred on it under section 20 to sanction a contract shall be exercised by the Housing Commissioner or any other officer specified by it in the order.

Further provisions as to execution of contracts.

**22.** (*1*) Every contract by the Chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed.

(*2*) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

## CHAPTER III.

### HOUSING SCHEMES.

Powers and duties of Board to undertake housing schemes.

[3][**23.** (*1*) Subject to the provisions of this Act and subject to the control of the State Government, the Board may, from time to time, incur expenditure and undertake works in any area in which this Act is in force for the framing and execution of such housing schemes as it may consider necessary.

(*2*) The State Government may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of any housing scheme whether provided for by this Act or not, and the Board shall thereupon undertake the framing and execution of such scheme as if it had been provided for by this Act.

(*3*) The Board may, on such terms and conditions as may be agreed upon and with the previous approval of the State Government, take over for execution any housing scheme on behalf of a local authority or co-operative society or on behalf of an employer when the houses are to be built mainly for the residence of his employees, and the Board shall execute such scheme as it if had been provided for by this Act.]

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[1] These words were substituted for the words "rupees fifteen lacs" and "rupees three thousand" respectively, by Mah. 3 of 1964, s. 12.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was substituted for the original by Mah. 3 of 1964, s. 13.

Matters to be provided for by housing schemes.

**24.** Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely :—

(*a*) the acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme ;

(*b*) the laying or relaying out of any land comprised in the scheme ;

(*c*) the distribution or redistribution of site belonging to owners of property comprised in the scheme ;

(*d*) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;

(*e*) the demolition of obstructive buildings or portions of buildings ;

(*f*) the construction and reconstruction of buildings ;

(*g*) the sale, letting or exchange of any property comprised in the scheme ;

(*h*) the construction and alteration of streets and back lanes ;

(*i*) provision of the draining, water-supply and lighting of the area included in the scheme ;

(*j*) the provision of parks, playing-fields and open space for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing-fields, open spaces and approaches ;

[1][(*ja*) the reclamation or reservation of lands for markets, gardens, playing-fields, schools, dispensaries, hospitals and other amenities in the scheme ;

(*jb*) the letting out, management and use, of the Board premises ;].

(*k*) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to rivers or other sources and means of water supply ;

(*l*) the provision of accommodation for any class of inhabitants ;

(*m*) the advance of money for the purpose of the scheme ;

(*n*) the provision of facilities for communication and transport ;

(*o*) the collection of such information and statistics as may be necessary for the purposes of this Act ;

(*p*) any other matter for which, in the opinion of the [2][State] Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

*Explanation.*—For the purposes of this section, the [2][State] Government may, on the recommendation of the Board, by notification in the *Official Gazette*, specify such area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

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[1] Clauses (*ja*) and (*jb*) were inserted by Mah. 3 of 1964, s. 14.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**No housing scheme to be made for area included in improvement scheme or be inconsistent with town planning scheme.**

**25.** (*1*) No housing scheme shall be made under this Act for any area for which an improvement scheme has been sanctioned by the [1][State] Government under [2][any enactment for the time being in force for the constitution of a municipal corporation for any area [3][in the State to which this Act extends], nor any housing scheme made under this Act contain anything which is inconsistant with any of the matters included in a town planning scheme sanctioned by the [1][State] Government under the Bombay Town Planning Act, 1915 [4][or which is sanctioned (or the sanction for which is continued in force) by or under the Bombay Town Planning Act, 1954 or in any town planning scheme duly made by or under any corresponding law for the time being in force]. Bom. I of 1915. Bom. XXV. II of 1955.

(*2*) If any dispute arises whether a housing scheme made under the Act includes any area included in an improvement scheme sanctioned under [5][any such enactment as aforesaid] or contains anything inconsistent with any matter included in a town planning scheme sanctioned under the Bombay Town Planning Act, 1915, [6][or which is sanctioned (or the sanction for which is continued in force) by or under the Bombay Town Planning Act, 1954, or in any town planning scheme duly made by or under any corresponding law for the time being in force,] the decision of the [1][State] Government shall be final. Bom. I of 1915. Bom. XXV. II of 1955.

**Submission of budget to Board.**

[7][**26.** (*1*) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board, a budget of the Board for the next year.

(*2*) Every such budget shall be prepared in such form as may be prescribed and shall make provision for—

(*i*) the housing schemes which the Board proposes to execute whether in part or whole during the next year,

(*ii*) the due fulfilment of all the liabilities of the Board, and

(*iii*) the efficient administration of this Act,

and shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year, and such other particulars as may be prescribed.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words and figures "Chapter XII-A of the City of Bombay Municipal Act, 1888" by Bom. 59 of 1949, s. 491, App. III.

[3] These words were substituted for the words "in the State of Bombay" by the Bombay Housing Board (Reconstitution) Order, 1960.

[4] This portion was inserted by Mah. 7 of 1963, s. 8 (*1*).

[5] These words were substituted for the words and figures "the City of Bombay Municipal Act, 1888" by Bom. 59 of 1949, s. 491, App. III.

[6] This portion was inserted by Mah. 7 of 1963, s. 8 (*2*).

[7] Sections 26 to 31 were substituted for the original sections 26 to 33 by Mah. 3 of 1964, s. 15.

Board's sanction to Budget.

**27.** The Board shall consider the budget laid before it under the last preceding section and sanction it with or without modifications.

Submission of sanctioned budget to State Government for approval.

**28.** (1) Every budget sanctioned by the Board under the last preceding section shall be submitted to the State Government for approval. At any time after the receipt of the Budget, the State Government may approve the budget as sanctioned by the Board or return it to the Board for making such modifications therein as the State Government may deem fit.

(2) Where a budget is returned to the Board by the State Government for making any modifications therein, the Board shall forthwith make such modifications and submit the budget as so modified to the State Government, which may then approve it.

Supplementary budget.

**29.** The Chairman may, at any time during the year for which a budget has been approved by the State Government, lay before the Board a supplementary budget and the provisions of sections 26, 27 and 28 shall apply to such supplementary budget.

Publication and execution of housing schemes.

**30.** After the budget is approved by the State Government, the Board shall cause the housing schemes, in respect of which provision is made in the budget, to be published in the *Official Gazette* in such manner as may be prescribed and proceed to execute the new schemes.

Variation of housing schemes.

**31.** The Board may at any time vary any housing schemes or any part thereof included in the budget approved by the State Government :

Provided that, no such variation shall be made if it involves an expenditure in excess of 10 per cent. of the amount as included in the budget approved by the State Government for the execution of any housing scheme or if it affects the scope or purpose of such scheme.]

Transfer to the Board for purposes of housing scheme of land vested in a Corporation, municipality or *Zilla Parishad.*

[1][**34.** (1) Whenever any street, square or other land, or any part thereof, situated in any area of a Corporation, municipality or *Zilla Parishad* and vested in the Corporation, municipality or *Zilla Parishad* constituted therefor, is [2][required for the purposes of any housing scheme included in the budget approved by the State Government], the Board shall give notice accordingly to the Corporation, municipality or *Zilla Parishad*, as the case may be.

(2) Where the Corporation, municipality or *Zilla Parishad* concurs, such street, square or other land, or part thereof, shall vest in the Board.

(3) Where there is any dispute, the matter shall be referred to the State Government. The State Government shall, after hearing the Corporation, municipality or *Zilla Parishad* concerned, decide the matter. The decision of the State Government shall be final. If the State Government decides that such street, square or land, or part thereof, shall vest in the Board, it shall vest accordingly.

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[1] Section 34 was substituted for the original by Mah. 7 of 1963, s. 9.

[2] These words were substituted for the words beginning with the words "within the area included in the programme" and ending with words "in such programme" by Mah. 3 of 1964, s. 16.

(*4*) Nothing in this section shall affect the rights or powers of the Corporation, municipality or *Zilla Parishad* in or over any drain or water work in such street, square or land.]

Compensation in respect of land vested in the Board.

**35.** (*1*) Where any land vests in the Board under the provisions of section 34 and the Board makes a declaration that such land shall be retained by the Board only until it revests in the Corporation, the municipality [1][or the *Zilla Parishad*] as part of a street or an open space under section 38, no compensation shall be payable by the Board to the Corporation, the municipality [1][or the *Zilla Parishad*], as the case may be, in respect of that land.

(*2*) Where any land vests in the Board under section 34 and no declaration is made under sub-section (*1*) in respect of the land, the Board shall pay to the Corporation, the municipality [1][or the *Zilla Parishad*], as the case may be, as compensation a sum equal to the value of such land.

(*3*) If, in any case where the Board has made a declaration in respect of any land under sub-section (*1*), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the Corporation, the municipality [1][or the *Zilla Parishad*], as the case may be, the Board shall pay to the Corporation, the municipality [1][or the *Zilla Parishad*] compensation in respect of such land in accordance with the provisions of sub-section (*2*).

Power of Board to turn or close public street vested in it.

**36.** (*1*) The Board may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.

(*2*) Whenever the Board discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall, as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(*3*) In determining the compensation payable to any person under sub-section (*2*) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

(*4*) When any public street vested in the Board is permanently closed under sub-section (*1*), the Board may sell or lease so much of the same as is no longer required.

Reference to Tribunal in case of dispute under section 35 or 36.

**37.** If there is any dispute as to whether any compensation is payable under section 35 or as to the amount of compensation payable under section 35 or section 36, as the case may be, the matter shall be referred to the Tribunal.

[1] These words were substituted for the words " or the local board " by Mah. 7 of 1963, s. 10.

Vesting in Corporation, municipality [or *Zilla Parishad*] of streets laid out or altered and open space provided by the Board under housing scheme.

**38.** (*1*) Whenever the [1][State] Government is satisfied—

(*a*) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained [2][as required for any housing schemes included in the budget approved by the State Government] under section 28, and

(*b*) that such lamps, lamp-posts and other apparatus as the Corporation, [3][the municipality or *Zilla Parishad*,] as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and

(*c*) that water and other sanitary conveniences have been duly provided in such street,

he [1][State] Government may declare the street to be a public street, and the street shall thereupon vest in the Corporation, municipality [4][or *Zilla Parishad*, as the case may be, and shall thenceforth be maintained, kept in repair, lighted and] cleaned by the Corporation, municipality [4][or *Zilla Parishad*].

(*2*) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, [5][the Board may at its option by resolution transfer such open space to the local authority concerned on completion of the scheme and thereupon such open space shall vest in,] and be maintained at the expense of, the local authority :

Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay-out such space and provide footpaths therein, and if necessary, to provide lamps and other apparatus for lighting it.

(*3*) If any difference of opinion arises between the Board and the Corporation, municipality [4][or *Zilla Parishad*] in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the [1][State] Government whose decision shall be final.

Other duties of the Board.

[6][**39.** (*1*) It shall be the duty of the Board to take necessary measures to maintain, allot, lease and otherwise use the Board premises and to collect rents, compensation and damages in respect thereof.

(*2*) The Board may,—

(*i*) provide technical advice to the State Government and scrutinize projects under housing schemes in the area to which this Act extends when required by the State Government to do so ;

(*ii*) undertake research on various problems connected with housing in general and find out in particular the economical methods of constructing houses suited to local conditions ;

(*iii*) undertake comprehensive surveys of problems of housing ;

(*iv*) do all things for—

(*a*) unification, simplification and standardisation of building materials ;

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws order, 1950.

[2] The e words were substituted for the words " in the manner provided in the programme sanctioned by the State Government " by Mah. 3 of 1964, s. 17(*1*).

[3] These words were substituted for the words " the municipality or the local board " by Mah. 7 of 1963, s. 11(*1*).

[4] These words were substituted for the words " or local board ", *ibid*, s. 11.

[5] These words were substituted for the portion beginning with the words " it shall on completion " and ending with the words " thereupon vest in " by Mah. 3 of 1964, s. 17(*2*).

[6] This section was substituted for the original, *ibid*, s. 18.

(*b*) encouraging pre-fabrication and mass production of house components;

(*c*) organising or undertaking the production of building materials for residential or non-residential houses;

(*d*) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.]

Board to assume management of requisitioned lands.

**40.** The Board shall, subject to the general control of the [1][State] Government, assume management of [2][all such lands requisitioned, or deemed to be requisitioned or continued to be subject to requisition, by or under the authority of the State Government under the Bombay Land Requisition Act, 1948 or by or under any corresponding law for the time being in force,] as the [1][State] Government may direct. Bom. XXXI of 1948

Reconstitution of plots.

**41.** A housing scheme may provide—

(*a*) for the formation of a reconstituted plot by the alterations of the boundaries of an original plot;

(*b*) with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall, with or without alteration of boundaries be held on ownership in common as a reconstituted plot;

(*c*) for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme; and

(*d*) for the transfer of ownership of a plot from one person to another.

Power to exempt schemes from provisions of sections 26 [to 31].

[3][**41A.** The [1][State] Government may, by general or special order published in the *Official Gazette*, exempt [4][any housing scheme undertaken by the Board] from all or any of the provisions of [5][sections 26 to 31 (both inclusive)] subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.]

## CHAPTER IV.

### ACQUISITION AND DISPOSAL OF LAND.

Power to purchase or lease by agreement.

**42.** (*1*) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.

(*2*) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in [7][the Land Acquisition Act], as modified by this Act and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of [7][the Land Acquisition Act].

Betterment charges.

**43.** (*1*) When by the making of a housing scheme any land in the area comprised in the scheme will in the opinion of the Board be increased in value, the Board in framing the scheme may declare that betterment charges shall be payable by the

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This portion was substituted for the portion beginning with "all such lands requisitioned" and ending with "Requisition Act, 1948" by Mah. 7 of 1963, s. 12.

[3] Section 41A was inserted by Bom. 19 of 1949, s. 3.

[4] These words were substituted for the words "any housing scheme entrusted by it to the Board" by Mah. 3 of 1964, s. 19 (*1*).

[5] These words, figures and brackets were substituted for the words, figures and brackets "section 26 to 33 (both inclusive)" *ibid*, s. 19(*2*).

[6] The word and figure was substituted for the word and figure "to 33" *ibid*, s. 19(*3*).

[7] These words were substituted for the words and figures "the Land Acquisition Act, 1894" by Mah. 7 of 1963, s. 13.

owner of the land or any person having an interest therein in respect of the increase in value of the land from the execution of the scheme.

(*2*) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be one half of such increase in value.

(*3*) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.

[1][*Explanation.*—For the purpose of this sub-section, the State Government may, on the recommendation of the Board, by notification in the *Official Gazette*, declare such land which is situated near or contiguous or adjacent to any land comprised in a scheme to be adjacent to the area comprised in such scheme.]

Notice to persons liable for betterment charges.

**44.** (*1*) The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.

(*2*) After hearing such person or if such person fails to appear after the expiry of the period within which such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.

(*3*) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final.

(*4*) If the person concerned does not accept the assessment proposed by the Board the matter shall be referred to the Tribunal.

(*5*) The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

Agreement for payment of betterment charges.

**45.** (*1*) Any person liable to pay betterment charges in respect of any land may at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate as may be prescribed.

(*2*) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (*1*) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

Recovery of betterment charges.

**46.** All sums payable in respect of any land by any person in respect of betterment charges under section 43 or by any person under an agreement under section 45 shall be recoverable on behalf of the Board as an arrear of land revenue.

Power to dispose of land.

**47.** Subject to any rules made by the [2][State] Government under this Act, the Board may retain, lease, sell, exchange or otherwise dispose of, any land, any building or other property vesting in it and situate in the area comprised in housing scheme [3][permitted under this Act].

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[1] This Explanation was added by Mah. 3 of 1964, s. 20.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were substituted for the words "sanctioned under this Act" by Mah. 3 of 1964, s. 21.

**Disputes regarding reconstitution of plots.**

48. (*1*) Where by the making of a housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Board, for compensation. The Board may after making such inquiry as it thinks fit decide whether the applicant is entitled to any compensation and if so to what extent. If the person is dissatisfied with the decision of the Board in the matter, he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.

(*2*) The Tribunal shall then after making an inquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

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## CHAPTER V.

### TRIBUNAL.

**Constitution of the Tribunal.**

49. (*1*) The Tribunal shall consist of a President and two assessors. In Greater Bombay the President shall be such Judge of the Bombay City Civil Court as may be selected by the [1][State] Government and elsewhere the District Judge. The assessors shall be appointed by the [1][State] Government.

(*2*) Each assessor of the Tribunal shall receive such remuneration as the [1][State] Government may determine. The remuneration shall be paid by the Board to the President of the Tribunal for distribution.

**Duties of the Tribunal.**

50. The Tribunal shall—

(*a*) decide whether any compensation is payable under section 35;

(*b*) decide the amount of compensation in matters referred to it under section 37;

(*c*) decide disputes relating to betterment charges referred to it under section 44;

(*d*) decide disputes relating to the reconstitution of plots referred to it under section 48 and the amount of compensation to be awarded in consequence thereof;

(*e*) decide such other matters as may be prescribed by rules made in this behalf.

**Powers of President.**

51. (*1*) In the hearing and decision of any matters referred to the Tribunal under this Act,—

(*a*) if there is any disagreement between the President and the assessors of the Tribunal on a point of fact, the opinion of the majority shall prevail; and

(*b*) if there is any disagreement between the President and the assessors of the Tribunal on a point of law or procedure, the assessors shall be bound by the opinion of the President.

(*2*) The decision of the President as to what is the question of law or fact shall be final.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Powers of and procedure before Tribunal.

**52.** (*1*) In making inquiries under sections 35, 37, 44 and 48, the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of—

(*a*) a proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses.

(*2*) In all proceedings before the Tribunal, the Tribunal shall follow the procedure as may be prescribed by rules made by the [1][State] Government in this behalf.

(*3*) Every order made by the Tribunal for the payment of money except that for the recovery of which provision has been made in section 46 and for the delivery of the possession or removal of any structure shall be enforced by the Bombay City Civil Court in Greater Bombay and elsewhere by the District Court in the jurisdiction of which the land comprised in the housing scheme is situate as if it was the decree of the said Court.

(*4*) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.

XLV of 1860.

Decision of Tribunal to be final.

**53.** The decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be questioned in any court of law.

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## [2][CHAPTER V-A

### POWER TO EVICT PERSONS FROM BOARD PREMISES.

Appointment of competent authorities.

[3][**53A1.** The State Government may, by notification in the *Official Gazette*, appoint an officer who holds or has held office, which in its opinion is not lower in rank than that of a Deputy Collector or an Executive Engineer, to be the competent authority for performing the functions of the competent authority under this Chapter in such area, or in respect of such premises or class of premises, as may be specified in the notification, and more than one officer may be appointed as competent authority in the same area in respect of different premises or different classes of premises.]

Power to evict certain persons from Board premises.

**53A.** (*1*) If the competent authority is satisfied,—

(*a*) that the person authorised to occupy any Board premises has, [4]* * * * * * *

(*i*) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(*ii*) sub-let, without the permission of the Board, the whole or any part of such premises, or

[5][(*iia*) committed, or is committing any act contrary to the provisions of clause (*o*) of section 108 of the Transfer of Property Act, 1882, or

IV of 1882.

(*iib*) made, or is making, material additions to, or alterations in, such premises without the previous written permission of the Board, or]

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[1] This word was substituted for the word " Provincial ' by the Adaptation of Laws Order, 1950.
[2] Chapter V-A containing section 53A-53D was inserted by Bom. 32 of 1952, s. 6.
[3] This section was inserted by Mah. 3 of 1964, s. 22.
[4] The portion " whether before or after the commencement of the Bombay Housing Boar.' (Amendment) Act, 1952, " was deleted by Mah. 7 of 1963, s. 14.
[5] These sub-clauses were inserted by Mah. 3 of 1964, s. 23.

(*iii*) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises, or

(*b*) that any person is in unauthorised occupation of any Board premises, the competent authority may, [1][* * * * * * * * ] by notice served (*i*) by post, (*ii*) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice.

[2][(*1A*) Before an order under sub-section (*1*) is made against any person the competent authority shall inform the person by notice in writing of the grounds for which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the competent authority for extension of the period specified in the notice, the competent authority may grant the same on such terms as to payment and recovery of the amount claimed in the notice as he deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the record of the case and such person shall be entitled to appear before the officer proceeding in this connection by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (*1*).]

(*2*) If any person refuses or fails to comply with an order made under sub-section (*1*), the competent authority may evict that person from, and take possession of the premises and may for that purpose use such force as may be necessary.

(*3*) If a person, who has been ordered to vacate any premises under sub-clause (*i*) or (*iii*) of clause (*a*) of sub-section (*1*) within one month of the date of service of the notice or such longer time as the competent authority may allow, pays to the Board the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the competent authority, as the case may be, the competent authority shall, in lieu of evicting such person under sub-section (*2*), cancel its order made under sub-section (*1*) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

[3][*Explanation.*—For the purposes of this section and section 53B, the expression "unauthorized occupation", in relation to any person authorized to occupy any Board premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.]

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[1] The words " notwithstanding anything contained in any law for the time being in force, " were deleted by Mah. 28 of 1969, s. 2.

[2] Sub-section (*1A*) was inserted by Bom. 25 of 1955, s. 3(*1*).

[3] *The Explanation* was added, *ibid.*, s. 3(*2*).

Power to recover rent or damages as arrears of land revenue.

**53B.** (*1*) Subject to any rules made by the State Government in this behalf and without prejudice to the provisions of section 53A, where any person is in arrears of rent payable in respect of any Board premises, the competent authority may, by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer-door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed, order that person to pay the same within such time not less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue.

(*2*) Where any person is in unauthorised occupation of any Board premises, the competent authority may, [1][in the manner, and having regard to the principles of assessment of damages, prescribed in this behalf,] assess such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served (*i*) by post, or (*ii*) by affixing a copy of it on the outer-door or some other conspicuous part of such premises, or (*iii*) in such other manner as may be prescribed order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

[2][(*3*) No order shall be made under sub-section (*2*) until after the issue of a notice in writing to the person calling on him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the competent authority.]

Rent to be recovered from deductions from salary or wages in certain cases.

**53BB.** (*1*) Without prejudice to the provisions of section 53A, any person who is an employee of the State Government or a local authority and who has been allotted any Board premises, may execute an agreement in favour of the State Government; providing that the State Government or the local authority, as the case may be, under or by whom he is employed, shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent due by him in respect of the Board premises allotted to him.

(*2*) On the execution of such agreement, the State Government or a local authority, as the case may be shall, if so required by the Board by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employees specified in the requisition in accordance with the agreement and pay the amount so deducted to the Board.

Appeal.

**53C.** (*1*) Any person aggrieved by an order of the competent authority under section 53A or section 53B may, within one month of the date of the service of the notice under section 53A or section 53B, as the case may be, prefer an appeal [3][to an appellate officer appointed for the purpose] :

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[1] These words were substituted for the words "in the prescribed manner" by Mah. 3 of 1964, s. 24.

[2] Sub-section (*3*) was added by Bom. 25 of 1955, s. 4.

[3] These words were substituted for the words "to the State Government" by Mah. 35 of 1973, s. 2(*a*)(*i*).

Provided that [1][the appellate officer may] entertain the appeal after the expiry of the said period of one month, [2][if he is] satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) On receipt of an appeal under sub-section (*1*), [3][the appellate officer] may, after calling for a report from the competent authority, and after making such further inquiry, if any, as may be necessary, pass such orders [4][as he thinks] fit and the order of [3][the appellate officer] shall be final.

(*3*) Where an appeal is preferred under sub-section (*1*), [3][the appellate officer] may stay the enforcement of the order of the competent authority for such period and on such conditions [4][as he thinks] fit.

[5][(*4*) For the purpose of this section, the State Government may, by notification in the *Official Gazette*, appoint one or more appellate officers for the whole of that part of the State in which this Act is in force, or for such area therein, as may be specified in the notification. An appellate officer shall be a person who is not below the rank of Deputy Secretary to Government and who had judicial experience or experience in the Legal Department of the State, [6][or who has worked as a Deputy Secretary for at least five years,] or who has held judicial office not below the rank of District Judge.

(*5*) All appeals pending before the State Government immediately before the commencement of the Bombay Housing Board and Madhya Pradesh Housing Board (Amendment) Ordinance, 1973, shall be transferred by it to the appellate officer concerned and shall be heard and disposed of by him as if they had been originally filed before him. The appellate officer may proceed to hear and dispose of any such appeal from the stage it reached before its transfer to him, or may commence the inquiry *de novo* by himself.] Mah. Ord. X of 1973.

Bar of jurisdiction of Civil Courts.

[7][**53D.** No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person from any Board premises under this Chapter or the recovery of the arrears of rent or damages for use or occupation of such premises, or in respect of any order made or to be made or any action taken or to be taken by the competent authority [8][the appellate officer] or the State Government in the exercise of any power conferred by or under this Chapter, or to grant any injunction in respect of such order or action.]

## CHAPTER VI.

### FINANCE, ACCOUNTS AND AUDIT.

Expenditure, etc., till the Board is established.

**54.** (*1*) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the [9][State] Government for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46, dated 18th January 1947 before and up to the date of the establishment of the Board under this Act shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board ; and all suits and other legal proceedings instituted or which may be instituted by or against the [9][State] Government shall be continued or instituted by or against the Board, as the case may be.

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[1] These words were substituted for the words "the State Government may" by Mah. 35 of 1973, s. 2(*a*)(*ii*).
[2] These words were substituted for the words "if it is", *ibid.*, s. 2(*a*)(*ii*).
[3] These words were substituted for the words "the State Government", *ibid.*, s. 2.
[4] These words were substituted for the words "as it thinks", *ibid.*, s. 2.
[5] Sub-sections (*4*) and (*5*) were added, *ibid.*, s. 2(*d*).
[6] These words were inserted by Mah. 33 of 1975, s. 2.
[7] Section 53 D was substituted by Mah. 28 of 1969, s. 3.
[8] These words were inserted by Mah. 35 of 1973, s. 3.
[9] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*2*) All expenditure which the [1][State] Government shall, not later than six months from the date of the establishment of the Board, declare to have been incurred on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board on the date of such declaration.

(*3*) All the assets entrusted to the Bombay Provincial Housing Board referred to in sub-section (*1*) for the purposes referred to in the Government Resolution specified in the said sub-section and all assets acquired by the expenditure referred to in sub-section (*2*) shall upon the declaration made by the [1][State] Government under sub-section (*2*) vest in the Board for the purposes of this Act.

I of 1894. (*4*) All proceedings under the Land Acquisition Act, 1894, pending on the date of the coming into force of this Act in any area for the acquisition of land situated in the said area for the purposes of the Bombay Provincial Housing Board referred to in sub-section (*1*) shall be deemed to be proceedings for acquisition of such land for the purposes of the Board under this Act.

Expenditure etc., in Hyderabad area of State till Board takes over.

[2][**54A.** (*1*) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the State Government for the purposes of the tenements constructed under the schemes known as the Subsidised Industrial Housing Scheme and the Low Income Group Housing Scheme of the Government of India in the Hyderabad area of the State before, and up to the date of commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board, and all suits and other legal proceedings instituted or which may be instituted by or against the State Government shall be continued or as the case may be, instituted by or against the Board.

Mah. VII of 1963.

(*2*) All expenditure which the State Government shall, not later than one year from the date of such commencement, declare to have been incurred on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board on the date of such declaration.

(*3*) All the assets in respect of the Housing Schemes referred to in sub-section (*1*), and all assets acquired by the expenditure referred to in sub-section (*2*) upon the declaration made by the State Government under that sub-section, shall vest in the Board for the purposes of this Act.

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[1]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2]Section 54A was inserted by Mah. 7 of 1963, s. 15.

(*4*) All proceedings under the Land Acquisition Act pending on the date of commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, in any part of the Hyderabad area of the State for the acquisition of land situated therein for the purposes of the Housing Schemes referred to in sub-section (*1*) shall be deemed to be proceedings for acquisition of such land for the purposes of the Board under this Act.] Mah. VII of 1963.

**Board's fund.**

**55.** (*1*) The Board shall have its own fund.

(*2*) The Board may accept grants, subventions, donations and gifts from the Central or [1][State] Government or a local authority or any individual or body, whether incorporated or not for all or any of the purposes of this Act.

(*3*) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.

(*4*) Except as otherwise directed by the [1][State] Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any scheduled bank or invested in such securities as may be approved by the [1][State] Government.

(*5*) Such account shall be operated upon by such officers as may be authorised by the Board.

*Explanation.*—For the purposes of this section, the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934, and a scheduled bank shall mean a bank included in the Second Schedule to the said Act. II of 1934.

**Application of the fund.**

**56.** All property, fund and all other assets vesting in the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

**Expenditure in case of urgency.**

**57.** (*1*) Where in the opinion of the Board, circumstances of extreme urgency have arisen, it shall be lawful for the Board to make in any year,—

(*a*) recurring expenditure not exceeding twenty-five thousand rupees,

(*b*) non-recurring expenditure not exceeding one lac of rupees, [2]* * * *

(*2*) Where any sum is expended under circumstances of extreme urgency as provided in sub-section (*1*), a report thereof indicating the source from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the [1][State] Government.

**Subventions and loans to the Board.**

**58.** (*1*) The [1][State] Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the [1][State] Government may determine.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] The portion beginning with the word "notwithstanding" and ending with the word and figures "section 31" was deleted by Mah. 3 of 1964, s. 25.

(*2*) The [1][State] Government may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the [1][State] Government may determine.

Power of Board to borrow.

**59.** (*1*) The Board may from time to time, with the previous sanction of the [1][State] Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(*2*) The rules made by the [1][State] Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.

(*3*) All debentures issued by the Board shall be in such form as the Board, with the sanction of the [1][State] Government, may from time to time determine.

(*4*) Every debenture shall be signed by the Chairman and one other member of the Board.

(*5*) Loans borrowed and debentures issued under this section may be guaranteed by the [1][State] Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the [1][State] Government.

Accounts and audit.

**60.** (*1*) The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of accounts.

[2][(*2*) The Board shall cause its accounts to be audited annually by such person as the [1][State] Government may direct.] [3][The person so directed shall have the right to demand the production of books, accounts, and connected vouchers, documents and papers, and to inspect any of the offices of the Board.]

(*3*) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the [1][State] Government; and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(*4*) The Board shall comply with such directions as the [1][State] Government may after perusal of the report of the auditor think fit to issue.

Concurrent and special audits of accounts.

[4][**60A.** (*1*) Notwithstanding anything contained in section 60, the State Government may order that there shall be a concurrent audit of the accounts of the Board by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Board relating to any particular transaction or a class or series of transactions or to a particular period.

(*2*) When an order is made under sub-section (*1*), the Board shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (*1*) such information as the said person may require for the purpose of audit] [5][and remedy or cause to be remedied the defects pointed out by such person, unless they are condoned by the State Government.]

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[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[2] This sub-section was substituted for the original by Bom. 19 of 1949, s. 4.
[3] These words were added by Mah. 3 of 1964, s. 26.
[4] Section 60A was inserted by Bom. 49 of 1950, s. 2.
[5] These words were added by Mah. 3 of 1964, s. 27

## CHAPTER VII

### MISCELLANEOUS

Reports.

**61.** The Board shall, before such date and in such form and at such interval as may be prescribed, submit to the [1][State] Government a report on such matters as may be prescribed, and the [1][State] Government shall cause such report to be published in the *Official Gazette*. [2][Every such report shall be laid before each House of the State Legislature as soon as may be after it is published.]

Other statements and returns.

**62.** The Board shall also submit to the [1][State] Government such statistics, returns, [3][particulars, statements, documents, or papers in regard to any proposed or existing scheme or relating to any matter or proceedings connected with the working of the Board] at such times and in such form and manner as may be prescribed or as the [1][State] Government may from time to time direct.

Power of entry.

**63.** The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order—

(*a*) to make any inspection, survey, measurement, valuation or inquiry ;

(*b*) to take levels ;

(*c*) to dig or bore into the sub-soil ;

(*d*) to set boundaries and intended lines of work ;

(*e*) to make such levels, boundaries and lines of works and cutting trenches ; or

(*f*) to do any other thing ;

whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder :

Provided as follows :

(*i*) no such entry shall be made between sunset and sunrise ;

(*ii*) no dwelling house and no public building which is used as a dwelling place, shall be so entered, unless with the consent of the occupier thereof, and without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry ;

(*iii*) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove themselves to some part of the premises where their privacy will not be disturbed ;

(*iv*) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was added by Bom. 32 of 1952, s. 7.
[3] These words were substituted for the portion beginning with the words "particulars or statements" and ending with the words "housing schemes" by Mah. 3 of 1964, s. 28.

Notice of suit against Board.

**64.** No person shall commence any suit against the Board or against any officer or servant of the Board or any person acting under the orders of the Board, for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or servant or person two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of.

And in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amounts so tendered and shall pay all costs incurred by the defendant after such tender.

[2][Valuation] of assets and liabilities of the Board.

**65.** The Board shall [1][at the end of every five years] have a valuation of its assets and liabilities made by a valuer appointed with the approval of the [3][State] Government :

Provided that it shall be open to the [3][State] Government to direct a valuation to be made at any time it may consider necessary.

Power to make rules.

**66.** (*1*) The [3][State] Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules* for carrying out the purposes of this Act.

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

(*a*) the allowances of members and remuneration and conditions of service of the Chairman under section 7 ;

[4][(*aa*) the rates of subscriptions and contributions and other conditions of the provident fund established under section 13A ;]

(*b*) the manner and form in which contracts shall be entered into under section 22 ;

[5][(*c*) the form of the annual budget to be laid before the Board under section 26 and the other particulars to be contained therein ;]

[6][(*d*) the manner of publication of housing schemes included in the budget under section 30 ; ]

(*e*) the form of notice under section 44 ;

(*f*) the rate of interest under section 45 ;

(*g*) the other matters to be decided by the Tribunal under section 50 ;

(*h*) the procedure to be followed by the Tribunal under section 52 ;

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[1] These words were substituted for the word " triennially " by Mah. 3 of 1964, s. 29(*1*).

[2] This word was substituted for the words " Triennial valuation " *ibid*, s. 29(*2*).

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] This clause was inserted by Bom. 46 of 1951, s. 6.

[5] This clause was substituted for the original by Mah. 3 of 1964, s. 30(*1*).

[6] This clause was substituted for the original, *ibid*, s. 30(*2*).

* Section 21 of Mah. 7 of 1963 reads as under :—

Rules and regulations deemed to be made for whole area to which the principal Act extends.

" 21. The rules and the regulations made under the principal Act and in force in the Bombay area of the State immediately before the commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, shall (in so far they are not inconsistent with the provisions of the principal Act as amended by the aforesaid Extension and Amendment Act of 1962) be deemed to extend to and be in force in the whole area to which the principal Act as so amended now extends, until duly superseded or amended. "

[1][(*ha*) the forms of notices under sections 53A and 53B and any other manner in which they may be served ;

(*hb*) the procedure to be followed in taking possession of any Board premises under section 53A ;

(*hc*) the manner in which damages under section 53B may be assessed ;

(*hd*) the manner in which appeals may be preferred under section 53C and the procedure to be followed in such appeals ;]

(*i*) the conditions subject to which the Board may borrow any sum under section 59 ;

(*j*) the manner of preparation, maintenance and publication of accounts under section 60 ;

(*k*) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 61 ;

(*l*) the time at which and the form and manner in which statistics, returns, particulars, [2][statements, documents and papers] shall be submitted under section 62 ;

[3][(*ll*) the manner in which the Board shall be superseded and reconstituted under section 73B ;]

(*m*) and other matter which is or may be prescribed under this Act.

[4][(*3*) Every rule made under this section shall be laid as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if. before the expiry of the session in wh ch it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the *Official Gazette* of such decision, have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

Regulations.

**67.** [5][(*1*)] The Board may from time to time, with the previous sanction of the [6][State] Government, make regulations consistent with this Act and with any rules made under this Act—

(*a*) for the management and use of buildings constructed under any housing scheme ;

(*b*) the principles to be followed in allotment of tenements and premises ;

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[1] Clauses (*ha*) to (*hd*) were inserted by Bom. 32 of 1952, s. 8.
[2] These words were substituted for the words " and statements " by Mah. 3 of 1964, s. 30(*3*).
[3] Clause (*ll*) was inserted by Bom. 49 of 1950, s. 3.
[4] Sub-section (*3*) was added by Mah. 7 of 1963, s. 16.
[5] Section 67 was renumbered, as sub-section (*1*) by Mah. 3 of 1964, s. 31.
[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(*c*) the remuneration and conditions of service of the [1]* * Housing Commissioner and other officers and servants of the Board under section 13;

(*d*) for regulating its procedure and the disposal of its business.

[2][(*2*) If it appears to the State Government that it is necessary or desirable for carrying out the purposes of this Act to make any regulation in respect of matters specified in sub-section (*1*) or to amend any regulation made under that sub-section, it may call upon the Board to make such regulation or amendment within such time as it may specify. If the Board fails to make such regulation or amendment within the time specified, the State Government may itself make such regulation or amendment and the regulation or the amendment so made shall be deemed to have been made by the Board under sub-section (*1*).]

Power to make by-laws.

**68.** (*1*) The Board may make by-laws, not inconsistent with this Act, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act.

(*2*) A by-law made under this section may provide that a contravention thereof shall be an offence.

(*3*) No by-law made by the Board shall come into force until it has been confirmed by the [3][State] Government with or without modification.

(*4*) All by-laws made under this section shall be published in the *Official Gazette*.

Penalty for contravention of by-laws.

**69.** Whoever contravenes a by-law made under section 68 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for obstructing, etc.

**70.** If any person—

(*a*) obstructs, or molests any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act, or

(*b*) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized under this Act,

he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for obstructing exercise of powers under Chapter V-A.

[4][**70A.** Any person who obstructs the lawful exercise of any power conferred by or under Chapter V-A shall, on conviction, be punished with fine which may extend to one thousand rupees.]

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[1] The word "Secretary" was deleted by Mah. 3 of 1964, s. 31(*1*).
[2] This sub-section was added, *ibid*, s. 31(*2*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] Section 70A was inserted by Bom. 32 of 1952, s. 9.

**71.** Unless otherwise expressly provided, no Court shall take cognisance of any offence punishable under this Act except on the complaint of, or upon information received from, the Board or some person authorized by the Board by general or special order in this behalf. Authority for prosecution.

XLV of 1860. **72.** All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. Members, officers and servants of the Board to be public servants.

**73.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act. Protection of action taken under this Act.

[1][**73A.** The State Government may give the Board such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act,[2] * * * * * * Government's power to give directions to Board.

It shall be the duty of the Board to comply with such directions.]

[3][**73AA.** (*1*) The State Government with a view to satisfy itself that the powers and duties of the Board are being exercised and performed properly, may, at any time, appoint any person or persons to make inquiries into all or any of the activities of the Board and to report to the State Government the result of such inquiries. Power to order inquiries.

(*2*) The Board shall give to the person or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before the person or persons any document, account or information in the possession of the Board, which such person or persons demand for the purposes of the inquiries.]

[1][**73B.** (*1*) If the State Government is satisfied that the Board has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty. Default in performance of duty.

(*2*) If in the opinion of the State Government the Board fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the State Government, notwithstanding anything contained in section 7, to supersede and reconstitute the Board in the prescribed manner.

(*3*) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be carried on by the State Government or by such officer or officers as the State Government may appoint for this purpose.]

[4][**73BB.** (*1*) If by reason of death, resignation or otherwise, it appears to the State Government that the Board is unable to exercise the powers or perform or discharge the duties or functions conferred or imposed upon it by or under this Act, and the State Government does not consider it expedient to reconstitute the Board or fill the vacancies, the State Government may, notwithstanding anything contained in section 4 or any other provision of this Act, by notification in the *Official Gazette*, in place of the Board constituted under section 4, appoint an Administrator Power to appoint Administrator.

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[1] Sections 73A and 73B were inserted by Bom. 49 of 1950, s. 4.

[2] The portion beginning with the words "after giving an opportunity" and ending with the words "the said objections" were deleted by Mah. 3 of 1964, s. 32.

[3] Section 73AA was inserted, *ibid.*, s. 33.

[4] Section 73BB was inserted by Mah. 56 of 1969, s. 2.

for such period or periods, [1][not exceeding three years] in the aggregate, as that Government may specify from time to time in that behalf. After the expiry of his term of office, the Administrator shall continue in office until the day immediately preceding the date of the first meeting of the Board reconstituted in accordance with the provisions of section 4.

(*2*) The Administrator so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board or any of its authorities, members or officers by or under this Act, or any other law for the time being in force.

(*3*) The Administrator shall receive such remuneration from the fund of the Board, and the other conditions of service shall be such, as the State Government may determine.

(*4*) The Administrator may, subject to the general or special order of the State Government, delegate any of the powers, duties and functions exercisable or to be performed by him, to the Housing Commissioner or any other officer or officers of the Board.

(*5*) The State Government may, if it thinks fit, appoint an advisory council to advise and assist the Administrator in the exercise of his powers and the performance and discharge of his duties and functions. The members of the advisory council shall hold office during the pleasure of the State Government and shall be paid such remuneration (if any) as may be fixed by the State Government in that behalf.]

Dissolution of the Board.

**74.** (*1*) The [2][State Government may, by notification in the *Official Gazette*, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved:

Provided that no such declaration shall be made by the [2][State] Government unless a resolution to that effect has been moved in and passed by the [3][Maharashtra Legislative Assembly].

(*2*) With effect from the date specified in the notification under sub-section (*1*)—

(*a*) all properties, funds and dues which are vested in or realizable by the Board shall vest in and be realizable by the [2][State] Government.

(*b*) all liabilities enforceable against the Board shall be enforceable against the [2][State] Government to the extent of the properties, funds and dues vested in and realized by the [2][State] Government.

(3) Nothing in this section shall affect the liability of the [2][State] Government in respect of loans or debentures guaranteed under sub-section (*5*) of section 59.

Legislature member not entitled to receive any remuneration other than compensatory allowance.

[4][**74A.** Notwithstanding anything contained in sections 4 and 7, if a member of the State Legislature is appointed as a member of the Board (including the Chairman thereof), he shall not be entitled to receive any remuneration other than travelling allowance, daily allowance or such other allowance which is paid to a member of the Board for the purpose of meeting the personal expenditure incurred in attending the meeting of the Board or in performing any other functions as such member.

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[1] These words were substituted for the words "not exceeding two years" by Mah. 31 of 1971, s. 2.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were substituted for the words "Bombay Legislative Assembly" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
[4] Sections 74A and 74B were inserted by Mah. 10 of 1964, s. 2.

Bom LII of 1956.

**74B.** In the Bombay Legislature Members (Removal of Disqualifications) Act, 1956, in Schedule I, after entry 14, the following entry shall be inserted, namely :— Amendment of Schedule I of Bom. LII of 1956.

" 15. The office of a member of the Maharashtra Housing Board (including the Chairman thereof) constituted under the Bombay Housing Board Act, 1948, by reason only of his holding such office."]

Bom. LXIX of 1948.

**75.** The enactments mentioned in the third column of [1][the First Schedule] appended to this Act are hereby amended to the extent and in the manner mentioned in the fourth column, thereof. Amendment of Bom. III of 1888, Bom. I of 1915 and Bom. XXXI of 1948.

Mah. VII of 1963.

[2][**76.** On the commencement of the Bombay Housing Board (Extension to Marathwada and Amendment) Act, 1962, the enactments mentioned in the third column of the Second Schedule to this Act are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of Hyd. XVIII of 1956 and Mah. V of 1962.

Hyd. XLVI of 1956.

**77.** The Hyderabad Housing Board Act, 1956 is hereby repealed.] Repeal of Hyd. XLVI of 1956.

## [3][FIRST SCHEDULE]

(Section 75)

| Year 1 | No. 2 | Short title 3 | Amendment 4 |
|---|---|---|---|
| 1888 | III | The City of Bombay Municipal Act, 1888. | After section 354C, the following new section shall be inserted, namely :— " 354C. Notwithstanding anything contained in this Chapter, no improvement scheme shall be made for any area for which housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948. " (Bom. LXIX of 1948.) No improvement schemes for area for which housing schemes sanctioned under Bom. LXIX of 1948. |
| 1915 | I | The Bombay Town Planning Act, 1915. | After saction 8, the following new section shall be inserted, namely :— "8A. Notwithstanding anything contained in this Act, no town planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948." (Bom. LXIX of 1948.) No. town planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948. |
| 1948 | XXXI | The Bombay Building (Control on Erection) Act, 1948. | After section 14 the following new section shall be inserted, namely:— " 14A. Notwithstanding anything contained in this Act, the [4][State] Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act." (Bom. LXIX of 1948.) Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948. |

[1] These words were substituted by the words " the Schedule " by Mah. 7 of 1963, s. 17.
[2] Sections 76 and 77 were inserted, *ibid.* s. 18.
[3] These words were substituted for the word " Schedule " *ibid.*, s. 19.
[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

## [1][SECOND SCHEDULE]

(Section 76)

| Year | No. | Short title | Amendment. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 1956 | XVIII | The Hyderabad District Municipalities Act, 1956. | After section 251, the following section shall be inserted, namely :— "251A. Notwithstanding anything contained in this Act, no Master Plan, Town Development Plan or local layout shall be made for any area for which a housing scheme has been sanctioned under the Bombay Housing Board Act, 1948 ". No Master Plan etc. for areas for which housing schemes santioned under Bom. LXIX of 1948. |
| 1962 | V | The Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961. | After section 226, the following section shall be inserted, namely :— "226A. Notwithstanding anything contained in this Act, no regional or village plan or local layout shall be made for any area for which a housing scheme has been sanctioned under the Bombay Housing Board Act, 1948." No Regional Plan etc. for areas for which housing schemes sanctioned under Bom. LXIX of 1948. |

Bom. LXIX of 1948.

Bom. LXIX of 1948.

[1] Second Schedule was added by Mah. 7 of 1963, s. 20.

# THE BOMBAY CHILDREN ACT, 1948.

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# BOMBAY ACT No. LXXI OF 1948[1].

[THE BOMBAY CHILDREN ACT, 1948.]*

[*31st December 1948*]

Amended by Bom. 53 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 23 of 1951.
" " " 8 of 1954.
Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
Amended by Mah. 38 of 1963.
" " " 31 of 1966.

**An Act to consolidate and amend the law for the custody, protection, treatment, and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the [2][State of Maharashtra].**

WHEREAS it is expedient to consolidate and amend the law for the custody, protection, treatment and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the [2][State of Maharashtra] and for certain other purposes specified herein; It is hereby enacted as follows :—

## PART I.

### PRELIMINARY.

Short title and extent.

**1.** (*1*) This Act may be called the Bombay Children Act, 1948.

[3][(*2*) It extends to the whole of the State of Maharashtra.]

Commencement.

**2.** Section 1 shall come into force at once. The rest of the Act, or any provision thereof, shall come into force in any area on such date as the [4][State] Government may, by notification in the *Official Gazette*, [5][specify :

Provided that on the commencement of the Bombay Children (Extension and Amendment) Act, 1963, all the provisions of this Act (except Parts V and VI thereof) shall also come into force in each of the areas in which the Central Provinces and Berar Children Act, 1928, or the Hyderabad Children Act, 1951, was in force immediately before such commencement.]

Mah. XXXVIII of 1963. C. P. and Berar Act X of 1928. Hyd. Act XXXII of 1951.

Saving.

**3.** The [4][State] Government may, by notification in the *Official Gazette*, direct that all or any of the provisions of the Act shall not apply to any class of children or youthful offenders in the whole of the [6][State of Maharashtra] or in any particular area.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 421.
*This Act was extended to the rest of the State of Maharashtra (*vide* Mah. 38 of 1963, s. 2).
[2] These words were substituted for the words " Province of Bombay " by Mah. 38 of 1963, s. 3.
[3] Sub-section (*2*) was substituted, *ibid*, s. 4.
[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[5] This portion was substituted for the word " specify " by Mah. 38 of 1963, s. 5.
[6] These words were substituted for the words " Bombay area of the State of Maharashtra ", *ibid*, s. 6.

Definitions.

**4.** (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "adult" means a person who is not a child ;

[1][(*b*) "begging" means begging as defined in the Bombay Prevention of Begging Act, 1959 ; Bom. X of 1960.

(*c*) "brothel" means a brothel as defined in the Suppression of Immoral Traffic in Women and Girls Act, 1956 ;] CIV of 1956.

(*d*) "certified school" means an industrial school established or any other school or institution certified by the [2][State] Government under section 25 ;

(*e*) "child" means a boy or a girl who has not attained the age of sixteen years ;

(*f*) "dangerous drug" means any article defined as "dangerous drug" in the Dangerous Drugs Act, 1930 ; II of 1930.

(*g*) "final order" means an order passed by a juvenile court or any court empowered under section 8 to exercise the powers of a juvenile court, under the following sections, namely :—45 to 47, 71 to 76, 79, 81 to 84, 90 to 92, 101 and 103 ;

(*h*) "fit person" includes a fit person institution which in relation to the care of any child means any association or body of individuals whether incorporated or not established for or having for its object the reception or protection of children or the prevention of cruelty to children and which undertakes to bring up or to give facilites for bringing up any child entrusted to its care in conformity with the religion of its birth ;

(*i*) "guardian" in relation to a child or youthful offender includes any person who in the opinion of the court having cognizance of any proceedings in relation to the child or youthful offender has for the time being the actual charge of, or control over, the said child or youthful offender ;

(*j*) "immoral behaviour" includes any act or conduct which is indecent or obscene ;

(*k*) "Juvenile Court" means a court established under section 7 of this Act ;

(*l*) "place of safety" includes a remand home, or any other suitable place or institution, the occupier or manager of which is willing temporarily to receive a child or where such remand home or other suitable place or institution is not available, in the case of a male child only, a police station in which arrangements are available or can be made for keeping children in custody separately from other offenders ;

(*m*) "prescribed" means prescribed by rules made under this Act ;

(*n*) "probation of good conduct" means the release of a youthful offender on probation of good conduct on his personal recognizance. The expression 'probation of good conduct order' shall be construed accordingly ;

[3][(*o*) "prostitution" means prostitution as defined in the Suppression of Immoral Traffic in Women and Girls Act, 1956 ;] CIV of 1956

(*p*) "society" means a body or association of individuals, whether incorporated or not;

(*q*) "supervision" means the placing of a child under the control of a probation officer or other person for the purpose of securing proper care and protection of the child by his parent, guardian, relation or any other fit person to whose care the child has been committed. The expression 'supervision order' shall be construed accordingly ;

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[1] Clauses (*b*) and (*c*) were substituted by Mah. 38 of 1963, s. 7 (*1*).

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] Clause (*o*) was substituted by Mah. 38 of 1963, s. 7(*2*).

(*r*) "voluntary home" means any place for the reception of children maintained wholly or partly by voluntary contributions; and

(*s*) "youthful offender" means any child who has been found to have committed an offence.

(*2*) Words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1898, shall have the meanings assigned to them in that Code. V of 1898.

Continuation of proceedings against attaining child on his specified age.

**5.** For the purposes of this Act, a person shall be deemed to be a child, if at the time of the initiation of any proceedings against him under this Act or at the time of his arrest in connection with which any proceedings are initiated against him under this Act, such person has not attained the age is specified in clause (*e*) of section 4 :

Provided that if during the course of the proceedings under this Act such person attains the age specified in the said clause, the proceedings already commenced shall be continued and orders may be passed in respect of such person under this Act as if such person was a child notwithstanding anything to the contrary in this Act.

[Provisions of Act VIII of 1897, and of V of 1898 and of CV of 1956 not to apply to area in which this Act is brought into operation or to any certified school, etc.]

**6.** [1][(*1*)] The provisions of the Reformatory Schools Act, 1897, and of sections 29B and 399 of the Code of Criminal Procedure, 1898, shall cease to apply to any area in which Parts II to XI of this Act have been brought into operation. VIII of 1897. V of 1898.

[2][(*2*) Any youthful offender detained in a reformatory school in any area in pursuance of an order made under the Reformatory Schools Act, 1897, who continues to be detained therein on the date on which that Act ceases to apply to such area shall, as from that date, be deemed to have been detained under an order made under this Act as if he had been originally ordered to be detained in a certified school, and the reformatory school in which he is detained shall be deemed to be a certified school established under this Act and the provisions of his Act shall, so far as may be, apply in respect of such offender, accordingly. VIII of 1897.

(*3*) The Women's and Children's Institutions (Licensing) Act, 1953, shall not apply to any industrial school established, any industrial school or educational institution certified, any place declared as a remand home, any institution or association recognised as approved place or fit person institution, or any voluntary home recognised, under this Act.] CV of 1956.

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[1] Section 6 was renumbered as sub-section (*1*) and sub-sections (*2*) and (*3*) were added, by Mah. 38 of 1963 s. 8 (*1*).

[2] This marginal note was substituted, *ibid.*, s. 8 (*2*).

## PART II.

### POWERS AND FUNCTIONS OF COURTS HAVING JURISDICTION UNDER THE ACT.

Juvenile Courts.

**7.** For the purposes of this Act, the [1][State] Government may, by notification in the *Official Gazette*, establish one or more juvenile courts for any local area.

Courts empowered to exercise powers of juvenile courts.

**8.** The powers conferred upon a juvenile court under this Act shall, subject to the provisions thereof, be also exercisable by the following courts, whether trying any case originally, or on appeal or in revision, as the case may be—

(*a*) the High Court,

(*b*) a Court of Session,

[2]* * * *

[2]* * * *

(*e*) a salaried Presidency Magistrate,

(*f*) a salaried Magistrate of the First Class.

Powers of juvenile courts and other courts mentioned in section 8.

**9.** Save as otherwise provided in this Act,—

(*1*) where a juvenile court has been established for any local area, such court shall try all cases in which a child is charged with the commission of an offence and shall deal with and dispose of all other proceedings under this Act, but shall not have power to try any case in which an adult is charged with an offence under Part VI of this Act;

(*2*) where a juvenile court has not been established for any local area, no court other than courts empowered under section 8 to exercise the powers of a juvenile court shall have power to try any case in which a child is charged with the commission of an offence or to deal with or dispose of any other proceeding under this Act.

No joint trial of child and adult in area where juvenile court exists.

**10.** (*1*) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, no child shall be charged with or tried for any offence together with an adult if, a juvenile court has been established for the area where the trial of such case is to take place.

V of 1898.

(*2*) If a child is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, such child and the adult could, but for the provisions of sub-section (*1*), have been tried together the court taking cognizance of the offence shall direct separate trials of the child and the adult; if a juvenile court has been established for the local area, the child shall be tried by the juvenile court and the adult shall be tried separately by a court having jurisdiction to try the offence.

V of 1898.

Procedure in appealable summons cases to be followed by juvenile courts and magistrates' courts in trials of children.

**11.** A juvenile court and in a case in which a child is not being tried jointly with an adult, a Magistrate empowered under section 8 to exercise the powers of a juvenile court shall, as far as practicable and subject to the provisions of this Act, follow the procedure provided by the Code of Criminal Procedure, 1898, for summary trials in summons cases in which an appeal lies.

V of 1898.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] Clauses (*c*) and (*d*) were deleted by Bom. 23 of 1951, s. 2, Schedule—Part III.

Sitting, etc., of juvenile courts, etc.

**12.** (*1*) A juvenile court shall hold its sittings at such places, on such days and in such manner as may be prescribed.

(*2*) In the trial of a case in which a child is charged with an offence and is not being tried jointly with an adult a court shall, as far as may be practicable, sit in a different building or room from that in which the ordinary sittings of the court are held, or on different days, or at different times from those at which the ordinary sittings of the court are held.

Adult to be committed to sessions in a case to be committed to sessions.

**13.** In the trial of a case in which a child is being tried together with an adult in accordance with the provisions of this Act, if the magistrate trying the case comes to the conclusion that the case is a fit one for committal to the court of session, he shall separate the case in respect of the child from that in respect of the adult and shall direct the adult alone to be committed to the court of sessions for trial and shall proceed with the trial of the case in respect of the child notwithstanding anything in the Code of Criminal Procedure, 1898, or any other law for the time being in force. V of 1898.

Appearance of legal practitioners before juvenile courts.

**14.** Notwithstanding anything contained in any law for the time being in force, a legal practitioner shall not be entitled to appear in any case or proceeding before a juvenile court, unless the juvenile court is of opinion that in public interests the appearance of a legal practitioner is necessary in such case or proceeding and authorises, for reasons to be recorded in writing a legal practitioner to appear in such case or proceeding.

Presence of persons in juvenile courts.

**15.** Save as provided in this Act, no person shall be present at any sitting of a juvenile court except—

(*a*) the members and officers of the court,

(*b*) the parties to the case before the court and other persons directly concerned in the case including the Police Officers,

(*c*) such other persons as the court specially authorises to be present.

Withdrawal of persons from juvenile courts.

**16.** If at any stage during the course of a trial of a case or proceeding, a juvenile court considers it expedient in the interest of the child to direct any person including the parent, guardian or the spouse of the child, or the child himself to withdraw, the court shall be entitled to give such direction and thereupon such person shall withdraw. If any person refuses to withdraw, the court may take steps to remove him.

Dispensing with attendance of child.

**17.** If at any stage during the course of the trial of a case or proceeding, the juvenile court is satisfied that the attendance of a child is not essential for the purposes of the hearing of the case or proceeding, the court may dispense with his attendance and proceed with the trial of the case in the absence of the child.

Withdrawal of persons from court when child is examined as witness.

**18.** If at any stage during the course of a trial of a case or proceeding in relation to an offence against or any, conduct contrary to, decency or morality, a child is summoned as a witness, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not parties to the case or proceeding, their legal advisers and the officers concerned with the case or proceeding to withdraw. Such persons shall then withdraw. If any person refuses to withdraw, the court may take steps to remove him.

**19.** (*1*) Where a child brought before a court under this Act has a parent or guardian such parent or guardian may in any case, and shall, if he can be found and if he resides within a reasonable distance, be required to attend the court before which any proceeding is held under this Act, unless the court is satisfied that it will be unreasonable to require his attendance. Attendance at court of parent of child charged with offence, etc.

(*2*) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child :

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(*3*) The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a court.

**20.** (*1*) When a child who has been brought before a court under any of the provisions of this Act is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the court may send the child to a remand home or to any other place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment. Committal to approved place of child suffering from dangerous disease and its future disposal.

III of 1898. IV of 1912.

(*2*) Where a child is found to be suffering from leprosy or is of unsound mind, he shall be dealt with under the provisions of the Lepers Act, 1898, or the Indian Lunacy Act, 1912, as the case may be.

(*3*) Where a court has taken action under sub-section (*1*) in the case of a child suffering from an infectious or contagious disease, the court before restoring the said child to his partner in marriage, if there has been such or to the guardian, as the case may be, shall where it is satisfied that such action will be in the interests of the said child call upon his partner in marriage or the guardian, as the case may be, to satisfy the court by submitting to medical examination that such partner or guardian will not re-infect the child in respect of whom the order has been passed.

**21.** For the purpose of any order which a court has to pass under this Act, the court shall have regard to the following factors :— Factors to be taken into consideration in passing orders by courts.

(*a*) the character and age of the child,

(*b*) the circumstances in which the child is living,

(*c*) the reports made by the Probation officer, and

(*d*) such other matters as may, in the opinion of the court, require to be taken into consideration in the interests of the child :

Provided that where a youthful offender is found to have committed an offence, the above factors shall be taken into consideration after the court has recorded a finding against the youthful offender that he has committed the offence.

**22.** The report of the Probation officer or any other report considered by the court under section 21 shall be treated as confidential : Reports of Probation officers and other reports to be treated confidential.

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living, the court may, if it thinks expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce evidence as may be relevant to the matters stated in the report.

Prohibition on publication of names, addresses, etc. of children involved in cases or proceedings under the Act.

**23.** No report in any newspaper, magazine or news-sheet of any case or proceeding in any court under this Act in which a child is involved shall disclose the name, address or school or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child:

Provided that for reasons to be recorded in writing the court trying the case or holding the proceeding may permit the disclosure of any such report, if in its opinion such disclosure is in the interests of child welfare and is not likely to affect adversely the interests of the child concerned.

Provisions of Criminal Procedure Code, 1898, to apply to trial of cases and conduct of proceedings under the Act unless excluded.

**24.** Except as expressly provided under this Act or the rules made thereunder, the procedure to be followed in the trial of cases and the conduct of proceedings under this Act shall be in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

## PART III.

### CERTIFIED SCHOOLS, REMAND HOMES AND OTHER INSTITUTIONS.

Establishment and certification of schools.

**25.** (*1*) The Provincial Government may establish and maintain industrial schools for the reception of children and youthful offenders.

(*2*) The Provincial Government may certify that any industrial school or other educational institution not established under sub-section (*1*) is fit for the reception of children or youthful offenders.

Declaration of places as Remand Homes.

**26.** The Provincial Government may, by notification in the *Official Gazette*, declare any particular place as a remand home for the purposes of this Act.

Conditions to be prescribed for fit person institutions and approved places.

**27.** The Provincial Government may prescribe conditions subject to which institutions or associations shall be recognised as "fit person institutions" and "approved places" for the purposes of this Act.

Management of certified schools.

**28.** (*1*) For the control and management of every school established under sub-section (*1*) of section 25, a superintendent and a committee of visitors shall be appointed by the Provincial Government and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(*2*) Every school certified under sub-section (*2*) of section 25 shall be under the management of a governing body, the members of which shall be deemed to be the managers of the school for the purposes of this Act.

Liabilities of managers.

**29.** (*1*) The managers of a certified school whether established or recognised by the Provincial Government and the managers of a fit person institution shall be consulted by the court before any child is committed to it.

(*2*) The managers of a certified school recognized by the Provincial Government may decline to receive any child committed to it under this Act:

Provided that when such school has once accepted any child, it shall be bound to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

Medical inspection of Certified Schools and fit person institutions.

**30.** Any registered medical practitioner empowered in this behalf by the [1][State] Government may visit any certified school or fit person institution at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school or institution.

Power of [State] Government to withdraw certificate.

**31.** (*1*) The [1][State] Government if dissatisfied with the conditions, rules, management or superintendence of a certified school may at any time by notice[1] served on the managers of the school declare that the certificate of the school is withdrawn as from a date specified in the notice and on such declaration the withdrawal of the certificate shall take effect and the school shall cease to be a certified school.

(*2*) The [1][State] Government may, instead of withdrawing a certificate under sub-section (*1*), by notice served on the manager of the school, prohibit the admission of children or youthful offender to the school for such time as may be specified in the notice or until the notice is revoked :

Provided that before the issue of a notice under sub-section (*1*) or (*2*), a reasonable opportunity shall be given to the managers of the school to show cause why the certificate may not be withdrawn or admission to the school may not be prohibited, as the case may be.

Resignation of certificate by managers.

**32.** The managers of a certified school may, on giving six months' notice in writing to the [1][State] Government through the Chief Inspector of Certified Schools of their intention so to do, resign the certificate of the school and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of withdrawal or resignation of certificate.

**33.** A child or youthful offender shall not be received into a certified school under this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate :

Provided that the obligation of the managers to teach, train, lodge, clothe and feed any children or youthful offenders detained in the school at the respective dates aforesaid shall, except so far as the [1][State] Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

Disposal of inmates on withdrawal or resignation.

**34.** When a school ceases to be a certified school the children or youthful offenders detained therein shall be either discharged absolutely or on such conditions as the [1][State] Government may impose or transferred by order of the Chief Inspector of Certified Schools to some other certified school or fit person institution in accordance with the provisions of this Act relating to discharge and transfer.

Inspection of voluntary homes.

**35.** (*1*) The [1][State] Government may cause any voluntary home to be visited and inspected from time to time at all reasonable hours by the Chief Inspector of Certified Schools or any member of the inspecting staff for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(*2*) The Chief Inspector of Certified Schools or any member of his inspecting staff shall have power to enter a voluntary home at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto for the aforesaid purposes.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*3*) Where any voluntary home is for the reception of girls, the inspection shall, where practicable, be conducted by a woman authorised or appointed by the Chief Inspector of Certified Schools.

(*4*) If the [1][State] Government is satisfied that the management of any voluntary home, or the accommodation for, or the treatment of, the children therein is unsatisfactory, it may cause to be served upon the person responsible for the management of the voluntary home such general or specific direction with respect to the matters aforesaid or any of them as it thinks expedient for the welfare of the children in the institution.

(*5*) A direction under the foregoing sub-section may be varied by a subsequent direction or withdrawn by the [1][State] Government.

(*6*) Where any such direction is not complied with, the District Magistrate in the mofussil or the Chief Presidency Magistrate in Greater Bombay may, on the complaint of any person appointed for the purpose by the [1][State] Government, cause a summons to be served upon the person in charge of the voluntary home and upon such other person as he may think fit and upon hearing the person summoned, may if he thinks fit, make an order for the removal of all children from the voluntary home.

(*7*) The District Magistrate or the Chief Presidency Magistrate, as the case may be, may, if he thinks fit, order that the direction shall be deemed to be modified to such extent as may be specified in such order and the direction shall have effect accordingly.

(*8*) Any order for the removal of all children from such voluntary home shall operate as an authority to any person named in the order and to any police officer not below the rank of an Inspector to enter the voluntary home and to remove the children therein to a place of safety.

(*9*) Where an order has been made for the removal of all children from such voluntary home, the home shall not be used for the reception of children without the consent of the [1][State] Government.

Inspection of certified schools and visits to fit person institutions.

**36.** (*1*) Every certified school shall be liable to inspection at all times and in all its departments by the Chief Inspector, Inspector or Assistant Inspector, and shall be so inspected at least once in every year.

(*2*) The Chief Inspector, Inspector or Assistant Inspector shall also have a right to visit a fit person institution at any time:

Provided that where any such certified school or fit person institution is for the reception of girls mainly and such inspection or visit is not made or paid by the Chief Inspector, the visitor shall, wherever practicable, be a woman.

## PART IV.

### OFFICERS, THEIR POWERS AND DUTIES.

Appointment of Officers.

**37.** (*1*) The [1][State] Government may for the purposes of this Act appoint the following officers:—

(*a*) The Chief Inspector of Certified Schools.

(*b*) Inspectors and Assistant Inspectors of certified schools.

(*c*) The Probation officer.

(*d*) Such other officers as may be necessary.

(*2*) [2][The State Government may, subject to such restrictions and conditions (if any) as it may impose, by order, delegate its power of appointment of officers of and below the rank of Probation Officer to any officer not below the rank of Chief Inspector of Certified Schools.]

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[1] This word was subsituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This portion was added by Mah. 31 of 1966, s. 2.

(*2*) Any society recognized in this behalf by the [1][State] Government may also appoint a Probation officer.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*), a juvenile court or any court empowered under section 8 to exercise the powers of a juvenile court may, for the purposes of any particular case or proceeding, appoint any other person as a Probation officer, if in its opinion such appointment is expedient or necessary.

Supervision and control of Probation officers.

**38.** A Probation officer in the performance of his duties under this Act shall be an officer of the court, and shall be under the supervision and guidance of the juvenile court, where such court exists and [2][elsewhere of the court which passes any order under this Act in respect of the child.]

Nothing in this section shall derogate from the powers of supervision of the Chief Presidency Magistrate and the Chief Inspector of Certified Schools in Greater Bombay and the District Magistrate and the Chief Inspector of Certified Schools elsewhere.

Powers and duties of Probation officers and inspectors.

**39.** The powers and duties of the Chief Inspector, Inspectors and Assistant Inspectors of Certified Schools and of Probation officers shall be as those provided under the provisions of this Act and the rules made thereunder and in accordance with the general or special orders which the [1][State] Government or any officers authorised in this behalf may make for the purpose of carrying out the provisions of this Act.

## PART V.

### MEASURES FOR THE CARE AND PROTECTION OF DESTITUTE AND NEGLECTED CHILDREN, ETC.

Children found homeless, destitute, etc.

**40.** Any police officer, or other person authorised in this behalf in accordance with the rules made by the [1][State] Government, may bring—

(*i*) before a juvenile court if such court is established for the area and is sitting,

(*ii*) if a juvenile court is not established for the area or if it is not sitting, before a magistrate empowered under section 8 with the powers of a juvenile court, or

(*iii*) if there is no court of the kind specified in items (*i*) and (*ii*) above, before any magistrate

any person who in his opinion is a child and who—

(*a*) has no home, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or is found doing for a consideration any act under circumstances contrary to the well-being of the child; or

(*b*) is destitute or is illegitimate without means of subsistence, other than that of charity, or has no parent or guardian, or has a parent or guardian unfit to exercise or incapable of exercising proper care and guardianship, or who is not exercising proper care and guardianship; or

(*c*) is known to associate or live with any prostitute or person or persons of criminal or drunken habits; or

(*d*) is lodging or residing in or frequently going to a place or places used for the purposes of prostitution; or

(*e*) is otherwise likely to fall into bad association or to be exposed to moral danger, or to enter upon a life of crime.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words beginning with the word "elsewhere" and ending with the words "is situated" by Bom. 8 of 1954, s. 2. Schedule—Part III.

Procedure when Magistrate is not empowered to pass order under this Act.

**41.** When any magistrate not empowered to exercise the powers of a juvenile court is of opinion that a person brought before him is a child, he shall record such opinion and submit the proceedings and forward the child to the nearest juvenile court having jurisdiction in the case or where such court does not exist to the [1][Sessions Judge] to whom he is subordinate.

Police officer to make report if child has parent.

**42.** If the child requiring care and protection on any of the grounds mentioned in clauses (*a*) to (*e*) of section 40, has a parent or guardian who has the actual charge of, or control over, the child, the police officer or other person authorised under section 40 shall, in the first instance make a report to the juvenile court established for the area or if one has not been established to the nearest magistrate empowered under section 8 to exercise the powers of a juvenile court or to any other nearest magistrate.

Court or Magistrate may direct production of child by parent or guardian.

**43.** The juvenile court, magistrate, or the other court to which or whom a report is made under section 42, may call upon such parent or guardian to produce the child before it or him in order to show cause why the said child should not during the pendency of the proceedings, be removed from his care; and may on suitable sureties being offered for the safety of such child and for his being brought before it or him, permit the child to remain in the actual charge or control of his parent or guardian, or may immediately order his removal, if necessary by issuing a search warrant for the immediate production of the child to a place of safety, if it appears to the court or magistrate that the child is likely to be removed from the jurisdiction of the court or to be concealed.

Examination of police officer or person producing or reporting.

**44.** (*1*) The court before which a child is brought under section 40 or 41 shall examine the police officer or the authorised person who brought the child or made the report and record the substance of such examination and shall, as provided in section 43, send the child to a remand home for further inquiries.

(*2*) On the date fixed for the production of the child or for the inquiry or on any subsequent date to which the proceedings may be adjourned, the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order committing the child to a certified school or to the care of a fit person should not be passed and make any further inquiry it thinks fit.

Committal of child to certified school or to fit person.

**45.** (*1*) If the court is satisfied on the inquiry that such person is a child and is as described within the provisions of section 40 and that it is expedient so to deal with him, the court may order him to be committed to a certified school or to the care of a fit person named by the court until such child attains the age of eighteen years, or in exceptional cases for a shorter period, the reasons for such shorter period to be stated in writing.

(*2*) The court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life.

(*3*) The court which makes an order committing a child to the care of a relative or other fit person under this section may in addition order that he be placed under supervision for any period not exceeding three years:

[1] These words were substituted for the words "District Magistrate or Sub-Divisional Magistrate" by Bom. 23 of 1951, s. 2, Schedule—Part III.

Provided that when the Court thinks fit, it may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under supervision, on such parent or guardian executing a bond with or without sureties in a prescribed form, and the court may from time to time during the supervision period adjourn the case and compel the production of the child in court to satisfy itself that the conditions of the said bond are being carried out:

Provided further that if it appears to the court on receiving a report from the probation officer or otherwise, that there has been a breach of the supervision order it may, after making such inquiries as it deems fit, order the child in respect of whom the supervision order has been made, to be detained in a certified school or committed to the care of a fit person.

Sending of child having place of residence outside jurisdiction.

**46.** (*1*) In the case of a child whose ordinary place of residence lies outside the jurisdiction of the court before which it is brought, the court may, if satisfied after due inquiry that it is expedient so to do, send the child on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper care and control of him.

(*2*) Any breach of the said bond shall render the child liable to be committed to a certified school or to the care of another fit person.

Uncontrollable children.

**47.** (*1*) Where the parent or guardian of a child complains to the juvenile court or if a juvenile court is not established for the area to a Magistrate empowered under section 8 to exercise the powers of a juvenile court that he is not able to control his child, the court or magistrate, as the case may be, if satisfied on inquiry that the case appears to be one of which cognizance should be taken, shall remand the child for observation or treatment and any further inquiries necessary.

(*2*) If the court or Magistrate is satisfied that it is expedient so to deal with the child under this Act, the court or Magistrate may order the child to be committed to a certified school, or a fit person institution.

(*3*) The court or Magistrate may also, if satisfied that home conditions are satisfactory and what is needed is supervision, commit the child to the care of the person or guardian or relative or any other proper person under a bond with or without sureties and place him under supervision for a period not exceeding three years.

## PART VI.

### SPECIAL OFFENCES IN RESPECT OF CHILDREN.

Punishment for cruelty to children.

**48.** (*1*) Whoever having the actual charge of, or control over, a child wilfully assaults, illtreats, neglects, abandons, or exposes him or causes or procures him to be assaulted, illtreated, neglected, abandoned or exposed or negligently fails to provide adequate food, clothes, or medical aid or lodging for a child in a manner likely to cause such child unnecessary mental and physical suffering shall, on conviction, be punished with imprisonment of either description for a term not exceeding two years or with fine which may extent to one thousand rupees or with both:

Provided that in the case of married juveniles the court trying the offence under this section may sanction its composition for reasons to be recorded in writing.

(*2*) The infliction of reasonable punishments on a child for a proper reason shall not be deemed to be an offence under this section.

Employing children for begging.

**49.** Whoever employs any child for the purposes of begging or causes any child to beg or whoever having the custody, charge or care of a child connives at or encourages the employment for the purpose of begging or the causing of a child to beg and whoever uses a child as an exhibit for the purpose of begging shall, on conviction be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to three hundred rupees or with both.

Penalty for being drunk while in charge of child, etc.

**50.** If any person is found drunk in any public street or other public place, whether a building or not, while having the charge of a child, and if such person is incapable by reason of his drunkenness of taking due care of the child, such person shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for giving intoxicating liquor or dangerous drug to child.

**51.** Whoever in any public street or other public place, whether a building or not, gives or causes to be given to any child any intoxicating liquor or dangerous drugs except upon the order of a duly qualified medical practitioner in case of sickness or other urgent cause shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for permitting child to enter places where liquor or dangerous drug is sold.

**52.** Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold or whoever being the proprietor, owner or a person in charge of such place permits a child to enter such place or whoever causes or procures a child to go to such place shall, on convication, be punished with fine which may extend to two hundred rupees.

Inciting child to bet or borrow.

**53.** Whoever by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money shall, on conviction, be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Taking on pledge or purchasing articles from child.

**54.** Whoever takes an article on pledge from a child, whether offered by that child on his own behalf or on behalf of any person shall, on conviction, be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

Allowing or permitting child to be in brothel.

**55.** Whoever allows or permits a child over the age of four years to reside in or frequently go to a brothel shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc.

**56.** (*1*) Whoever having the actual charge of, or control over, a girl under the age of eighteen years causes or encourages the seduction (which shall include inducement to indulge in immoral behaviour) or prostitution of that girl or causes or encourages any one other than her husband [1]* * * * * to have sexual intercourse with her shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

[1] The words "provided his wife has attained the age of fourteen years" were deleted by Bom. 53 of 1949, s. 2, First Schedule.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction of a girl or to have induced her to behave immorally if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute, or person of known immoral character.

Seduction or outrage of modesty.

**57.** Whoever seduces or indulges in immoral behaviour with a girl under the age of eighteen years shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Young girls exposed to risk of seduction, etc.

**58.** If it appears to a court on the complaint of any person that a girl under the age of eighteen years is, with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

Exploitation of child employees.

**59.** (1) Whoever secures a child ostensibly for the purpose of menial employment or for labour in a dock, factory or other establishment, but in fact exploits the child for his own ends, withholds or lives on his earnings, shall, on conviction, be punished with fine which may extend to one thousand rupees.

(2) Whoever secures a child ostensibly for any of the purposes mentioned in sub-section (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions, shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(3) Any person who avails himself of the labour of a child exploited in the manner referred to in sub-section (1) or (2) or for whose immoral gratification such child is used shall be liable as an abettor.

Penalty for abetting escape of child or youthful offender.

**60.** Whoever—

(*a*) knowingly assists or induces, directly or indirectly, a child detained in or placed out on licence, from a certified school or a fit person institution to escape from the school or fit person institution or from any person with whom, as the case may be, he has been placed out on licence, or any child to escape from the person to whose care he has been committed under the provisions of this Act, or

(*b*) knowingly harbours, conceals, connives at or prevents from returning to school or fit person institution or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child who has so escaped or knowingly assists or connives at so doing,

shall, on conviction, be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for use of voluntary home in contravention of section 35.

**61.** Whoever uses or knowingly permits to be used any voluntary home in contravention of the provisions of section 35 shall, on conviction, be punished with fine which may extend to five hundred rupees and to a further fine not exceeding fifty rupees in respect of each day during which the institution is so used or permitted to be used after the conviction.

Penalty for publication of report or pictures relating to children.

**62.** Whoever publishes any report or picture in contravention of the provisions of section 23 shall, on conviction, be punished with imprisonment of either description for a term not exceeding two months or with fine which may extend to five hundred rupees or with both.

Offences under this part cognizable.

**63.** All offences under this part shall be cognizable.

## PART VII.

### YOUTHFUL OFFENDERS.

Bail of children arrested.

**64.** Where a boy or a girl apparently under the age of sixteen years is arrested on a charge of a nonbailable offence and cannot be brought forthwith before a court, the officer in charge of the police station or section to which such boy or girl is brought, may release the child on bail, if sufficient security is forthcoming, but shall not do so where the release of the child shall bring him into association with any reputed criminal or expose him to moral danger or where his release would defeat the ends of justice.

Custody of children not enlarged on bail.

**65.** (*1*) Where a boy or a girl apperently under the age of sixteen years having been arrested is not released under section 64 or otherwise, the officer in charge of the police station or section shall cause him or her to be detained in the prescribed manner until he or she can be brought before a juvenile court or a court empowered under section 8 to exercise the powers of a juverile court.

(*2*) A court, on remanding or committing for trial a child who is not releasd on bail, shall order him to be detained in the prescribed manner.

Submission of information to Probation officer and officer in charge of remand home by Police After arrest.

**66.** Immediately after the arrest of a child, it shall be the duty of the police officer or any other person effecting the arrest, to inform the Probation officer and officer in charge of a remand home of such arrest in order to enable the said Probation officer and officer in charge of the remand home to proceed forthwith in obtaining information regarding his antecedents and family history and other material circumstances likely to assist the juverile court in making final order.

Attendance of parent or guardian.

**67.** Where the child is arrested, the officer in charge of the police station or section o which he is brought shall cause the parent or guardian of the child, if he can be found, to be summoned at the court before which the child will appear.

Sentences that may not be passed on child.

**68.** (*1*) Notwithstanding anything to the countrary contained in any law, no youthful offender shall be sentenced to death or transportation or imprisonment.

(*2*) When a child is found have committed an offence of so serious a nature that the court is of opinion that no punishment, which under the provisions of this Act it is authorised to inflict, is sufficient or when the court is satisfied that the child is of so unruly or of so depraved a character that he cannot be committed to a certified school or detained in a place of safety and that none of the other methods in which the case may be legally dealt with is suitable, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Provincial Government.

Expressions "conviction and sentence" not to be used in relation to children.

**69.** Save as provided in this Act, the words "conviction" and "sentence" shall cease to be used in relation to children dealt with under this Act and any reference in any enactment to a person convicted, a conviction or a sentence shall in the case of a child be construed as including reference to a person found guilty of an offence, a finding of guilty or an order made upon such a finding, as the case may be.

No proceedings under Chapter VIII of Criminal Procedure Code against child.

**70.** Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

V of 1898.

Commitment of child to certified school or fit person institution.

**71.** Where a child is found to have committed an offence, the court, if satisfied on inquiry that it is expedient so to deal with the child, may order him to be committed to a certified school or a fit person institution for such period of detention as will not, subject to the provisions of section 5, extend beyond the time when the child will attain the age of eighteen years or in exceptional cases for a shorter period, the reasons for such shorter period to be recorded in writing.

Other order of the Court.

**72.** A Court may, if it shall think fit, instead of directing any youthful offender to be detained in a certified school or committed to the care of a fit person institution under section 71—

(*i*) order him to be discharged after due admonition;

(*ii*) without passing any final order, direct that he be released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian, relative or person executing a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the youthful offender for any period not exceeding three years and for the observance of such other conditions as the court may impose for securing that the youthful offender may lead an honest and industrious life;

(*iii*) if the offence committed by the youthful offender is punishable with fine and the youthful offender himself is over the age of fourteen years, order the offender to pay a fine.

Repatriation.

**73.** (*1*) In the case of a youthful offender whose ordinary place of residence lies outside the jurisdiction of the court before which he is brought, if the court is satisfied after due inquiry that it is expedient so to do, the court may send the youthful offender on his own bond back to a relative or a fit person, who is fit and willing to receive him at his native place and exercise proper care and control of him, notwithstanding the fact that the youthful offender has to be sent to a place outside the Province.

(*2*) Any breach of the said bond shall render the youthful offender, if found at any time at any place within the Province, liable to be committed to a certified school or to the care of another fit person.

Power to order parent to pay fine, etc., instead of child.

**74.** (*1*) Where the offence committed is punishable with fine and if the youthful offender is under fourteen years of age, the court shall order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(*2*) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(*3*) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898

Release of youthful offenders under supervision.

**75.** The court shall wherever possible order that the youthful offender released under section 72 be placed under supervision:

Provided that if it appears to the court on receiving a repart from the Probation officer or otherwise, than the youthful offender has not been of good behaviour during the period of supervision, it may proceed to pass such final order as it would have done had it not placed the youthful offender on probation of good conduct.

Postponement *sine die*.

**76.** Notwithstanding anything contained in the foregoing provision, the court may adjourn the case of a youthful offender *sine die*, and may re-open at the stage of the preceedigs at which it was left when adjourned, on additional grounds or material being placed before the court.

Court empowered to exercise powers under one or more of preceding provisions.

**77.** In passing an order in respect of a youthful offender under this Part, it shall be lawful to the court to exercise its powers under any one or more of the foregoing provisions at the same time, if it is necessary and expedient to do so in the interests of the offender.

## PART VIII.

### MEASURES FOR DETENTION ETC., OF CHILDREN AND YOUTHFUL OFFENDERS.

Detention of child in place of safety.

**78.** (*1*) Any police officer, not below the rank of sub-inspector, or a police officer or a person authorised in this behalf in accordance with rules made by the Provincial Government may take to a place of safety any child in respect of whom an offence has been, or there is reason to believe has been, or is likely to be committed.

(*2*) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may be detained until he can be brought before the court:

Provided that such detention shall not in the absence of a special order of the court exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court.

(*3*) The court may thereupon make such order as hereinafter provided.

Court's powers for care detention of child.

**79.** (*1*) Where it appears to the court that an offence as stated in section 78 has been committed or is likely to be committed in respect of any child who is brought before it and that it is expedient in the interests of the child that action should be taken under this Act, the court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of proceedings against the person for having committed the offence in respect of the child or for the purpose of taking such other lawful action as may be necessary.

(*2*) The order of detention made under sub-section (*1*) shall remain in force until such time as the proceeding instituted against any person for an offence referred to in sub-section (*1*) terminate in either conviction, discharge or acquittal:

Provided that if the proceedings terminated in conviction of the person, the order of detention shall remain in force for a further period of one month.

(*3*) An order passed under this section shall be given effect to, notwithstanding that any person claims the custody of the child.

Victimised child to be sent to Juvenile Court or [2][First Class Magistrate].

**80.** Any court by which a person is convicted of having committed an offence in respect of a child, or before which a person is brought for trial for any such offence or by which a person is bound over to keep the peace towards a child shall direct that the child against whom the offence has been committed, or in relation to the alleged offence against whom the trial is in progress, or in relation to keeping the peace towards whom the adult concerned has been bound over shall be produced before a juvenile court with a view to that court making such interim and final orders as may be proper, provided that in an area where no juvenile court has been established, [1][the Court if it is not competent to exercise the powers of a juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate.]

Order for committal of victimised children.

**81.** The court before which a child is produced in accordance with section 79 may order the child in the prescribed manner—

(*a*) to be committed to a certified school or fit person institution, until such child attains the age of eighteen years or in exceptional cases for a shorter period the reasons for such shorter period to be recorded in writing, or

(*b*) to be committed to the care of a relative or other fit person, on bond, with or without surety, as the court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and of observing such other conditions, including, where necessary supervision for any period not exceeding three years as the court may impose in the interest of the child:

Provided that, if the child has a parent or guardian, fit and capable, in the opinion of the court, of exercising proper care, control and protection, the court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in a prescribed form and for the observance of such conditions as the court may impose in the interest of the child.

Supervision of victimised children.

**82.** The court which makes an order committing a child to the care of his parent, guardian or other fit person under the foregoing provisions may in addition order that he be placed under supervision.

Breach of supervision.

**83.** If it appears to the court on receiving a report from the Probation officer or otherwise, that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may after making such inquiries as it deems fit, order the child to be detained in a certified school or to the care of a fit person.

Repatriation of victimised child.

**84.** (*1*) In the case of a child, the ordinary place of whose residence is outside the jurisdiction of the court before which he is produced if the court is satisfied after due inquiry that it is expedient so to deal with the child, the court may order the child to be sent on his own bond back to a relative or a fit person who is fit and

[1] These words and figure were substituted for the words beginning with the words "the Court shall submit" and ending with the words "it is subordinate" by Bom. 23 of 1951, s. 2, Schedule.

[2] These words were substituted for the words "District Magistrate", *ibid*, s. 2, Schedule—Part III.

willing to receive him at his native place and exercise proper care and control of him notwithstanding the fact that the place of residence of such child may be at any place outside the [1][State].

(*2*) For breach of a bond taken under sub-section (*1*) the child shall be liable to be committed to a certified school or to the care of a fit person if found again in the [1][State].

Reasons to be recorded for order under sections 81 to 84.

**85.** The reasons for every order made under sections 81 to 84 shall be recorded in writing and may be made by the court in the absence of the child.

Order under sections 81 to 84 to be in force even if conviction of alleged victimisation is set aside.

**86.** Where an order is made under sections 81 to 84 and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order made under the said sections shall remain in force but it shall be open to the person so acquitted, or discharged from his bond to keep the peace to apply for a reconsideration of the said order in consequence of the altered circumstances.

Warrant to search for child.

**87.** (*1*) If it appears to a juvenile court or any other court duly empowered under this Act from information on oath or solemn affirmation laid by any person who, in its opinion, is acting in the interests of the child, that there is reasonable cause to suspect that an offence has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the court may issue a warrant authorising any police officer named therein to search for such child and if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence has been or is being committed in respect of the child to take him to and detain him in a place of safety until he can be brought before it and the court before whom the child is brought may in the first instance remand him in the prescribed manner to a place of safety.

(*2*) The court issuing a warrant under this section may in its discretion by the same warrant direct that any person accused of any offence in respect of the child be apprehended and brought before it, or direct that if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(*3*) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desire, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(*4*) In any information or warrant under this section the name of the child shall be given if known.

Information to Probation officer and officer-in-charge of remand home by olice or any person effecting arrest.

**88.** (*1*) It shall be the duty of a police officer immediately after effecting the arrest of a child to inform a Probation officer and officer in charge of a remand home for the purpose stated in section 66.

(*2*) It shall be the duty of any other person effecting such arrest to inform a Probation officer and officer in charge of a remand home for the like purpose as provided in section 66.

(*3*) The juvenile court for the purpose of such inquiry, may remand the child even in his absence from time to time for a period of not more than fourteen days at a time until available information has been obtained.

[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

## PART IX.

### Maintenance and Treatment of committed Children.

Period of detention.

**89.** Notwithstanding anything contained in this Act, the period of detention in the case of a person under the age of fifteen years shall be such as will result in the person being detained until he reaches the age of eighteen years :

Provided that the period of detention in the case of a child over fifteen years of age shall be not less than two years :

Provided further that where special circumstances exist and the interest of the child so demands, it shall be open to the court for reasons to be recorded in writing, to pass an order for a shorter period of detention.

**90.** (*1*) The court which makes an order for the detention of a child or youthful offender in a certified school or for the committal of a child or youthful offender to the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child, or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.

(*2*) The court before making any order under sub-section (*1*) shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender or child and shall record evidence, if any, in the presence of the parent or such other person as the case may be.

(*3*) Any order made under this section may be varied by the court on an application made to it by the party liable or otherwise.

(*4*) The person liable to maintain a child or youthful offender shall for the purposes of sub-section (*1*) include in the case of illegitimacy his putative father :

Provided that where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898, the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child or youthful offender.

(*5*) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.

Contribution of parents.

V of 1898.

**91.** (*1*) In determining the certified school, fit person or other person to whose custody a child is to be committed or entrusted under this Act, the Court shall ascertain the religious denomination of the child and shall, if possible, in selecting such certified school, fit person or other person have regard to the facilities which are afforded for instruction in his religion.

(*2*) When a child is committed to the care of a certified school in which facilities for instruction in his religion are not afforded, or is entrusted to the care of a fit person or other person under circumstances in which it appears that no special facilities for the bringing up of the child in his religion exist, the authorities of such certified school or such fit person, or such other person shall not bring the child up in any religion other than his own.

V of 1898.

(*3*) Where it is brought to the notice of the Chief Inspector of Certified Schools or of the court that a breach of sub-section (*2*) has been committed, it shall be open to the Chief Inspector or the court to transfer the child from the custody of such institution or person.

Placing out on licence.

**92.** (*1*) Subject to the prescribed conditions, the Chief Inspector of Certified Schools may, at any time after the expiration of six months from the commencement of the detention of a child in a certified school or fit person institution, on the recommendation of the visitors or managers of the certified school or fit person institution, or on application by a parent, other relation or guardian, reinforced by local inquiries made through the [1][Maharashtra State] Probation and After-Care Association, or otherwise, release such child from the school or institution and grant him a written licence in the prescribed form and on the prescribed condition permitting him to live under the supervision and authority of such responsible person or society willing to take charge of the child and approved by the Chief Inspector.

(*2*) Any licence granted under sub-section (*1*) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(*3*) The Chief Inspector may at any time by order in writing revoke any licence and order the child to return to the certified school or fit person institution and shall do so at the desire of the person or society with whom or under whose supervision he is licensed to live. If the child refuses or fails to return to the school or fit person institution the Chief Inspector may, if necessary, call for the papers and deal with the case himself making such order as he thinks fit in the interest of the child or direct the arrest of the child and cause him to be placed before the court or taken back to the school or fit person institution.

(*4*) When a licence has been revoked or forfeited and the child or youthful offender, refusing or failing to return to the school or fit person institution, has been arrested and placed before the court under the provisions of sub-section (*3*) the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or youthful offender issue a summons requiring the parent or guardian to attend at the court on such day as may as be specified in the summons and to produce the child or youthful offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, on conviction, be punished with fine which may extend to fifty rupees.

(*5*) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

(*6*) The time during which a child is absent from a certified school or fit person institution in pursuance of a licence granted under this section shall be deemed to be part of the time of his detention in the school or institution ; provided that, where a child has failed to return to the school or institution on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school or institution.

Action by Police with escaped children.

**93.** (*1*) Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may arrest without a warrant a child who has escaped from a certified school or a fit person institution or from the supervision of a society or a person under whose supervision he was directed to remain, and shall send the child back to the certified school, institution, society or the person without registering any offence or prosecuting the child, and the said child shall not be deemed to have committed any offence by reason of such escape but he shall be dealt with by the authorities of the institution concerned in such manner as they think fit.

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[1] These words were substituted for the words " Bombay Province " by Mah. 38 of 1963, s. 9.

(*2*) When a child absconding from a certified school or fit person has been arrested at a different place, he shall be detained in a place of safety pending his removal to the certified school or fit person.

## PART X.

### APPEALS.

Appeals.

**94.** (*1*) Any person aggrieved by a final order may appeal to the courts hereinafter mentioned.

(*2*) If a final order is passed—

(*a*) by a juvenile court, an appeal shall lie in the Greater Bombay to the Chief Presidency Magistrate and in other places to the [1][Court of Session];

(*b*) by a Magistrate (not being a Presidency Magistrate) empowered under section 8 to exercise the powers of a juvenile court, an appeal shall lie to the Court of Session;

(*c*) by a Presidency Magistrate or a Court of Session, an appeal shall lie to the High Court.

(*3*) Except as provided in this section no appeal shall lie from any order passed under this Act by a juvenile court or any other court empowered to exercise the powers of a juvenile court under section 8.

Application of Criminal Procedure Code to appeals.

V of 1898.

**95.** The provisions of sections 419 to 431 (both inclusive) of the Code of Criminal Procedure, 1898, shall *mutatis mutandis* apply to appeals against final orders as if the said orders were the orders of conviction and sentence passed by a Criminal Court.

Period of limitation of appeals.

**96.** (*1*) The period of limitation for an appeal against a final order shall be thirty days in the case of appeals to courts other than the High Court and sixty days in the case of an appeal to the High Court from the date of the order appealed against.

IX of 1908.

(*2*) The provisions of sections 5, 7 and 12 of the Indian Limitation Act, 1908, shall apply to the filing of such appeals.

## PART XI.

### MISCELLANEOUS.

Discharge and transfer.

**97.** (*1*) The [2][State] Government may at any time order a child or youthful offender to be discharged from a certified school or fit person institution, either absolutely or on such conditions as the [2][State] Government approves.

Bom. XVIII of 1929.

(*2*) (*a*) The [2][State] Government may order a youthful offender who has attained the age of sixteen years detained in a certified school to be transferred to a Borstal School established under the Bombay Borstal Schools Act, 1929, in the interest of discipline or for other special reasons;

(*b*) any boy or girl over the age of sixteen years, who has been released on licence and who has committed a breach of licence conditions and whom it is not advisable to send back to his own school or institution, may be transferred to a Borstal School:

Provided that the whole period of the detention of the child or youthful offender shall not be increased by the transfer.

Bom. XVIII of 1929.

(*3*) Upon the transfer of a child or youthful offender to a Borstal School under sub-section (*2*) the provisions of the Bombay Borstal Schools Act, 1929, shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.

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[1] These words were substituted for the words "District Magistrate" by Bom. 23 of 1951, s. 2, Schedule—Part III.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*4*) The [1][State] Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the [1][State] Government approves.

Transfers between institutions and those of like nature in different parts of India.

**98.** (*1*) The [1][State] Government may in consultation with the managers of any certified school or fit person institution, consent to the transfer to that school or institution of any child or youthful offender in respect of whom an order has been made by a competent authority in any other part of India of the nature of an order under this Act directing him to be sent to a certified or reformatory school or institution of a like nature, and upon such transfer the provisions of this Act shall apply to such child or youthful offender.

(*2*) The [1][State] Government may direct any child or youthful offender to be transferred from any certified or reformatory school or fit person institution to any school or institution of a like nature in any other part of India [2]* * * in respect of which provision similar to that in the [3][State] of Bombay is made by the Government of that part [4]* * under any law in force therein :

Provided that no such child or youthful offender shall be transferred under this section to any other [3][State] [4]* * * without the consent of the Government [5][of that State.]

Transfer of children of unsound mind or suffering from leprosy.

**99.** (*1*) Where it appears to the [1][State] Government that any child detained in a certified school or fit person institution under any order of a court is of unsound mind or a leper the [1][State] Government may, by an order setting forth the grounds of belief that the child is of unsound mind or a leper, order his removal to a mental hospital or leper asylum or other place of safe custody, there to be kept and treated as the [1][State] Government directs during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the child or of others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(*2*) Where it appears to the [1][State] Government that the child has become of sound mind, or is cured of leprosy, the [1][State] Government shall, by an order directed to the person having charge of the child if still liable to be kept in custody, send him to the certified school or fit person institution from which he was removed, or if the child is no longer liable to be kept in custody, order him to be discharged.

(*3*) The provisions of section 31 of the Indian Lunacy Act, 1912, or (subject to the provisions of sub-section (*2*) ) of section 14 of the Lepers Act, 1898, shall apply to every child confined in a mental hospital or leper asylum under sub-section (*1*) after the expiration of the period for which he was ordered to be detained; and the time during which a child is confined in a mental hospital or leper asylum under that sub-section shall be reckoned as part of the period for which he may have been ordered by the court to be detained : IV of 1912. III of 1898.

Provided that where the removal of a child due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the child is detained to apply to a court having jurisdiction under the Indian Lunacy Act, 1912, or the Lepers Act, 1898, as the case may be, for an immediate order of committal to mental hospital or a leper asylum until such time as the orders of the [1][State] Government can be obtained in the matter. IV of 1912. III of 1898.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] The words "or in an Acceding State" were omitted, *ibid.*
[3] This word was substituted for the word "Province", *ibid.*
[4] The words "or in an Acceding State" "or State" were omitted, *ibid.*
[5] These words were substituted for the word "concerned", *ibid.*

Transfer from one institution to another.

**100.** The Chief Inspector may direct any child or youthful offender to be transferred from one institution to another whether a certified school or fit person institution:

Provided that the total period of detention of the child or youthful offender shall not be increased by such transfer.

Compensation for false and frivolous or vexatious information.

**101.** (*1*) If in any case in which an information has been laid by any person under the provisions of section 87, the magistrate after such inquiry as he may deem necessary is of opinion that such information was flase and either frivolous or vexatious, the magistrate may for reasons to be recorded in writing direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.

(*2*) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(*3*) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding thirty days.

XLV of 1860.

(*4*) When any person is imprisoned under sub-section (*3*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

(*5*) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him but any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter.

(*6*) When an order for the payment of compensation is made under sub-section (*1*), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of an appeal has expired.

Removal of disqualification attaching to convictions.

**102.** When a youthful offender is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code or section 565 of the Code of Criminal Procedure, 1898, or operate as a disqualification for office or any employment or election under any law.

XLV of 1860. V of 1898.

Power to amend orders.

**103.** Without prejudice to the powers of courts of appeal and revision any custody order, supervision order or probation order may be amended by the court which made such order in respect of the person named as custodian, supervisor or Probation officer and such other details as may be deemed necessary, provided that in the case of an order committing a child to an institution no such order shall, subject to the proviso hereinbelow, be amended except in relation to the period of duration, such amendment being by way of extension of the period only:

Provided that in case of emergency and for immediate necessity a committal order may be varied by way of change in the institution to which the order relates, such variation being subject to confirmation by the Chief Inspector of Certified Schools.

Control over custodian of child.

**104.** Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care for the period stated by the court notwithstanding that he is claimed by his parent or any other person,

Power to authorities to send children to remand homes or voluntary homes instead of to certified schools or fit person institutions.

**105.** Whenever under the provisions of this Act it is provided that a child shall be committed to a certified school or a fit person institution, it shall be lawful for the authority concerned to order such child to be sent to a remand home or a voluntary home instead, if, in the opinion of such authority, such order shall be in the interest of the child.

Bonds taken under the Act.

**106.** The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act. V of 1898.

Probation officers, Chief Inspector and Inspectors and persons authorised to be deemed to be public servants.

**107.** The Probation officers, Inspectors of Certified Schools including the Chief Inspector of Certified Schools and all other persons authorised or entitled to act under any of the provisions of 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 action taken under this Act.

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

Rules.

**109.** (*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 provision such rules may be made for all or any of the following matters, namely :—

(*a*) the procedure to be followed by juvenile courts and other courts empowered to exercise the powers of juvenile courts under section 8 in the trial of cases and the conduct of proceedings under the Act;

(*b*) the places at which, days on which and the manner in which a juvenile court shall hold its sittings under sub-section (*1*) of section 12 ;

(*c*) the conditions subject to which institutions and associations shall be recognized as approved places for the purpose of sub-section (*1*) of section 20 ;

(*d*) the establishment or certification, managements, maintenance, records and accounts of certified schools ; the education and industrial training of inmates in such institutions, and their leave of absence ; the appointment of visitors and their tenure of office ; the inspection of such certified schools and other institutions for the reception of [1][***] children ; and the internal management and discipline of schools either established or certified by the Provincial Gavernment, and release on license of inmates therein ;

(*e*) the conditions subject to which institutions and associations shall be recognised as " fit person institutions " and " approved places " under section 27 ;

(*f*) the powers and duties of Chief Inspectors, Inspectors and Assistant Inspectors of Certified Schools and Probation officers under section 39 ;

(*g*) the recruitment and training of personnel responsible for work under the Act ;

(*h*) the conditions in which societies may be recognised by the Provincial Government for providing Probation officers, their employment and matters incidental to their appointment, authorization, resignation and removal, and remuneration and expenses payable to them ;

[1] The word " poor " was deleted by Bom. 53 of 1949, s. 2, First Schedule.

(*i*) the manner of authorising persons for the purposes of sections 40 and 78 ;

(*j*) the manner in which a child or youthful offender shall be sent back to his native place under sections 46 and 73 ;

(*k*) the manner in which children shall be detained in custody by officers in charge of police stations or sections under sub-section (*1*) and the manner in which children shall be ordered to be detained by courts under sub-section (*2*) of section 65 ;

(*l*) the manner in which a child shall be ordered to be committed to a certified school or fit person institution or to the care of a relative or other fit person under clauses (*a*) and (*b*) of, and the form of bond under the proviso to section 81 ;

(*m*) the manner in which a child shall be remanded under sub-section (*1*) of section 87 ;

(*n*) the manner in which contribution for the maintenance of a child may be ordered to be paid under sub-section (*1*) of section 90 ;

(*o*) the conditions under which a child may be released from a certified school or fit person institution on licence and the form and conditions of such licence under sub-section (*1*) of section 92 ;

(*p*) the conditions subject to which children may be committed to the care of persons under this Act and the obligations of such persons towards the children so committed ;

(*q*) any other matter which is or may be prescribed under the Act.

(*3*) The power to make rules under this Act shall be subject to the condition of previous publication.

(*4*) The rules made under this Act shall be published in the *Official Gazette* and on such publication shall have effect as if enacted in this Act.

[1][(*5*) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the *Official Gazette* of such decision, have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

Repeal of Bom. XIII of 1924.

Bom. XIII of 1924.

**110.** The Bombay Children Act, 1924, is hereby repealed :

Provided that—

(*a*) juvenile courts established under the repealed Act shall be deemed to be juvenile courts established under this Act ;

(*b*) certified schools established or certified fit person institutions, remand homes, approved places and voluntary homes recognized under the repealed Act shall be deemed to be recognized under this Act ;

(*c*) all licences and certiesficat granted and transfers made under the repealed Act shall be deemed to begranted or made under this Act ;

(*d*) all cases, proceedings and appeals pending before any court under the repealed Act shall be continued and disposed of by the said courts notwithstanding anything in this Act as if they were cases, proceedings and appeals under this Act ;

[1] Sub-section (*5*) was inserted by Mah. 38 of 1963, s. 10.

(*e*) all appeals against orders of courts appointed under the repealed Act which would have lain under that Act shall be deemed to be appeals from orders made by courts under this Act and shall be presented to the courts empowered to hear appeals under this Act and shall be disposed of accordingly ;

(*f*) any appointment, notification, notice, order, rule or form made or issued under the repealed Act shall continue to be in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act.

Further repeals and savings.

[1][**111.** (*1*) On the commencement of the Bombay Children (Extension and Amendment) Act, 1963, the Central Provinces and Berar Children Act, 1928, and the Hyderabad Children Act, 1951, shall stand repealed : Mah. XXXVIII of 1963. C. P. and Berar Act X of 1928. Hyd. Act XXXII of 1951.

Provided that, anything done or any action taken (including any appointment, notification, notice, order, rule or form made or issued, any juvenile court established or any certified school established or certified, any place of safety or fit person recognised, any licence or certificate granted or withdrawn, any warrant issued, any bail granted, any remand, any committal for trial or custody, any discharge, or transfer of a child or youthful offender made, or any contribution directed to be paid) under any such law shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.

(*2*) The mention of particular matters in this section shall not affect the general application to this Act of section 7 of the Bombay General Clauses Act, 1904 (which relates to the effect of repeals). Bom. I of 1904.

[1] Section 111 was inserted by Mah. 38 of 1963 s. 11.

# THE BOMBAY KHAR LANDS ACT, 1948.

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45. Protection of persons acting in good faith.

46. Rules.

# BOMBAY ACT NO. LXXII OF 1948[1]

## [THE BOMBAY KHAR LANDS ACT, 1948]

[*31st December 1948.*]

Amended by Bom. 18 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 3 of 1951.
" " " 54 of 1953.
" " " 21 of 1954.
" " " 8 of 1955.
Adapted and modified by the Bombay Khar Lands Development Board (Reconstitution) Order, 1959.*
Adapted and modified by the Bombay Khar Lands Development Board (Regional Reorganisation) Order, 1960.
Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960
Amended by Mah. 44 of 1962.
" " " 28 of 1963.†
" " " 39 of 1966.
" " " 31 of 1970.

**An Act to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters.**

WHEREAS it is expedient to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters; It is hereby enacted as follows:—

Short title, extent and commencement.

**1.** (*1*) This Act may be called the Bombay Khar Lands Act, 1948.

[2][(*2*) It extends to the Bombay area of the State of Maharashtra.]

(*3*) It shall come into force in such area and on such date as the [3][State] Government may, by notification in the *Official Gazette*, direct.

Definitions.

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

[4][(*a*) " Board " means the Board established under section 3 ;]

[5]* * * * * * *

[6][(*b*) " Chairman " means the Chairman of the Board [7]* *;]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 354.

[2] This sub-section was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] Clause (*a*) was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[5] Clause (*a*) was omitted, *ibid.*

[6] Clause (*b*) was substituted for the original by the Bombay Khar Lands Development Board (Reconstitution) Order, 1960.

[7] This words " or where the Board consists of one member only, that member " were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

*The Order was published in Government of India, Ministry of Home Affairs, Notification No. 8/9-8-SR (R)-4, dated 23rd March 1959.

†The amendments made by section 2 of this Act [except by sub-clause (1) of clause (*c*) and by clause (*d*) thereof] shall apply and shall be deemed to have applied to all schemes which came into force under section 16 of the principal Act on or after the 1st day of April 1963 (*see* s. 3 of Mah. 28 of 1963).

(*c*) " embankment " includes—

(*i*) every bank, dam, wall and dyke made or used for excluding water from, or retaining water upon, any tidal or khar land or for excluding salt water from entering into any adjoining sweet water nallas;

(*ii*) every sluice, spur, groyne, training wall, berm or other work annexed to, or portion of, any such embankment;

(*iii*) every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any tidal or khar land from erosion or overflow by or of tides, waves or waters; and

(*iv*) all buildings intended for inspection and supervision ;

[1]* * * * *

(*d*) " khar land " means such tidal land as is made cultivable by protecting it by means of an embankment from the sea or tidal river, and includes all such land in whatever manner described, whether as khar, khajan, kharepat, gazni or otherwise;

[1]* * * * *

(*e*) " member " means a member of the Board;

(*f*) " prescribed " means prescribed by rules made under this Act ;

(*g*) " sea " includes bay, inlet, creek or an arm of the sea;

(*h*) " tidal land " means such parts of bed or shore of the tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides together with the adjoining bed or shore not exceeding two furlongs in distance from the spring tide mark;

(*i*) " tidal water " means any part of the sea or river within the flow and ebb of the tide at ordinary spring tides;

(*j*) " unit " means a unit formed by the Board under sub-section (*2*) of section 11.

**2A.** [*Construction of certain references in the Act.*] *Omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.*

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[1] Clauses (*cc*) and (*da*) were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 196[illegible].

Establishment of Khar Lands Development Board.

[1] 3. (*1*) The State Government shall by notification in the *Official Gazette* establish a Board to be called the Maharashtra Khar Lands Development Board. The Board shall consist of a Chairman and members as specified in sub-section (*2*).

(*2*) The Board shall consist of four *ex-officio* members and five other members as follows :—

(*a*) the *ex-officio* members shall be—

(*i*) Secretary to the Government of Maharashtra, Revenue Department ;

(*ii*) Secretary to the Government of Maharashtra, Agriculture and Forests Department ;

(*iii*) Director of Agriculture, Maharashtra State ;

(*iv*) Director of Minor Irrigation ;,

(*b*) the members other than *ex-ffiocio* members shall be nominated by the State Government, two each representing the Thana and Kolaba districts, and one representing the Ratnagiri district.

(*3*) The names of members nominated under sub-section (*2*) shall be published in the *Official Gazette.*

(*4*) The Chairman of the said Board shall be appointed by the State Government and shall hold office for a period of three years from the date of his appointment.

(*5*) Until a Board is duly constituted under sub-section (*2*), the existing Board constituted for the Maharashtra region shall continue to function and operate in the Bombay area of the State of Maharashtra and shall be deemed to be the Board for the purposes of this Act, established under sub-section (*1*)].

Term of office : vacancies.

4. (*1*) The members other than *ex-officio* members shall hold office for a period of three years from the date of the publication of their names under [2]* * * section 3.

[3]* * * * * * *

(*2*) If any such member—

(*a*) dies ; or

(*b*) is absent from the meetings of the Board for more than three consecutive meetings of the Board ; or

(*c*) leaves the [4][State] with the intention of being absent therefrom for more than three consecutive months ; or

(*d*) resigns ; or

(*e*) refuses to act or becomes incapable of acting ;

his office shall thereupon become vacant.

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[1] Section 3 was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[2] The words, brackets and figures " sub-section (*4*) of " were deleted by Bom. 21 of 1954, s. 3 (*1*).

[3] The proviso was deleted by the Bombay Khar Lands Development Board (Reconstitution) Order 1959.

[4] This word was substituted for the words " State of Bombay ", *ibid.*

(*3*) All casual vacancies among the members other than the *ex-officio* members shall be filled up as soon as it conveniently may be [1][by nomination under] section 3; and the person [2][nominated] to a casual vacancy shall hold office so long as the member in whose place he is [2][nominated] would have held it if the vacancy had not occurred.

(*4*) No act, done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

**5.** [*Power of State Government to nominate members in certain circumstances.*] *Deleted by Bom. 54 of 1953, s. 4.*

Incorporation of Board.

**6.** The Board constituted under secion 3 shall be a body corporate by the name of "[3][The Maharashtra Khar Lands Development Board]" and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable and to contract and to do all things necessary for the purposes of this Act.

Power of Board to make by-laws.

**7.** (*1*) The Board may with the previous sanction of the [4][State] Government make by-laws consistent with this Act and the rules made thereunder for all or any of the following matters :—

(*a*) the manner in which its business shall be transacted ;

(*b*) the definition of its power to enter into contracts, which shall be binding on it and the manner in which such contract shall be executed ;

(*c*) any other matter for which provision is required to be made for the efficient discharge of its duies or business.

(*2*) The Board may also make regulations for carrying out the objects of a scheme which has come into force under this Act.

**8.** [*Appointment of Chairman*]. *Omitted by the Bombay Khar Lands Development Board (Reconstitution) Order, 1959.*

Appointment of [6] officers and servants.

**9.** (*1*) The [4][State] Government may appoint [5][the Secretary and] such other officers and servants as may be required to enable the Board to discharge its functions under this Act.

(*2*) The Board may, with the previous sancion of the [4][State] Government, consult such technical advisers, as it thinks necessary for the purpose of carrying out the objects of this Act and they shall be paid such remuneration as may be determined by the Board with the previous sanction of the [4][State] Government.

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[1] These words were substituted for the words, brackets and figure " by selection in the manner specified in sub-section (*3*) of " by Bom. 54 of 1953, s. 3 (*2*) (*a*).

[2] This word was substituted for the word " selected ", *ibid.* s. 3 (*2*) (*b*).

[3] These words were substituted for the words " The Khar Lands Development Board for....." by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] These words were inserted by Bom. 18 of 1949, s. 4.

[6] The word " other " was omitted, *ibid.*

(*3*) The officers and servants [1][appointed under sub-section (*1*)] shall be the servants of the [2][State] Government and they shall draw their pay and allowances from the [2][State] revenues.

Board to pay costs on account of pay, pension, etc., of officers and servants.

**10.** [3][(*1*)] The Board shall pay every year out of its fund to the [2][State] Government such cost as the [2][State] Government may determine on account of the pay, pension, leave and other allowances of the officers and servants appointed under this Act.

[3][(*2*) Notwithstanding anything contained in sub-section (*1*), the State Government may, having regard to the financial position of the Board, by order, exempt the Board, wholly or partially, from the payment of the cost referred to in that sub-section during any year or years as may be specified in the order.]

Powers and duties of Board.

**11.** (*1*) It shall be the duty of the Board to promote the development of khar lands in the most efficient and economical manner.

(*2*) Without prejudice to the generality of the foregoing power, the Board may—

(*a*) cause survey to be made of all the khar and tidal lands in the [4][State] to which this Act applies ;

(*b*) prepare a list of—

(*i*) all embankments,

(*ii*) the land benefited or to be protected by each such embankment,

(*iii*) the names of landlords and tenants of such lands ;

(*c*) form units having regard to the contours of embankments constructed or to be constructed for the protection of lands and the homogeneity of the plots of lands protected or to be protected thereby ;

(*d*) prepare schemes for the construction, maintenance and preservation of embankments and other prescribed objects ;

(*e*) remove encroachments on inland waterways ;

(*f*) supervise all work in connection with the better cultivation of khar lands ;

(*g*) reclaim tidal lands for the purpose of bringing them under cultivation ; and

(*h*) generally do all that is necessary for carrying out the objects of the Act.

Power of Board to prepare scheme.

**12.** (*1*) The Board may prepare scheme for each unit for the purpose of carrying out its duties under section 11.

(*2*) A scheme prepared under sub-section (*1*) shall contain the following particulars, namely :—

(*i*) the objects of the scheme ;

(*ii*) the approximate area of the lands likely to be included in or affected by the scheme ;

(*iii*) a plan showing the approximate area included in or affected by the scheme ;

(*iv*) the persons, including the [5][Government] affected by the scheme ;

(*v*) the kind of embankment to be constructed or maintained under the scheme ;

(*vi*) a detailed estimate of the cost of the scheme ;

(*vii*) such other particulars as may be prescribed.

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[1] This portion was inserted by Bom. 18 of 1949, s. 3.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] Section 10 was renumbered as sub-section (*1*) and sub-section (*2*) was added by Mah. 39 of 1966, s. 2.
[4] This word was substituted for the word "Province", *ibid.*
[5] This word was substituted for the word "Crown", *ibid.*

Publication of scheme.

**13.** (*1*) The scheme prepared under section 12 shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands proposed to be included in the scheme are situate.

(*2*) The Board shall, on publication of the scheme, require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to such person as the Board may authorize in this behalf or appear before him within one month of the publication of the scheme in the *Official Gazette* under sub-section (*1*) or within fifteen days from the date of the publication of the scheme in the village under sub-section (*1*) whichever period expires later.

Report of authorised person.

**14.** (*1*) The person authorized under sub-section (*2*) of section 13 shall hear such objections as are made to him in person, consider all objections duly submitted under the said sub-section (*2*) and submit his report together with the objections to the Board.

(*2*) Such person may, while submitting his report under sub-section (*1*), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme prepared by the Board under section 12.

Power of [1][State] Government to sanction scheme with or without modification.

**15.** (*1*) After consideration of the objections and the report submitted to it under sub-section (*1*) of section 14, the Board shall within the period prescribed submit the draft scheme with any modifications which it may have made therein together with the objections forwarded to it, to the [1][State] Government and shall at the same time apply for its sanction.

(*2*) After receiving such application and after making such inquiry, as it may think fit, the [1][State] Government may within the period prescribed sanction the scheme with or without modification and subject to such conditions as it may think fit to impose or refuse to give sanction.

(*3*) If the scheme is sanctioned under sub-section (*2*), it shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in the scheme are situate.

(*4*) In considering the objections, the decision of the Board on the question whether or not any land included in the scheme, is benefited by, or will be protected under, the scheme shall be conclusive evidence on the question.

Effect of scheme.

**16.** On the date on which the scheme is published in the *Official Gazette* under sub-section (*3*) of section 15 it shall come into force and shall have effect as if it were enacted in this Act.

Execution of scheme.

**17.** After the scheme has come into force under [2][this Act] the Board shall execute the scheme in accordance with the rules prescribed in that behalf.

Power to vary scheme.

[3][**17A.** (*1*) (*a*) If after the scheme has come into force, the Board considers that the scheme is defective on account of an error, irregularity or informality, the Board may apply to the State Government for the variation of the scheme, in the manner specified in the application.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the word and figures "section 16" by Bom. 3 of 1951, s. 3.
[3] These sections were inserted, *ibid.*, s. 2.

(*b*) If the State Government is satisfied that the variation proposed by the Board is on account of an error, irregularity or informality, which does not vary the scheme in any material particulars, the State Government may, by a notification in the *Official Gazette*, sanction the variation.

(*2*) If the State Government is satisfied that the variation proposed by the Board varies the scheme in any material particulars, the State Government shall require the Board to follow the provisions of sections 13, 14 and 15 in respect of such variation, and the provisions of sections 13, 14 and 15 shall apply in relation to such variation, as if such variation was itself a scheme.

Variation to form part of the scheme.

**17B.** The variation sanctioned under section 17A shall take effect on the date on which the notification is published in the *Official Gazette* under clause (*b*) of sub-section (*1*) of section 17A or on the date on which the variation is published under sub-section (*3*) of section 15, as the case may be, as if it were incorporated in the scheme.]

Power to revoke scheme.

[1][**17C.** If upon an application made by the Board for the purpose, the State Government is satisfied that it is necessary so to do, the State Government may at any time, by notification in the *Official Gazette*, revoke the scheme, notwithstanding anything hereinbefore contained.]

Refund of contribution and payment of compensation when scheme is revoked.

[1][**17D.** If any scheme which has come into force is revoked [2][under section 17C], any person who has paid any contribution as required under section 25, shall be entitled to the refund of the amount of the contribution. If any person who has incurred any expenditure for the purpose of complying with any regulation made under section 18, such person shall also be entitled to receive such compensation as the Board may determine.]

Further power to revoke scheme in other cases.

[3][**17E.** Notwithstanding anything in this Act, if upon an application made by the Board, the State Government is satisfied that landlords, intermediate tenure-holders or tenants or owners of lands benefitted or protected by embankments included in a scheme which has come into force, do not co-operate with the Board in the proper maintenance and repairs thereof, or such maintenance and repairs are no longer economical or technically feasible on account of heavy floods, tempests, high tides, change of the course of a river, stream, *nalla* or creek, or any natural calamity, [4][or that such landlords, intermediate tenure-holders and tenants have agreed to change the user of such land for any non-agricultural purpose, or that such lands have been acquired under any law for the time being in force for any public purpose rendering the continuance of the scheme unnecessary], the State Government may, by notification in the *Official Gazette*, revoke the scheme and upon such revocation the provisions of this Act (except section 40) shall cease to apply to such scheme. No person shall be entitled to the refund of any amount of the contribution or to any compensation upon such revocation:]

[5][Provided that, where any scheme is revoked for the reason that the landlords, intermediate tenure-holders and tenants have agreed to change, the user of such land for any non-agricultural purpose, all such landlords, intermediate tenure-holders and tenants shall, within sixty days from the date of revocation of the scheme, pay to the State Government the cost of such scheme contributed by the State Government under section 25 in the same proportion in which such landlords, intermediate tenure-holders and tenants have contributed their share of the cost of the scheme under that section. If such payment is not made within such sixty days by any such person, he shall be liable to pay interest at such rate as may be

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[1] Sections 17C and 17D were inserted by B m. 54 of 1953, s. 5.
[2] This portion was inserted by Mah. 44 of 196', s. 2.
[3] Section 17E was inserted, *ibid.*, s. 3.
[4] These words were inserted by Mah. 31 of 1970, s. 2(*a*).
[5] This proviso was added, *ibid.*, s 2(*b*).

prescribed, from time to time on the amount due from him from the date immediately following the date of expiry of the period of such sixty days to the date of making the payment.]

Power of Board to incur expenditure in circumstances of emergency.

[1][17F. (*1*) Where in the opinion of the Board any scheme, whether completed or under execution, needs any immediate additional works or repairs due to damage caused by heavy floods, tempests, high tides, change of the course of a river, stream, *nalla* or creek, or any natural calamity, the Board may, in order to check further deterioration of or damage to such scheme, take immediate steps to carry out such additional works or repairs without following the provisions of sections 13, 14 and 15, subject to the condition that no sum exceeding Rs. 15,000 in respect of any completed scheme, or 20 per cent of the estimated cost of any scheme which is under execution, shall be so expended :

Provided that, the total expenditure to be incurred in any financial year under this sub-section shall not exceed such limit as the State Government may fix in this behalf.

(*2*) Where any sum is expended under sub-section (*1*), the Board shall, as soon as practicable, obtain the sanction of the State Government in respect of the additional works or repairs carried out and the expenditure incurred.

(*3*) The State Government may, by notification in the *Official Gazette*, sanction the said works or repairs and expenditure, and on the date of publication of such notification the scheme shall be deemed to have been varied and the variation shall be deemed to have been incorporated in the scheme.]

Power of Board to make regulations.

18. For the purpose of carrying out the objects of the scheme which has come into force under [2][this Act] the Board may make regulations requiring any person or class of persons who in the opinion of the Board is or are interested in or affected by the scheme or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.

Committees for units.

19. The Board shall appoint a Committee for each unit to be constituted in the perscribed manner and it shall be the duty of the Committee so appointed to maintain and repair embankments included in the unit to which the scheme relates. The Committee shall exercise such powers and perform such other duties as the Board may determine.

Acquisition of land, right or interest.

20. If at any time, on an application of the Board, it appears to the [3][State] Government that any land or the right or interest of any person in any land should for the purposes of any scheme under the Act be compulsorily acquired, it shall be lawful for the [3][State] Government to publish a notification to that effect in the *Official Gazette*. The notification so published shall be deemed to be a declaration under section 6 of the Land Acquisition Act, 1894, and shall be conclusive as if it was made under the said provision and the land, right or interest in the land shall be deemed to be needed for a public purpose within the meaning of the said Act. On the publication of the notification, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the said Act shall *mutatis mutandis* apply to the determination of the amount of compensation, the apportionment of the compensation and other matters relating to the acquisition of the said land, right or interest. The [3][State] Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land, right or interest : 1 of 1894.

Provided that where any land which is acquired has remained fallow for three successive years immediately preceding the date of the notification, the market value of such land shall not be assessed to be more than twice the amount of annual assessment payable in respect thereof.

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[1] Section 17F was inserted by Mah. 39 of 1966, s. 3.

[2] These words were substituted for the word and figures " section 16 " by Bom. 3 of 1951, s. 3.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Claim for compensation for consequential damage.

**21.** Subject to the provisions of section 23, whenever any land other than land acquired for the purposes of this Act or any right of fishery, right of drainage, right of the use of water or other right of property shall have been injuriously affected by any act done, or any scheme executed, under the provisions of this Act, the person in whom such property or right is vested may prefer a claim in writing to the Collector for compensation and thereupon the provisions of the Land Acquisition Act, 1894, I of 1894. shall, so far as may be, *mutatis mutandis*, apply for the determination of the compensation, apportionment and payment thereof.

Limitation to claim for compensation.

**22.** No claim under section 21 shall be entertained if it is made later than two years next after the completion of the work by which such right is injuriously affected.

No compensation in certain cases for use or removal of earth.

**23.** Any land which, before the commencement of this Act, has been used for the purpose of obtaining earth or other materials for the construction or repair of any embankment shall be deemed to be at the disposal of the Board for such purpose without payment of compensation for the use or removal of such earth or other materials.

Power of Board to regulate fishing rights.

**24.** (*1*) Not withstanding any custom, usage, law or contract to the contrary no person shall fish or exercise the right of fishery in any water on any tidal or khar land to which the provisions of this Act apply except under a licence granted by the Board in this behalf.

(*2*) The licence granted under sub-section (*1*) shall be granted on the payment of such fees and subject to such restrictions and on such conditions and shall be in such form and contain such particulars as may be prescribed.

Contribution towards cost of scheme.

[1][**25.** (*1*) The cost of the scheme which has come into force under section 16 shall be met by contribution between the State Government and the landlords and the tenants thereof in accordance with the following rules :—

*Rule 1.*—The State Government shall contribute [2][50 per cent.] of the cost and if lands included in the scheme are not leased, [3][50 per cent.] of the cost shall be borne by the landlords.

**Rule 2.*—If all or any of the lands included in the scheme are leased, [4][8 per cent.] of the cost shall be borne by the landlords, notwithstanding anything to the contrary contained in any agreement, custom or usage relating to the liability of the tenants to pay such cost and [5][42 per cent.] of the cost shall be borne by the tenants.

*Rule 3.*—If any land included in a scheme is held on [6]* * * permanent tenancy, the contribution payable by landlords or tenants shall be as follows :—

(*i*) If the landlord or any intermediate tenure holder receives a fixed rent in respect of such land payable in cash or in kind, the amount or quantity of rent not being variable in proportion to the yield of the land—

(*a*) the landlord or any of the intermediate tenure holders who receives such fixed rent shall not be liable to pay any part of the contribution ;

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[1] Section 25 was substituted for the original by Bom. 54 of 1953, s. 6.

[2] These figures and words were substituted for the figures and words " 40 per cent. " by Mah. 28 of 1963, s. 2.

[3] These figures and words were substituted for the figures and words " 60 per cent. ", *ibid.*

[4] These figures and words were substituted for the figures and words " 10 per cent. ", *ibid.*

[5] These figures and words were substituted for the figures and words " 50 per cent. ", *ibid.*

[6] The words " a mulgeni or any other kind of " were deleted, *ibid*, s. 2 (*c*).

* The provisions of Rule 2 shall apply and shall be deemed to have applied in respect of all schemes sanctioned by the State Government under sub-section (*2*) of section 15 of the said Act on or after the 11th day of December 1952 (*vide* s. 9 of Bom. 54 of 1953).

(*b*) if neither the landlord nor any of the intermediate tenure holders is liable to pay any part of the contribution under sub-clause (*a*), the tenant shall pay [1][50 per cent.] of the cost.

(*ii*) If the landlord and any intermediate tenure holder do not receive a fixed rent as specified in clause (*i*)—

(*a*) the [2][8 per cent.] of the contribution payable by the landlord shall be paid by the landlord and the intermediate tenure holder, who do not receive a fixed rent, in proportion to the amount of rent received by each of them in respect of the land ;

(*b*) the tenant in actual occupation shall pay [3][42 per cent.] of the cost.

*Rule 4.*—If the lands included in a scheme are held by more than one landlord, intermediate tenure holder or a tenant and if any question arises as to the amount of contribution to be paid by such landlord, intermediate tenure holder, or tenant, the question shall be referred to the decision of such officer as the State Government may appoint in this behalf and the decision of such officer shall be final.

[4]* * * * * *

(*2*) The State Government may prescribe by rules made in this behalf the manner in which and the extent to which the contribution payable by landlords, intermediate tenure holders and tenants under this section may be levied in lieu of cash payment.]

[5][(*3*) The contribution payable by the landlords, intermediate tenure holders and the tenants in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on such land or the interest in such land, as the case may be, held by the person liable to pay such contribution.]

Application for loan.

**26.** The landlords and tenants of lands who are not able to pay their share of the contribution towards the cost of the scheme under section 25 may within the prescribed period make an application to the [6][State] Government for the grant of a loan for the purpose of paying their share of such contribution.

Power of [6][State] Government to grant loans.

**27.** When an application for a loan is made under section 26, the [6][State] Government may grant the loan in accordance with the rules from time to time made in this behalf.

Recovery of loans.

**28.** Every loan made in accordance with such rules, all interest (if any) chargeable thereon and the costs (if any) incurred in making or recovering the same [7][shall, subject to the prior payment of land revenue, be a first charge on the land or any interest therein held by the person to whom the loan is made and] shall, when they become due, be recoverable [8][by sale of the land or the interest therein, as the case may be, and also] from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

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[1] These figures and words were substituted for the figures and words "60 per cent." by Mah. 28 of 1963, s. 2.

[2] These figures and words were substituted for the figures and words "10 per cent.", *ibid.*

[3] These figures and words were substituted for the figures and words "50 per cent.", *ibid.*

[4] The Explanation was deleted, *ibid*, s. 2 (*d*).

[5] This sub-section was added by Bom. 8 of 1955, s. 2.

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[7] These words were inserted by Bom. 8 of 1955, s. 3 (*1*).

[8] These words were inserted, *ibid*, s. 3(*2*).

Liability of joint borrowers as among themselves.

**29.** When a loan is granted under section 27 to persons on such terms that all of them are jointly and severally bound to the [1][State] Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Forfeiture of lease of land for failure to pay contribution.

**30.** If any person holding any land on lease from the [1][State] Government fails to pay his share of the contribution under section 25 in respect of such land, within such time as the [1][State] Government may fix to the [1][State] Government, the Collector may dispose of the land in accordance with the rules made in this behalf under section 46. Such lease shall be determined by forfeiture to the [1][State] Government, notwithstanding anything contained in any law for the time being in force and unless the Collector otherwise directs, be freed from all rights, incumbrances and equities theretofore, created in favour of any person other than the [2][Government] in respect of such land.

[10][Levy of annual maintenance and sinking fund contributions.

**31.** *(1)* All [3][landlords, intermediate tenure holders and] tenants and all owners of lands benefited or protected by embankments included in a scheme under this Act shall pay to the Board [4][an annual maintenance contribution (which shall include supervision charges) and also an annual sinking fund contribution. The two contributions shall be levied and paid in such manner and at such rates and subject to such conditions, if any, as may be prescribed.]

*(2)* The decision of the Board on the question whether any land is benefited or protected by an embankment under this Act shall be conclusive evidence on such question.

[5][*(3)* Notwithstanding anything contained in sub-section *(1)*, the Board may, in such circumstances as may be prescribed, suspend or remit wholly or partially the payment of [6][both or either of the contributions] by such landlords, [7][intermediate tenure holders, tenants or] owners as it may specify in this behalf.]

[8][*(4)* [9][Any contribution] payable under this section shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on such land or the interest in such land, as the case may be, held by the person liable to pay such contribution.]

[11]* * * * * *

Liability of person in possession of land to any contribution or loan.

[12][**31A.** When any person primarily liable to pay any contribution under section 25 or 31 or any loan made under section 28 makes a default, the amount of such contribution or loan, which may be due, shall be recoverable from any person in possession of the land :

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Crown", *ibid.*
[3] These words were substituted for the words "landlords and" by Bom. 8 of 1955, s. 4 *(1)*.
[4] This portion was substituted for the portion beginning with "an annual contribution" and ending with "as may be prescribed" by Mah. 44 of 1962, s. 4 *(1)*.
[5] This sub-section was added by Bom. 54 of 1953, s. 7.
[6] These words were substituted for the words "the annual contribution" by Mah. 44 of 1962, s. 4 *(2)*.
[7] These words were substituted for the words "tenants or" by Bom. 8 of 1955, s. 4 *(2)*.
[8] Sub-section *(4)* was added, *ibid.*, s. 4 *(3)*.
[9] These words were substituted for the words "The contribution" by Mah. 44 of 1962, s. 4 *(3)*.
[10] This marginal note was substituted, *ibid.*, s. 4 *(4)*.
[11] The *Explanation* was deleted by Mah. 39 of 1966, s. 4.
[12] This section was inserted by Bom. 8 of 1955, s. 5.

Provided that where any amount is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable and shall be entitled to credit for the amount recovered from him, in account with the person who is primarily liable.]

Presentation of budget estimates.

**32.** The budget estimates of the Board for each financial year shall be presented to the Board before the 1st day of March in the preceding financial year by the Chairman [1]* * * * * * * and the budget as finally passed shall be subject to the approval of the [2][State] Government which shall have power to reduce any item in the estimates of expenditure and to restore any provision which it considers to be essential for the safe and efficient conduct of the business of the Board.

Restriction on unbudgeted expenditure.

**33.** (*1*) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding Rs. 25,000 shall be expended by the Board unless such sum has been included in the budget approved by the [2][State] Government under section 32.

(*2*) Where any such sum is expended under circumstances of extreme urgency a report thereon shall be made as soon as practicable to the [2][State] Government.

Custody and disbursement of monies.

**34.** (*1*) All monies received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury.

(*2*) All funds for disbursement shall be drawn by means of cheques which shall be signed by the Chairman of the Board, or such other member of the Board as the Chairman may, with the approval of the Board, authorize in this behalf [3]* * * * * * * *

Provisions for audit.

**35.** The accounts of the Board shall be maintained in such form and shall be subject to such audit, by such agency and on such terms and conditions as the [2][State] Government may prescribe.

Supply of copies of budget and accounts.

**36.** The Board shall furnish each financial year to the [2][State] Government a copy of its budget and of the accounts of the preceding financial year.

Annual report.

[4][**36A.** The Board shall, after the end of each financial year, submit to the State Government a report before such date as may be prescribed giving a true and full account of its activities and programme during the previous financial year. A copy of such report and of the accounts of the preceding financial year furnished by the Board to the State Government under section 36 shall be laid before each House of the State Legislature as soon as may be after it is received by the State Government.]

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[1] The words " or where the Board consists of one member only, the budget shall be prepared by that member " were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " or where the Board consists of one member only, by that member " were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[4] Section 36A was inserted by Mah. 39 of 1966, s. 5.

Fund.

**37.** (*1*) The Board shall have its own fund and the following monies shall be placed to the credit thereof :—

(*a*) the fees received under section 24 ;

(*b*) all contributions paid to the Board under section 25 ; and

(*c*) [1][the annual maintenance contributions] paid to the Board under section 31.

(*2*) The balances of the fund and the interest accruing thereon shall be expended by the Board in such manner and for such purposes as may be prescribed :

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Sinking fund.

**38.** The Board shall have also a sinking fund to which shall be credited [2][the annual sinking fund contributions] paid to the Board under section 31. The Board may apply the sinking fund to the repair of breaches in embankments included in a scheme caused by tempest, flood or other irresistible force and to such other purposes as may be prescribed.

Penalty.

**39.** Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 16 or any of the regulations made under section 18 or does any act which causes damages to any of the works carried out under the scheme [3][or contravenes the provisions of sub-section (*1*) of section 24 or fails to comply with the conditions of a licence granted under sub-section (*2*) of that section] or obstructs any person in the due exercise of his powers or execution of his duties under this Act or contravenes the provisions of [4][any rules made under this Act,] shall, on conviction, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Recovery of amounts due.

**40.** Save as otherwise expressly provided in section 30, all amounts due under this Act [5][(including the proviso to section 17-E)] shall be recoverable as arrears of land revenue.

Right of entry.

**41.** For the purpose of preparing, sanctioning or executing any scheme or otherwise for carrying out the objects of this Act, any person duly authorized by the Board or the Committee appointed by the Board under this Act may, after giving such notice as may be prescribed, to the owner or occupier or other person interested in any land enter upon, survey and mark out such land and do all acts necessary for such purposes.

Inquiries to be held summarily.

**42.** (*1*) The person authorized under sub-section (*2*) of section 13 shall, if he desires to make any inquiry, make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of summary inquiry shall, so far as may be, apply.

Bom. V of 1879.

(*2*) Such person as well as the Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

Registration of document, plan or map in connection with scheme not required.

**43.** (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force.

XVI of 1908.

(*2*) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act :

XVI of 1908.

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[1] These words were substituted for the words "Seventy-five per cent. of the annual contributions" by Mah. 44 of 19 2, s.5.

[2] These words were substituted for the words "twenty-five per cent. of the annual contributions" *ibid.*, s.6.

[3] This portion was inserted, *ibid.*, s.7(*1*).

[4] These words were substituted for the words "any rules made or fails to comply with the conditions of a license granted under this Act," *ibid.*, s.7(*2*).

[5] This portion was inserted by Mah. 31 of 1970, s.3.

**44.** The Chairman, members and Secretary of the Board [1]* * * the members of any committee or officers appointed by the Board and the person authorized under sub-section (*2*) of section 13 shall be deemed to be public servants within the meaning of the Indian Penal Code. Certain persons to be public servants.

XLV of 1860.

**45.** (*1*) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorized under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or regulations made thereunder. Protection of persons acting in good faith.

(*2*) No suit or prosecution shall be instituted against any public servant or person duly authorized under this Act 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.

**46.** (*1*) The [2][State] Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters :—

[3]* * * * * * *

(*b*) the other objects for which a scheme may be prepared by the Board under clause (*d*) of sub-section (*2*) of section 11 ;

(*c*) the other particulars to be prescribed under clause (*vii*) of sub-section (*2*) of section 12 ;

(*d*) the period within which the Board shall submit the draft scheme, and the period within which the [2][State] Government may sanction the draft scheme under section 15 ;

(*e*) execution of a scheme under section 17 ;

(*f*) the manner of constituting a committee for each unit under section 19 ;

(*g*) matters connected with the acquisition of land, right or interest under section 20 ;

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[1] The words "or where the Board consists of one member only, that member" were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
[2] This word was substituted or the word "Provincial" by the Adaptation of Laws Order, 11950
[3] Clause (*a*) was deleted by Bom. 54 of 1953, s. 8(*1*).

(*h*) the fees for the grant of a licence, the restrictions subject to which and the conditions on which a licence shall be granted, the form of the licence and the particulars to be contained therein, under section 24 ;

[1][(*i*) the manner in which and the extent to which the contribution payable under section 25 may be levied in lieu of cash payment ;]

(*j*) the period within which an application for a loan may be made under section 26 ;

(*k*) grant of a loan under section 27 ;

(*l*) disposal of land under section 30 ;

(*m*) the manner in which, the rate at which and the conditions subject to which [2][the annual maintenance contribution and the annual sinking fund contribution] shall be levied and paid under sub-section (*1*) of section 31, [3][and the circumstances in which the [4][payment of any annual contribution] may be suspended or remitted by the Board under sub-section (*3*) of the said section] ;

(*n*) the form of accounts to be maintained, the agency of audit and the terms and conditions of audit, under section 35 ;

[5][(*nn*) the date before which the annual report shall be submitted to the State Government under section 36A ;]

(*o*) the manner in which and the purposes for which balances of the fund and the interest accruing thereon shall be expended under sub-section (*2*) of section 37;

(*p*) the other purposes for which sinking fund may be applied under section 38;

(*q*) the notice to be given under section 41 ;

(*r*) the manner in which the documents, plans and maps relating to the sanctioned scheme shall be accessible to the public under the proviso to sub-section (*2*) of section 43 ;

(*s*) any other matter which is or may be prescribed under this Act.

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

[6][(*4*) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the *Official Gazette* of such decision, have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

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[1] Clause (*i*) was substituted for the original by Bom. 54 of 1953, s. 8 (*2*).
[2] These words were substituted for the words "the annual contribution" by Mah. 44 of 1962, s. 8 (*1*)(*a*).
[3] This portion was added by Bom. 54 of 1953, s. 8 (*3*).
[4] These words were substituted for the words "payment of the annual contribution" by Mah. 44 of 1962, s. 8 (*1*) (*b*).
[5] Clause (*nn*) was inserted by Mah. 39 of 1966, s. 6.
[6] Sub-section (*4*) was added by Mah. 44 of 1962, s. 8 (*2*).

# BOMBAY ACT No. LXXVIII OF 1948.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY THIRD AMENDMENT) ACT, 1948.]

[*31st December 1948.*]

**An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.**

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Code of Criminal Procedure (Bombay Third Amendment) Act, 1948.

Insertion of new section 539C in Act V of 1898. V of 1898. **2.** After section 539B of the Code of Criminal Procedure, 1898, the following section shall be inserted, namely:—

Other powers of Magistrates. "539C. Any Magistrate shall be entitled to attest, verify or authenticate documents brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix seals thereon, as may be prescribed by the Bombay Public Authorities Seals Act, 1883, or any other law for the time being in force."

Bom. V of 1883.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, p. 560.

# THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.

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(G.G.P.) MO-B II 2601—3

# BOMBAY ACT No. LXXIX OF 1948.[1]

[THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.]†

[*11th January 1949*]

Amended by Bom. 17 of 1949.
" " " 53 of 1949.
" " " 59 of 1949.
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1951.
" " " 28 of 1952.
" " " 58 of 1954.
Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
Amended by Mah. 26 of 1961.
" " " 64 of 1977 (1-5-1978)*

**An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.**

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes hereinafter specified; It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Short title, extent and operation.

**1.** (*1*) This Act may be called the Bombay Shops and Establishments Act, 1948.

[2][(*2*) It extends to the whole of the State of Maharashtra.]

(*3*) It shall in the first instance come into force in the local areas specified in Schedule I:

Mah XXVI of 1961. C. P. & Berar Act XXII of 1947. Hyd. X of 1951.

[3][Provided that, on the commencement of the Bombay Shops and Establishments (Extension and Amendment) Act, 1960, all the provisions of this Act shall also come into force in each of the areas in which the Central Provinces and Berar Shops and Establishments Act, 1947, or the Hyderabad Shops and Establishments Act, 1951 was in force immediately before such commencement.]

(*4*) The [4][State] Government shall by notification published in the *Official Gazette* direct that all or any of the provisions of this Act shall come into force in such other local areas having a population of twenty-five thousand and more as may be specified in the notification.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 499.
[2] Sub-section (*2*) was substituted by Mah. 26 of 1961, s. 3(*a*).
[3] This proviso was added, *ibid.*, s. 3(*b*).
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950,
† This Act was extended to the rest of the State of Maharashtra by Mah. 26 of 1961, s. 2.
* This indicates the date of commencement of Act.

(5) The [1][State] Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population less than twenty-five thousand as may be specified in the notification.

Definitions.

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

(*1*) "Apprentice" means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;

[2][(*2*) "Child" means a person who has not completed his fifteenth year of age; but does not include a person who has, before the date of commencement of the Bombay Shops and Establishments (Amendment) Act, 1977, completed his twelfth year of age even though he has not completed his fifteenth year of age, if he is on the day immediately preceding the said date an employee in any establishment to which this Act applies;] Mah. LXIV of 1977.

[3][(*3*) "Closed" means not open for the service of any customer, or for any business, of the establishment, or for work, by or with the help of any employee, of or connected with the establishment;]

(*4*) "Commercial establishment" means an establishment which carries on, any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession [4][and includes an establishment of any legal practitioner, medical practitioner, architect, engineer, accountant, tax consultant or any other technical or professional consultant and also includes] a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on [5][whether for purposes of gain or not,] any business, trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; XXI of 1860.

(*5*) "Day" means the period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;

[6][(*6*) "Employee" means a person wholly or principally employed, whether directly or through any agency, and whether for wages or other consideration, in or in connection with any establishment; and includes an apprentice, but does not include a member of the employer's family;]

(*7*) "Employer" means a person owning or having ultimate control over the affairs of an establishment;

(*8*) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other establishment as the [1][State] Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act;

(*9*) "Factory" means any premises which is a factory within the meaning of [7][clause (*m*) of section 2 of the Factories Act, 1948, or which is deemed to be a factory under section 85 of the said Act]; LXIII of 1948.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Clause (*2*) was substituted for the original by Mah. 64 of 1977, s. 2(*a*).
[3] Clause (*3*) was substituted for the original by Mah. 26 of 1961, s. 4(*a*).
[4] These words were substituted for the words "and includes" by Mah. 64 of 1977, s. 2(*b*).
[5] These words were inserted by Bom. 28 of 1952, s. 2(*i*).
[6] Clause (*6*) was substituted by Mah. 26 of 1961, s. 4(*b*).
[7] This portion was substituted for the original by Bom. 17 of 1949, s. 2.

(*10*) "Goods" includes all materials, commodities and articles;

(*11*) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act;

(*12*) "Inspector" means an Inspector appointed under section 48;

(*13*) "Leave" means leave provided for in Chapter VII of this Act;

(*14*) "Local area" means any area or combination of areas to which this Act applies;

[1][(*15*) "Local authority" means a body specified in Schedule I-A and includes any other body which the State Government may, by notification in the *Official Gazette*, declare to be a local authority for the purposes of this Act; ]

(*16*) "Manager" means a person declared to be a manager under section 7;

(*17*) "Member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;

[2][(*18*) "Opened" means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any employee, of or connected with the establishment; ]

(*19*) "Period of work" means the time during which an employee is at the disposal of the employer;

(*20*) "Prescribed" means prescribed by rules made under this Act;

(*21*) "Prescribed authority" means the authority prescribed under the rules made under this Act;

(*22*) "Register of establishments" means a register maintained for the registration of establishments under this Act;

(*23*) "Registration certificate" means a certificate showing the registration of an establishment;

(*24*) "Residential hotel" means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes a [3][residential club];

(*25*) "Restaurant or eating house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;

(*26*) "Schedule" means a Schedule appended to this Act;

(*27*) "Shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place, whether in the same premises or otherwise, [4][mainly used] in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(*28*) "Spread over" means the period between the commencement and the termination of the work of an employee on any day;

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[1] Clause (*15*) was substituted by Mah. 26 of 1961, s. 4 (*c*).

[2] Clause (*18*) was substituted, *ibid.*, s. 4 (*d*).

[3] These words were substituted for the word "club" by Bom. 9 of 1951, s. 3, Second Schedule.

[4] These words were substituted for the word "used" by Bom. 28 of 1952, s. 2 (*3*).

(*29*) "Theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;

(*30*) "Wages" means wages as defined in the Payment of Wages Act, 1936; IV of 1936.

(*31*) "Week" means the period of seven days beginning at midnight of Saturday;

[1][(*32*) "Year" means a year commencing on the first day of January;]

(*33*) "Young person" means a person who is not a child and has not completed his seventeeth year.

Reference 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.

Exemptions.

**4.** Notwithstanding anything contained in this Act, the provisions of this Act mentioned in the third column of Schedule II shall not apply to the establishments, employees and other persons mentioned against them in the second column of the said Schedule:

Provided that the [2][State] Government may, by notification published in the *Official Gazette*, add to, omit or alter any of the entries of the said Schedule [3][subject to such conditions, if any, as may be specified in such notification] and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

Application of Act to other establishments and persons.

**5.** (*1*) Notwithstanding anything contained in this Act, the [2][State] Government may, by notification in the *Official Gazette*, declare any establishment or class of establishments to which, or any person or class of persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptations as may in the opinion of the [2][State] Government be necessary shall apply from such date as may be specified in the notification.

(*2*) On such declaration under sub-section (*1*), any such establishment or class of establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of employees to whom, 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 or to such employee or class of employees.

Suspension of all or any of the provisions of this Act.

**6.** The [2][State] 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 holidays or occasions.

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[1] Clause (*32*) was substituted by Mah. 26 of 1961, s. 4 (*c*).
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 28 of 1952, s. 3.

## CHAPTER II.

### REGISTRATION OF ESTABLISHMENTS.

Registration of establishments.

7. (*1*) Within the period specified in sub-section (*4*), the employer of every establishment shall send to the Inspector of the local area concerned a statement, in a prescribed form, together with such fees as may be prescribed, containing—

(*a*) the name of the employer and the manager, if any;

(*b*) the postal address of the establishment;

(*c*) the name, if any, of the establishment;

(*d*) the category of the establishment, *i.e.*, whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; and

(*e*) such other particulars as may be prescribed.

(*2*) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

[1][(*2A*) A registration certificate granted under sub-section (*2*), shall be valid up to the end of the year for which it is granted. An application for the renewal of a registration certificate shall be submitted not less than fifteen days before the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, and shall be accompanied by such fees, and the renewed registration certificate shall be in such form, as may be prescribed. .

[2][(*2B*) Notwithstanding anything contained in the preceding sub-sections of this section, any registration certificate granted under sub-section (*2*) or renewed under sub-section (*2A*) may, at the option of the employer, be granted or renewed for a period of three years at a time, on payment of the fees for that period, so as to be valid up to the end of the third year from and including the year in which it is granted or renewed, as the case may be.]]

(*3*) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the prescribed authority which shall, after such inquiry as it thinks proper, decide the category of such establishment and its decision shall be final for the purposes of this Act.

(*4*) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Inspector under sub-section (*1*):—

| 1<br>Establishments. | 2<br>Date from which the period of 30 days to commence. |
|---|---|
| (*i*) Establishments existing in local areas mentioned in Schedule I on the date on which this Act comes into force. | The date on which this Act comes into force. |
| (*ii*) Establishments existing in local areas on the date on which this section comes into force. | The date on which this section comes into force in the local areas. |

[1] Sub-section (*2A*) and (*2B*) were inserted by Mah. 26 of 1961, s. 5.
[2] Sub-section (*2B*) was substituted for the original by Mah. 64 of 1977, s. 3.

| 1<br>Establishments. | 2<br>Date from which the period of 30 days to commence. |
|---|---|
| (*iii*) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force. | The date on which the establishment commences its work. |

Change to be communicated to Inspector.

**8.** It shall be the duty of an employer to notify to the Inspector, in a prescribed form, [1][any change in any of the particulars contained in the statement submitted under section 7 within such period, after the change has taken place, as the State Government may prescribe in respect of any establishment or class of establishments]. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

Closing of establishment to be communicated to Inspector.

**9.** The employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate :

[2][Provided that if the Inspector does not receive the information but he is otherwise satisfied that the establishment has been closed, he may remove such establishment from such register and cancel such certificate.]

## CHAPTER III.

### SHOPS AND COMMERCIAL ESTABLISHMENTS.

Opening hours of shops.

**10.** (*1*) No shop—

(*a*) dealing wholly in milk, vegetables, fruits, fish, meat, bread or any other goods notified by the [3][State] Government shall on any day be opened earlier than 5 a.m.;

(*b*) [4]* * * other than those specified in clause (*a*) of this sub-section, shall on any day be opened earlier than 7 a.m.

(*2*) Subject to the provisions of sub-section (*1*), the [3][State] Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year.

Closing hours of shops.

**11.** (*1*) Notwithstanding anything contained in any other enactment for the time being in force, no shop—

(*a*) [4]* * * other than those specified in clause (*b*) of this sub-section, shall on any day be closed later than 8-30 p.m.;

(*b*) [5][dealing mainly in] *pan*, *bidi*, cigarettes, matches and other ancillary articles shall on any day be closed later than 11 p.m.:

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*) Subject to the provisions of sub-section (*1*), the [3][State] Government may fix earlier closing hours for different classes of shops or for different areas or for different periods of the year.

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[1] This portion was substituted for the portion beginning with the words " any change " and ending with the words " taken place " by Bom. 28 of 1952, s. 4.

[2] This proviso was added, *ibid.*, s. 5.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The words " dealing in goods " were deleted by Bom. 53 of 1949, s. 2, First Schedule.

[5] These words were substituted for the words " dealing in " by Mah. 26 of 1961, s. 6.

Hawking prohibited before opening and after closing hours of shops.

**12.** (*1*) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 10 and 11 for the shops dealing in the same class of goods in the locality in which such street or public place is situate :

[1][Provided that nothing in this sub-section shall apply to the sale of newspapers.]

(*2*) Any person contravening the provisions of sub-section (*1*) shall be liable to have his goods seized by an Inspector.

[2][(*3*) The goods seized under sub-section (*2*) shall be returned to the person from whom they were seized on his depositing rupees twenty-five as security for his appearance in the Court.

(*4*) If the person fails to make the deposit, the goods seized shall be produced without delay before a Magistrate who may give such directions as to their temporary custody as he thinks fit.

(*5*) Where no prosecution is instituted for contravention of the provisions of sub-section (*1*) within such period as the Magistrate may fix in this behalf, the Magistrate shall direct their return to the person from whom they were seized.

(*6*) Subject to the provisions of the preceding sub-section, the provisions of the V of 1898. Code of Criminal Procedure*, 1898, shall so far as they may be applicable, apply to the disposal of the goods seized under this section.]

Opening, and closing hours of commercial establishments.

**13.** (*1*) No commercial establishment shall on any day be opened earlier than 8-30 a.m. and closed later than 8-30 p.m.

(*2*) Subject to the provisions of sub-section (*1*), the [3][State] Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

Daily and weekly hours of work in shops and commercial establishments.

**14.** (*1*) [4][Subject to the other provisions] of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.

(*2*) Any employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (*1*) if such period does not exceed [5][six hours] in any week.

(*3*) On not more than six days in a year which the [3][State] Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (*1*), if such excess period does not exceed twenty-four hours.

Interval for rest.

[6][**15.** The period of work of an employee in a shop or commercial establishment each days shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour] :

[7][Provided that,—

(*a*) in the case of employees in a commercial establishment engaged in any manufacturing process, the interval for rest shall be at least half an hour; and

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[1] This proviso was added by Mah. 26 of 1961, s. 7.
[2] Sub-sections (*3*) to (*6*) were substituted for the proviso by Bom. 28 of 1952, s. 6.
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words " subject to the provisions " by Mah. 64 of 1977. s. 4 (*a*).
[5] These words were substituted for the words " three hours " *ibid.*, s. 4(*b*).
[6] Section 15 was substituted for the original by Bom. 28 of 1952, s. 7.
[7] This proviso was added by Mah. 26 of 1961, s. 8.
* *See* now Code of Criminal Procedure, 1973 (2 of 1974).

(*b*) in the case of any other employees the State Government may, on an application made in that behalf [1][by the union recognised under any law for the time being in force where there is such union, or where there is no such union by a majority of the employees concerned,] permit the reduction of the interval for rest of half an hour.]

Spread-over in shops.

**16.** The spread-over of an employee in a shop shall not exceed eleven hours in any day :

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours, the spread-over shall not exceed twelve hours in that day :

Provided also that where an employee works on any day in accordance with the provisions of sub-section (*2*) of section 14, the spread-over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (*3*) of the said section, the spread-over shall not exceed sixteen hours in any such day.

Spread-over in commercial establishments.

**17.** The spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day :

Provided that the [2][State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

Holidays in a week in shops and commercial establishments.

**18.** [3][(*1*) Every shop and commercial establishment shall remain closed on one day of the week. [4][Except where the day is fixed under the provisions of sub-section (*1B*), the employer shall prepare] a calendar or list of such closed days at the beginning of the year, notify such calendar or list to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment :

[5][Provided that, if no change is made in the calendar or list of closed days for any year, it shall not be necessary to notify again such calendar or list as aforesaid :

Provided further that, where any shop or commercial establishment comes after the begining of any year within the purview of this Act for the first time, the employer shall also prepare a calendar or list of such closed days for the remaining part of the year, and notify it to the Inspector within a month of the date on which the shop or establishment so comes within the purview of this Act.]

(*1A*) Notwithstanding anything contained in sub-section (*1*), [6][but except where the day is fixed under sub-section (*1B*)], a shop or commercial establishment may remain open on any day notified as closed day under sub-section (*1*), if—

(*a*) it remains closed on any other day of the week; and

(*b*) the employer has notified to the Inspector, his intention to close the shop or the commercial establishment, as the case may be, on the day substitute under clause (*a*), at least seven days before the substituted day or the day notified as closed day under sub-section (*1*), whichever is earlier.]

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[1] These words were substituted for the words " by the employees concerned," by Mah. 64 of 1964, s. 5.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] Sub-sections (*1*) and (*1A*) were substituted for the original sub-section (*1*) by Bom. 28 of 1952, s. 8(*1*).
[4] These words were substituted for the words " The employer shall prepare " by Mah. 26 of 1961, s. 9(*a*).
[5] These provisos were added, *ibid.*
[6] This portion was inserted, *ibid.*, s. 9(*b*).

[1][*(1B)* A local authority in respect of any area within its jurisdiction and the State Government in any local area elsewhere, may, by order published in the prescribed manner, after consultation with representative associations or otherwise as appear to such authority or the State Government to be most appropriate for ascertaining the views of the employers and employees affected by the order, fix the day on which a shop or commercial establishment is to be closed, and any such order may either fix the same day for all shops or establishments therein, or may fix—

(*a*) different days for different classes of shops or establishments, or

(*b*) different days for different parts of the area or local area, or

(*c*) different days for different periods of the year,

and thereupon, every shop or commercial establishment shall, on such day so fixed, remain closed; but nothing in this sub-section shall apply to a shop or commercial establishment, the employer of which has notified to the Inspector at the beginning of the year his intention to close the shop or commercial establishment on a public holiday within the meaning of the Negotiable Instruments Act, 1881.] XXVI of 1881.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to his shop or commercial establishment or any other place for any work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(*3*) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the day on which such shop or commercial establishment remains closed. [2][If any employee is paid a piece rated wage, he shall none the less be paid his wage for the day on which the shop or commercial establishment remains closed, at a rate equivalent to the daily average of his wages for the days on which he has actually worked during the six days preceding such closed day, exclusive of any earning in respect of overtime:]

[3][Provided that nothing in this sub-section shall apply to any person whose total period of continuous employment is less than six days.].

## CHAPTER IV.

### RESIDENTIAL HOTELS, RESTAURANTS AND EATING HOUSES.

Opening and closing hours of restaurants and eating houses.

**19.** (*1*) Notwithstanding anything contained in any other enactment for the time being in force, no restaurant or eating house shall on any day be opened earlier than 5 a.m. and [4][closed later than twelve midnight] for service :

Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4-30 a.m. and shall not be required [5][to work later than 00-30 a.m.].

Provided also that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

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[1] Sub-section (*1B*) was inserted by Mah. 26 of 1961, s. 9(*c*).
[2] This portion was added by Bom. 28 of 1952, s. 8(*2*).
[3] This proviso was added, *ibid.*, s. 8(*3*).
[4] These words were substituted for the words, figures and letters " closed later than 11-00 p.m." by Mah. 64 of 1977, s. 6(*a*).
[5] This was substituted for words, figures and letters " to work later than 11-30 p.m., " *ibid.*, s. 6(*b*).

(*2*) Subject to the provisions of sub-section (*1*), the [1][State] Government may fix later opening or earlier closing hours for different restaurants or eating houses or for different areas or for different periods of the year.

(*3*) Notwithstanding anything contained in this section or any other enactment for the time being in force, on not more than ten days in a year on festive or special occasions, the [1][State] Government may, by notification in the *Official Gazette*, fix such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops.

**20.** Before and after the hours fixed for the opening and closing of shops under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

[4][Daily and weekly hours] of work in residential hotels, restaurants and eating houses.

**21.** (*1*) [2][Subject to the other provisions of this Act], no employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than nine hours in any day [3][, and forty-eight hours in any week].

(*2*) On the days which may be notified under sub-section (*3*) of section 19, any employee may be required or allowed to work in a residential hotel, restaurant or eating house in excess of the period fixed under sub-section (*1*), if such excess period does not exceed three hours in any day.

Interval for rest.

[5][**22.** The period of work of an employee in a residential hotel, restaurant or eating house each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour:]

[6][Provided that, the State Government may, on an application made in that behalf [7][by the union recognised under any law for the time being in force where here is such union, or where there is no such union by a majority of the employees t oncerned,] permit the reduction of the interval for rest to half an hour].

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Spread-over

**23.** The spread-over of an employee in a residential hotel, restaurant or eating house shall not exceed [8][twelve hours] :

Provided that the [1][State] Government may increase the spread-over period ubject to such conditions as it may impose on the days that may be notified under ub-section (*3*) of section 19.

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Holidays in a week.

**24.** (*1*) Every employee in a residential hotel, restaurant or eating house shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the portion beginning with the word " Except " and ending with the words and figures " of section 19 " by Mah. 64 of 1977, s. 7(*a*)(*i*).

[3] These words were inserted, *ibid.*, s. 7(*a*)(*ii*).

[4] These words were substituted for the words " Daily hours ", *ibid.*, s. 7(*b*).

[5] Section 22 was substituted for the original by Bom. 28 of 1952, s. 9.

[6] This proviso was added by Mah. 26 of 1961, s. 10.

[7] These words were substituted for the words " by the employees concerned " by Mah. 64 of 1977. s. 8.

[8] These words were substituted for the words " fourteen hours ", *ibid*, s. 9.

(*3*) No deduction shall be made from the wages of any employee in a residential hotel, restaurant or eating house on account of any holiday given to him under sub-section (*1*). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday.

Employer to furnish identity card to employee.

**25.** The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely :—

(*a*) the name of the employer;

(*b*) the name, if any, and the postal address, of the establishment;

(*c*) the name and age of the employee;

(*d*) the hours of work, the interval for rest and the holiday, of the employee;

[1][(*e*) the signature (with date) of the employer or manager.]

## CHAPTER V.

### THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT.

Closing hour of theatres or other places of public amusement or entertainment.

**26.** Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day, be closed [2][later than 00-30 a.m.].

Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops.

**27.** After the hour fixed for the closing of shops under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises.

[5][Daily and weekly hours] of work in theatres or other places of public amusement or entertainment.

[3][**28.** (*1*) No employee shall be required or allowed to work in any theatre or other places of public amusement or entertainment for more than nine hours in any day [4][and forty-eight hours in any week].

(*2*) Any employee may be required or allowed to work in a theatre or other place of public amusement or entertainment for any period in excess of the limit fixed under sub-section (*1*), if such period does not exceed six hours in any week.]

Interval for rest.

[6][**29.** The period of work of an employee in a theatre or other place of public amusement or entertainment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour:]

[7][Provided that, the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.]

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[1] Clause (*e*) was added by Bom. 28 of 1952, s. 10.
[2] This was substituted for the words " later than twelve mid-night " by Mah. 64 of 1977, s. 10.
[3] Section 28 was substituted for the original by Bom. 28 of 1952, s. 11.
[4] These words were inserted by Mah. 64 of 1977, s. 11(*a*).
[5] These words were substituted for the words " Daily hours ", *ibid.*, s. 11(*b*).
[6] Section 29 was substituted for the original by Bom. 28 of 1952, s. 12.
[7] This proviso was added by Mah. 26 of 1961, s. 11.

Spread-over.

**30.** The spread-over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day :

Provided that the [1][State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.

Holidays in a week.

**31.** (*1*) Every employee in a theatre or 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 an employee whose total period of employment in any week is less than six days.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.

(*3*) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (*1*). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday given to him.

## CHAPTER VI.

### EMPLOYMENT OF CHILDREN, YOUNG PERSONS AND WOMEN.

No child to work in an establishment.

**32.** No child shall be required or allowed to work whether as an employee or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

Opening and closing hours for young persons and women.

[2][**33.** (*1*) No young person or woman, notwithstanding that such young person or woman is a member of the family of the employer, shall be required or allowed to work, whether as an employee or otherwise, in any establishment before 6-00 a.m.

(*2*) No such young person shall be required or allowed to work in any establishment after 7-00 p.m.

(*3*) No such woman shall be required or allowed to work in any establishment after 8-30 p.m.]

Daily hours of work for young persons.

**34.** (*1*) Notwithstanding anything contained in this Act, no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.

(*2*) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

Prohibition of employment of young persons and women in dangerous work.

[3][**34A.** No young person or woman working in any establishment, whether as an employee or otherwise, shall be required or allowed to perform such work as may be declared by the State Government by notification in the *Official Gazette*, to be work involving danger to life, health or morals.]

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] Section 33 was substituted for the original by Mah. 64 of 1977, s. 12.
[3] Section 34A was inserted by Mah. 26 of 1961, s. 12.

## CHAPTER VII.

### LEAVE WITH PAY AND PAYMENT OF WAGES.

Leave.

35. [1][(*1*) (*a*) Subject to the provisions of clause (*b*), every employee who has been employed for not less than three months in any year, shall for every 60 days on which he has worked during the year be allowed leave, consecutive or otherwise, for a period of not more than five days;

(*b*) every employee who has worked for not less than two hundred and forty days during a year shall be allowed leave, consecutive or otherwise, for a period of not less than twenty-one days :

Provided that such leave may be accumulated up to a maximum period of forty-two days.

*Explanation.*—The leave allowed to an employee under clauses (*a*) and (*b*) shall be inclusive of the day or days during the period of such leave, on which a shop, or commercial establishment remains closed under sub-section (*1*) of section 18, or on which he is entitled to a holiday under sub-section (*1*) of section 24 or section 31.]

[2][(*1A*) Notwithstanding anything contained in sub-section (*1*), every employee whose services commence otherwise than on the first day of January in any year shall be entitled to such leave in such year for the number of days which bears to twenty-one days, the same proportion, as the number of days for which he worked bears to two hundred and forty days.]

(*2*) If an employee entitled to leave under sub-section (*1*) [3][or (*1A*)] is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(*3*) If an employee entitled to leave under sub-section (*1*) [3][or (*1A*)] is refused the leave, he may give intimation to the Inspector or any other officer authorized in this behalf by the [4][State] Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed. [5][The employee shall also send a copy of such intimation to his employer and, thereupon, the employee shall be entitled to carry forward the unavailed leave without any limit.]

[6][(*4*) Notwithstanding anything contained in this section, every employee, irrespective of his period of employment, shall be entitled to additional holiday on the 26th January, 1st May and 15th August every year. For holiday on these days, he shall be paid wages at a rate equivalent to the daily average of his wages (excluding overtime), which he earns during the month in which such compulsory holiday falls :

Provided that, the employer may require any employee to work in the establishment on all or any of these days, subject to the condition that for such work the employee shall be paid double the amount of the daily average wages and also leave on any other day in lieu of the compulsory holiday.]

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[1] Sub-section (*1*) was substituted by Mah. 26 of 1961, s. 13.
[2] Sub-section (*1A*) was substituted for the original by Mah. 64 of 1977, s. 13(*a*).
[3] This portion was inserted by Bom. 28 of 1952, s. 13(*2*).
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] These words were inserted by Mah. 64 of 1977, s. 13(*b*).
[6] Sub-section (*4*) was added, *ibid.*, s. 13(*c*).

Pay during leave.

**36.** Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

Payment when to be made.

**37.** An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

Application and amendment of the Payment of Wages Act.

**38.** (*1*) Notwithstanding anything contained in the Payment of Wages Act, 1936, herein referred to as " the said Act ", the [1][State] Government may, by notification published in the *Official Gazette*, direct that subject to the provisions of sub-section (*2*) the said Act [2][shall, in such local areas as may be specified in the notification apply] to all or any class of establishments or to all or any class of employees to which or whom this Act for the time being applies. IV of 1936.

(*2*) On the application of the provisions of the said Act to any establishment or to any employees under sub-section (*1*), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

Application of Act VIII of 1923 to employees of establishment.

[3][**38A.** The provisions of the Workmen's Compensation Act, 1923 and the rules made from time to time thereunder, shall, *mutatis mutandis* apply [4][to employees of of an establishment to which this Act applies, as if they were workmen within the meaning of the Workmen's Compensation Act, 1923.] VIII 1923.

Application of Industrial Employment (Standing Orders) Act to establishment.

[5][**38B.** The provisions of the Industrial Employment (Standing Orders) Act, 1946, in its application to the State of Maharashtra (hereinafter in this section referred to as " the said Act "), and the rules and standing orders (including model standing orders) made thereunder, from time to time, shall, *mutatis mutandis*, apply to all establishments to which this Act, applies, as if they were industrial establishments within the meaning of the said Act. XX of 1946.

Application of Maternity Benefit Act to women employees in establishment.

**38C.** Notwithstanding anything contained in the Maternity Benefit Act, 1961 (hereinafter in this section referred to as " the said Act "), the State Government may, by notification in the *Official Gazette*, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to women employed for wages in all or any of the establishments to which this Act applies. For that purpose, such women employees shall be deemed to be women within the meaning of the said Act. On such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act also within the limits of his jurisdiction.] LIII of 1961.

## CHAPTER VIII.

### HEALTH AND SAFETY.

Cleanliness.

**39.** The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting, varnishing, disinfecting and deodorising.

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[1] This word was substituted fo the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words " shall apply " by Bom. 58 of 1954, s. 2, Schedule.
[3] Section 38A was inserted by Mah. 26 of 1961, s. 14.
[4] This was substituted for the portion beginning with the words " to employees " and ending with the words and figures " under the Workmen's Compensation Act, 1923 " by Mah. 64 of 1977, s. 14.
[5] Sections 38B and 38C were inserted, *ibid.*, s. 15.

**40.** The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed. Ventilation.

**41.** (*1*) The premises of every establishment shall be sufficiently lighted during all working hours. Lighting.

(*2*) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

**42.** In every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed. Precautions against fire.

[1][**42A.** In every establishment wherein a manufacturing process as defined in clause (*k*) of section 2 of the Factories Act, 1948, is carried on, there shall be provided and maintained a first aid box containing such articles as may be prescribed.] First Aid. LXIII of 1948.

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[1] Section 42A was inserted by Bom. 28 of 1952, s. 14.

## CHAPTER IX

### ENFORCEMENT AND INSPECTION

Powers and duties of local authorities.

**43.** 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 [1][State] Government as may be prescribed:

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions, if any, as may be specified in the order, by its Chief Executive Officer or any other officer subordinate to it:

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the [1][State] Government to enforce the said provisions.

Power to make by-laws.

**44.** A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the [1][State] Government, make by-laws not inconsistent with the provisions of the Act, or the rules or orders made by the [1][State] Government thereunder for the purpose of carrying out the provisions of this Act.

Provision for taking over administration of the Act from local authorities.

[2][**44A.** Notwithstanding anything contained in sections 43 and 44, with a view to implementing the policy of the State Government of taking over the administration of this Act gradually from all the local authorities in the State, the State Government may, from time to time, by notification in the *Official Gazette*, without the necessity of giving any further notice or reasons, declare that any local authority or authorities or class of local authorities specified in such notification shall cease to perform the duty of enforcing the provisions of this Act from a date specified in that notification. From that date, it shall be the duty of the State Government to enforce the said provisions, in respect of the areas subject to the jurisdiction of such local authorities also.]

Delegation of powers.

[3][**45.** The State Government may, by order published in the *Official Gazette*, direct that any power exercisable by it under this Act or the rules made thereunder (except the power to make rules) shall in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercised also by any local authority, or by any officer subordinate to the State Government, as may be specified in the order.]

Power of [1][State] Government to provide for performance of duties on default by local authority.

**46.** (*1*) If any local authority makes default in the performance of any duty imposed by or under this Act, the [1][State] 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.

(*2*) If the expense and remuneration are not so paid, the [1][State] 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.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Section 44A was inserted by Mah. 64 of 1977, s. 16.
[3] Section 45 was substituted for the original, *ibid.* s. 17.

Expenses of local authority to be paid out of its fund.

**47.** 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.

Appointment of Inspectors.

**48.** (*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.

(*2*) In areas which are not subject to the jurisdiction of any local authority, the [1][State] Government shall appoint Inspectors with the prescribed qualifications [2][and in areas which are subject to the jurisdiction of any local authority, the State Government may appoint Inspectors with the prescribed qualifications for such supervision as the State Government may prescribe].

[3][(*3*) A local authority or, as the case may be, the State Government may direct that the powers conferred on it by this section shall in such circumstances, and subject to such conditions (if any), as may be specified in the direction, be exercised—

(*a*) in the case of a local authority, by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner or Deputy Municipal Commissioner, and

(*b*) in the case of the State Government, by any officer subordinate to it.

(*4*) Notwithstanding anything contained in the Minimum Wages Act, 1948, Inspectors appointed, whether by a local authority or the State Government under this Act in relation to any area, shall be deemed to be also Inspectors for the purposes of the Minimum Wages Act, 1948, in respect of establishments to which this Act applies, and the local limits within which an Inspector shall exercise his functions under that Act shall be the same as the area for which he is appointed under this Act.] XI of 1948. XI of 1948.

Powers and duties of Inspectors.

**49.** Subject to any rules made by the [1][State] Government in this behalf an Inspector may, within the local limits for which he is appointed,—

(*a*) enter, at all reasonable times and with such assistants, if any, being persons, in the service of the [4][Government] or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment;

(*b*) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary for carrying out the purposes of this Act; [5]* *

[6][(*bb*) if he has reason to suspect that any employer of an establishment to which this Act applies has committed an offence punishable under section 52 or 55 seize, with the previous permission of such authority as may be prescribed, such registers, records or other documents of the employer, as he may consider necessary, and shall grant a receipt therefor and shall retain them only for so long as may be necessary for examination thereof, or for prosecution; and]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This portion was added by Mah. 26 of 1961, s. 16(*a*).
[3] Sub-sections (*3*) and (*4*) were inserted, *ibid.*, s. 16(*b*).
[4] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[5] The word "and" was deleted by Mah. 26 of 1961, s. 17(*1*).
[6] Clause (*bb*) was inserted, *ibid.*, s. 17(2).

(*c*) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

XLV of 1860. **50.** Every Inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Inspectors to be public servants.

**51.** Every employer [1][and in his absence the manager] shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purposes of this Act. Employer [2][and manager] to produce registers, records, etc. for inspection.

## CHAPTER X.

### OFFENCES AND PENALTIES.

**52.** (*a*) If any employer fails to send to the Inspector a statement within the period specified in section 7 or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9; or Contravention of certain provisions and offences.

(*b*) If in any establishment there is any contravention of any of the provisions of section 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder; or

(*c*) If in any establishment any person is required or allowed to work in contravention of section 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30 or 31; or

(*d*) If in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, 33 or 34; or

[3][(*e*) If any employer or manager contravenes the provisions of section 51 or any employer contravenes the provisions of section 62 or 65; or]

(*f*) If in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act,

the employer and the manager shall, on conviction, each be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees :

[4][Provided that, if the contravention of the provisions of sub-section (*1*) of section 7 is continued after the expiry of the tenth day after conviction, the employer shall on conviction be punished with a further fine which may extend to ten rupees for each day on which the contravention is so continued.]

**53.** If any person contravenes the provisions of section 12, he shall, on conviction, [5][be punished for each offence with fine which shall not be less than twenty-five rupees] and which may extend to fifty rupees. Contravention of section 12.

**54.** If an employee contravenes the provisions of sub-section (*2*) of section 18, 24, 31 or 65, he shall, on conviction [5][be punished for each offence with fine which shall not be less than twenty-five rupees] and which may extend to fifty rupees. Employee contravening sections 18 (*2*), 24, 31 and 65.

**55.** If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false in any material particular, or wilfully omits or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder, or maintains or causes or allows to be maintained, more than one set False entries by employer and manager.

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[1] These words were inserted by Bom. 28 of 1952, s. 15(*1*).
[2] These words were inserted, *ibid.*, s. 15(*2*).
[3] Clause (*e*) was substituted for the original, *ibid.*, s. 16.
[4] This proviso was added by Mah. 26 of 1961, s. 18.
[5] These words were substituted for the words " be punished with fine which shall not be less than ten rupees " by Mah. 64 of 1977, ss. 18[and 19.

of any register, record or notice except the office copy of such notice, or sends, or causes or allows to be sent, to an Inspector, any statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder which, to his knowledge, is false in any material particular, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees:

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed two hundred and fifty rupees.

Enhanced penalty in certain case after previous conviction.

**56.** If any employer and manager who have been convicted of any offence under sub-section (*1*) of section 10, 11, 13, 14, 18, 19, 24, 31 or 34 or under sub-section (*2*) or (*3*) of section 14 or under section 55 or under section 21, 26, 28, 32, 33, 51, 57, 62 or 65, are again guilty of an offence involving a contravention of the same provision, they shall each be punished on the second conviction with fine which shall not be less than fifty rupees and which may extend to five hundred rupees; and if they are again so guilty, they shall each be punished on the third or any subsequent conviction with fine which shall not be less than seventy-five rupees and which may extend to seven hundred and fifty rupees:

Provided that if both the employer and the manager are convicted the aggregate of the fine in respect of the same contravention shall not exceed five hundred rupees on second conviction and seven hundred and fifty rupees on third or any subsequent conviction:

Provided further that, for the purposes of this section, no cognisance shall be taken of any conviction made more than two years before the commission of the offence which is being punished:

Provided also that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing impose a smaller fine than is required by this section.

Penalty for obstructing Inspector.

**57.** Whoever wilfully obstructs an Inspector in the exercise of any power under section 49 or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

Determination of employer for the purposes of this Act.

**58.** (*1*) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable:

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the [1][State] to be the employer for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(*2*) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof may be prosecuted and punished under this Act for any offence for which the employer in the establishment is punishable:

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a shareholder who is resident in the [1][State] to be the employer in the establishment for the purposes of this Act, and such director or shareholder shall so long as he is so resident be deemed to be

[1] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

Exemption of employer or manager from liability in certain cases.

59. (*1*) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of this Act, and

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liability under this Act.

(*2*) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(*a*) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,

(*b*) by what person the offence has been committed, and

(*c*) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like fine as if he were the employer or manager.

Cognisance of offences.

60. (*1*) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of the [1][District Magistrate] [2][Additional District Magistrate, Sub-Divisional Magistrate, Commissioner of Labour, Additional Commissioner of Labour or Deputy Commissioner of Labour,] or the local authority, as the case may be [3][or, without any such sanction, by an aggrieved person, or by a representative of the registered union of which the aggrieved person is a member] :

[4][Provided that any local authority may direct that the powers conferred on it by this sub-section shall, in such circumstances and subject to such conditions, if any, as may be specified in the direction, be exercised by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner, [5][Deputy Municipal Commissioner or Assistant Municipal Commissioner].]

(*2*) No court inferior to that of a Presidency Magistrate or a Magistrate of a Second Class shall try any offence against this Act or any rule or order made thereunder.

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[1] These words were substituted for the words "State Government" by Bom. 9 of 1951, s. 3, Second Schedule.
[2] These words were inserted by Mah. 64 of 1977, s. 20(*a*).
[3] These words were inserted, *ibid.*, s. 20(*b*).
[4] This proviso was added by Bom. 28 of 1952, s. 17.
[5] These words were inserted by Mah. 26 of 1961, s. 19.

Limitation of Prosecutions.

**61.** [1][(*1*)] No court shall take cognizance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within [2][three months from the date on which the alleged commission of the offence came to the knowledge of an Inspector].

[1][(*2*) Notwithstanding anything contained in sub-section (*1*), the aggrieved person or a representative of the registered union of which the aggrieved person is a member, may within three months from the date on which the alleged commission of the offence took place give intimation of the offence to the Inspector and request him to institute prosecution. On receipt of such intimation and request, the Inspector may himself institute the prosecution within the period of limitation specified in sub-section (*1*) or inform the applicant before the expiry of the said period or as soon as possible thereafter that he does not propose to institute prosecution. On receipt of such intimation, the applicant shall be entitled to institute prosecution, and the Court shall take cognizance of the offence, if complaint thereof is made to it within two months from the date of receipt of the intimation of the Inspector by the applicant.]

## CHAPTER XI.

### MISCELLANEOUS AND SUPPLEMENTAL.

Maintenance of registers and records and display of notices.

**62.** Subject to the general or special orders of the [3][State] Government an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

Wages for overtime work.

**63.** [4][Where an employee 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 overtime work, wages at the rate of twice his ordinary rate of wages.]

*Explanation.*—For the purposes of this section the expression "limit of hours of work" shall mean—

(*a*) in the case of employees in shops and commercial establishments, nine hours in any day and forty-eight hours in any week;

(*b*) in the case of employees in residential hotels, restaurants, eating houses, theatres or other places of public amusement or entertainment, nine hours in any day; and

(*c*) in the case of employees in any other establishment, such hours as may be prescribed.

Evidence as to age.

**64.** (*1*) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(*2*) A declaration in writing by a [5][qualified medical practitioner] relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

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[1] Section 61 was renumbered as sub-section (*1*) and sub-section (*2*) was added by Mah. 64 of 1977, s. 21.

[2] These words were substituted for the words "six months of the date on which the offence is alleged to have been committed." by Bom. 28 of 1952, s. 18.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] This was substituted for the portion begining with the brackets, figures and words "(1) Where an employee" and ending with the words "twice his ordinary rate of wages" by Mah. 64 of 1977; s.22.

[5] These word were substituted for the words "registered Medical Practitioner" by Bom. 17 of 1949, s. 3.

*Explanation.*—For the purposes of this section, a [1][qualified medical practitioner] shall have the same meaning as in the Factories Act, [2][1948],

LXIII of 1948.

**65.** No employee shall work in any establishment, nor shall any employer knowingly permit an employee to work in any establishment, on a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act. Restriction on double employment on a holiday or during leave.

**66.** No employer shall dispense with the services of an employee who has been in his [3][continuous employment— [4][Notice of termination of service.]

(*a*) for not less than a year, without giving such person at least thirty days notice in writing, or wages in lieu of such notice;

(*b*) for less than a year but more than three months, without giving such person at least fourteen days' notice in writing, or wages in lieu of such notice] :

Provided that such notice shall not be necessary where the services of such employee are dispensed with for misconduct.

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[1] These words were substituted for the words " registered medical practitioner " by Bom. 17 of 1949, s. 3.

[2] These figures were substituted for the figures " 1934 ", *ibid.*

[3] This portion was substituted for the portion beginning with " continuous employment for not less than three months " and ending with " in lieu of such notice " by Mah. 26 of 1961, s. 20(*1*).

[4] This marginal note was substituted, *ibid.*, s. 20(*2*).

[1][*Explanation.*—For the purposes of this section, "misconduct" shall include—

(*a*) absence from service without notice in writing or without sufficient reasons for seven days or more;

(*b*) going on or abetting a strike in contravention of any law for the time being in force; and

(*c*) causing damage to the property of his employer.]

**Rules.**

**67.** (*1*) The [2][State] Government may make rules to carry out the purposes of the 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 :—

(*a*) the appointment of prescribed authority under clause (21) of section 2;

(*b*) 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 6;

(*c*) the form of submitting a statement, the fees and other particulars under sub-section (*1*), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (*2*) of section 7; and [3][the form and the period for notifying] a change and the fees under section 8;

(*d*) fixing six days in a year for additional overtime under sub-section (*3*) of section 14;

(*e*) fixing ten days in a year for overtime under sub-section (*3*) of section 19;

(*f*) further particulars to be prescribed for an identity card under section 25;

[4]* * * * * * *

(*h*) fixing times and methods for cleaning the establishments under section 39; fixing standards and methods for ventilation under section 40; and prescribing such establishments as are to be exempted from the provisions of, and precautions against fire to be taken under, section 42;

[5][(*ha*) the articles which a first aid box maintained under section 42A shall contain;]

(*i*) the supervision which the [2][State] Government shall exercise over local authorities under section 43;

(*j*) the qualifications of Inspectors appointed under section 48 and their powers and duties under section 49;

(*k*) the registers and records to be maintained and notices to be displayed under section 62;

(*l*) the limit of hours of work under clause (*c*) of the *Explanation* to section 63;

(*m*) any other matter which is or may be prescribed.

(*3*) The rules made under this section shall be subject to the condition of previous publication and, when so made, shall be deemed to be part of this Act.

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[1] This Explanation was added by Bom. 28 of 1952, s. 19.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were substituted for the words "the form for notifying" by Bom. 28 of 1952, s. 20 (*1*).
[4] Clause (*g*) was deleted by Mah. 26 of 1961, s. 21 (*a*).
[5] Clause (*ha*) was inserted by Bom. 28 of 1952, s. 20 (*2*).

[1][(*4*) All rules made under this Act shall be laid before each House of the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following and publish in the *Official Gazette.*]

Protection to persons acting under this Act.

**68.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Rights and privileges under other law, etc., not affected.

**69.** Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to at the date this Act comes into force in a local area, under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

Persons employed in factory to be governed by Factories Act and not by this Act.

[2][**70.** Nothing in this Act shall be deemed to apply to a factory and the provisions of the Factories Act, 1948 shall, notwithstanding anything contained in that Act, apply to all persons employed in and in connection with a factory : LXIII of 1948.

Provided that, where any shop or commercial establishment situate within the precincts of a factory is not connected with the manufacturing process of the factory, the provisions of this Act shall apply to it :

Provided further that, the State Government may, by notification in the *Official Gazette*, apply all or any of the provisions of the Factories Act, 1948 to any shop or commercial establishment situate within the precincts of a factory and on the application of that Act to such shop or commercial establishment, the provisions of this Act shall cease to apply to it.] LXIII of 1948.

Submission of annual report, etc.

**71.** It shall be the duty of every local authority to submit, within [3][two months] after the close of the year, to [4][the Commissioner of Labour, Bombay] a report on the working of the Act within the local area under its jurisdiction during such year. [5][It shall also submit to him] from time to time such annual or periodical returns as may be required.

Repeal of Bombay Shops and Establishments Act, 1939.

**72.** On and from the date of the commencement of this Act, the Bombay Shops and Establishments Act, 1939, shall be repealed : Bom. XXIV of 1939.

Provided that—

(*a*) every appointment, order, rule, by-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, by-law, regulation, notification or notice made, issued or given under this Act ;

(*b*) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

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[1] Sub-section (*4*) was inserted by Mah. 26 of 1961, s. 21 (*b*).
[2] Section 70 was substituted, *ibid*, s. 22.
[3] These words were substituted for the words " three months ", *ibid*, s. 23 (*a*).
[4] These words were substituted for the words " the State Government ", *ibid*, s. 23 (*b*).
[5] These words were substituted for the words " It shall also submit to it ", *ibid*.

## SCHEDULE I.

[Section 1 (*3*)].

*Local areas.*

[1][1. Greater Bombay.]

[2]* * * *

3. The Poona City and Suburban Municipal Boroughs.

4. The Poona Cantonment.

5. The Sholapur Municipal Borough.

6. The Barsi Municipal Borough.

7. The Nasik Municipal Borough.

[2]* * * *

[2]* * * *

10. The Kalyan Municipal Area.

[3]* * * *

[3]* * * *

[3]* * * *

14. The Panvel Municipal Area.

[3]* * * *

[2]* * * *

17. The Malegaon Municipal Area.

18. The Dhulia Municipal Area.

19. The Thana Municipal Borough.

[2]* * * *

21. The Baramati Municipal Area.

[2]* * * *

23. The Amalner Municipal Borough.

24. The Yeola Municipal Area.

[2]* * * *

26. The Pandharpur Municipal Borough.

27. The Bhusaval Municipal Borough.

28. The Jalgaon Municipal Borough.

29. The Satara Municipal Borough.

30. The Ratnagiri Municipal Area.

31. The Ahmednagar Municipal Borough.

32. The Chalisgaon Municipal Borough.

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[1] This item was substituted for the original by Bom. 17 of 1945, s. 9 read with Bom. 8 of 1950.

[2] Entries 2, 8, 9, 16, 20, 22 and 25 were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[3] Items 11, 12, 13 and 15 were deleted by Bom. 17 of 1945, s. 9 read with Bom. 8 of 1950.

[1]* * * *

[1]* * * *

[1]* * * *

36. The Mahad Municipal Area.

[2]* * * *

38. The Uran Municipal Area.

[2]* * * *

[1]* * * *

[1]* * * *

42. The Bhiwandi Municipal Area.

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[3][SCHEDULE I-A.

[*See* section 2, clause (15).]

(1) A Corporation constituted under the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949 or the City of Nagpur Corporation Act, 1948. Bom. III of 1888. Bom. LIX of 1949. M. P. Act No. II of 1950.

(2) A Municipality constituted under—

(*a*) the Bombay Municipal Boroughs Act, 1925, Bom. XVIII of 1925.

(*b*) the Bombay District Municipal Act, 1901, Bom. III of 1901.

(*c*) the Central Provinces and Berar Municipalities Act, 1922, for an area having a population, at the last official census, of 50,000 or more, C. P. and Berar Act II of 1922.

(*d*) the Hyderabad District Municipalities Act, 1956, for an area having a population, at the last official census, of 50,000 or more. Hyd. Act XV-III of 1956.

(3) A local board constituted under the Bombay Local Boards Act, 1923, or a district board constituted under the Hyderabad District Boards Act, 1955.] Bom. VI of 1923. Hyd. I of 1956.

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[1] Entries 33, 34, 35, 40 and 41 were omitted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

[2] Entries 37 and 39 were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[3] Schedule I-A was inserted by Mah. 26 of 1961, s. 24.

## SCHEDULE II

(Section 4)

*Exemptions*[1] * * *

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| | [2] * * * * | |
| 1 | [3][Establishments] of the Central Government .. | All provisions. |
| 2 | [3][Establishments] of the [4][State] Government .. | Do. |
| 3 | [3][Establishments] of the local authorities .. | Do. |
| 4 | [3][Establishments] of the Bombay Port Trust .. | Do. |
| 5 | [3][Establishments] of any Railway Administration .. | Do. |
| 6 | Bazars or fairs for the sale of goods for charitable or other purposes from which no profit is derived. | Do. |
| [5][6A | Offices of the Reserve Bank of India .. | Do.] |
| [6][6B | [7][Offices of Trade Commissioners and of Consular officers and other diplomatic representatives of Foreign Government]. | Do.] |
| [8][6C | Offices of air service companies .. .. | Do.] |
| [9]* | * * * | |
| [10]* | * * * | |
| [11][6F | Establishments pertaining to any kind of educational activities. | Do.] |
| [12][6G | The High Court Law Library, High Court, Bombay [13][and Nagpur]. | Do.] |
| [14] | * * * | |

[1] The brackets and words " (subject to the note mentioned below) " and the note appearing at the end were deleted by G. N., I. & L. D., No. BSE. 1461/LAB-III, dated 31st December 1962.
[2] The sub-heading " I. Establishments " was deleted, *ibid.*
[3] This word was substituted for the word " Offices " by G. N., Lab D., No. 8/48, dated 24th August 1949.
[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[5] This entry was added by G. N., Lab. D., No. 184/47, dated 4th February 1949.
[6] This entry was added by G. N., Lab. D., No. 184/48, dated 26th February 1949.
[7] These words were substituted for the words " Office of the Commercial Secretary for Canada " by G. N., Lab. D., No. 184/48, dated 11th April 1949.
[8] This entry was substituted for the original by G. N., Lab. D., No. 8/48, dated 28th April 1949.
[9] Entry 6D was deleted by G. L., L. & S. W. D., No. BSE. 1458, dated 16th February 1959.
[10] Entry 6E was deleted by G. N., I. & L. D., No. BSE. 1461-Lab-III, dated 31st December 1962.
[11] Entry 6F was added by G. N., Lab. D., No. 8/48-I, dated 28th April 1949.
[12] This entry was added by G. N., Lab. D., No. 8/48, dated 17th May 1949.
[13] These words were added by G. N., I. & L. D., No. BSE. 1461-Lab-III, dated 31st December 1962.
[14] Entries 6H, 6I, 6J and 6K were deleted by G. N., L. & S. W. D., No. BSE. 1458-J, dated 8th March 1959.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][6L | Bombay Branch Office of the Indian Telephone Industries Limited, R. A. F,, Base Postal Department, Queen's Road, Bombay-1. | All provisions]. |
| [2][6M | [3][Establishments of the N. C. Corporation Private Ltd., Bombay, [4][and the offices of the Needs of Life Co-operative Bank Ltd.] | All provisions.] |
| | [5]* * * * * | |
| | [6]* * * * * | |
| 7 | [7][Employees in an establishment exclusively attending to the receipt delivery clearance or despatch of goods or to assisting travel arrangements of passengers by rail or other means of transport.] | Sections 10 11, 13 to 18 (both inclusive) [8][subject to the condition that the employees cocerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| 8 | Employees exclusively employed in any establishment in the collection, delivery or conveyance of goods outside the premises of any establishment. | [9][Sections 10, 11, 13 to 18 (both inclusive), 21 and 24 subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| 9 | Such chemists' or drugists' establishments as are approved by the [10][State] Government or the prescribed authority by a general or special order in this behalf. | [11][Sections 10, 11, 13 to 18 (both inclusive), [12][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [13][10 | Establishments for the purpose of attending upon the infirm and destitute.] | "Sections 10, 11, 13 to 18 and 33". |

[1] This entry was added by G. N., D. D., No. 8/48, dated 15th January 1953.
[2] This entry was added by G. N., I & L. D., No. BSE. 1462-Lab-III, dated 24th August 1962.
[3] These words were sustituted for the words " Office of the N. C. Corporation Private Limited, Stadium House, Bombay," by G. N., I. & L. D., No. BSE. 1462-Lab-III, dated 29th September 1962.
[4] These words were added by G. N.,I. & L. D., No. BSE. 1465/Lab-III, dated 8th May 1965.
[5] Entries 6N, 6O, 6P, 6Q and 6R were deleted by G. N., L & S. W. D., No. BSE. 1458-J, dated 18th March 1959.
[6] The sub-heading " II, Establishments, employees and other persons " was deleted by G. N., I. & L. D., No. BSE. 1461/LAB-III, dated 31st December 1962.
[7] This portion was substituted for the original by G. N., Lab. D., No. 8/48, dated 28th April 1949.
[8] These words were added by G. N., I. & L. D., No. BSE. 1461-Lab-III, dated 31st December 1962.
[9] These words, figures and brackets were substituted for the original by G. N., I. & L. D., No. BSE. 1461-Lab-III, dated 31st December 1962.
[10] This words was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[11] These words and figures were substituted for the word " Do. " by G. N., Lab. D., No. 8/48, dated 11th July 1949.
[12] These words were added by G. N., I. & L. D., No. BSE. 1461-Lab-III, dated 31st December 1962.
[13] This entry was substituted for the original by G. N., I. & L. D., No. BSE. 1263-Lab-III, dated 18th December 1964.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| 11 | [1][Establishments] wholly or principally engaged in the sale of ice, aerated waters, [2][sugar-cane juice] or funeral requisites. | [3][Sections 10, 11, 13 to 18 (both inclusive), [4][subject to the condition that employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| 12 | Travellers, canvassers and such other employees who are declared by the [5][State] Government by notification published in *Official Gazette* in this behalf to be employees whose work is inherently intermittent.<br><br>[6][*Explanation.*—The following employees shall be deemed to be employees whose work is inherently intermitent:—<br><br>(1) Employees employed in the sections of establishments carrying out repairs for the maintenance of water supply, gas supply, electricity and drainage or repairs to ships.<br><br>(2) Employees employed in bill collection works.<br><br>(3) Employees employed in the Road Service Department of the Western India Automobile Association.]<br><br>[7][(4) Employees employed in the section of establishments for the purpose of maintenance and repairs of buildings or of projectors or sound equipments in cinemas] [8][or of air-conditioning and refrigeration plants] [9][or of punched-card accounting equipment] [10][or of lifts.] | Do. do. |

[1] This word was substituted for the words "Employees in any establishments" by G.N., Lab. & H.D., No. 8/48, dated 28th September 1950.

[2] These words were inserted by G.N., I. & L.D., No. BSE. 1460-Lab.-III, dated 14th July 1961.

[3] The words and figures were substituted for the letters "Do." by G.N., Lab. D., No. 8/48, dated 14th April 1949.

[4] These words were added by G.N., I. & L.D., No. BSE. 1461-Lab.-III, dated 31st December 1962.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] This Explanation was added by G. N., Lab. D., No. 8/48-1, dated 28th April 1949.

[7] This portion was added by G. N., Lab. D., No. 8/48, dated 19th May 1949.

[8] These words were added by G. N., Lab. D., No. 8/48, dated 11th July 1949.

[9] These words were added by G. N., Lab. & H. D., No. 8/48, dated 20th February 1950.

[10] These words we added by G. N., Lab. & H. D., No. 8/48, dated 22nd June 1950.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| 13 | [1][[2][Stalls] refreshment rooms and canteens at railway stations, docks, wharves, airports and the State Transport Bus Stations.] | [3][Sections 19, 20 and 23.] |
| 14 | Employees working in any establishments as watchmen, caretakers, [4][fire-fighting staff] and messengers. | Sections 10, 11, 13 to 19 (both inclusive), 22 to 24 (both inclusive), 26, 28 to 31 (both inclusive) [5][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [6]* | * * * * * | |
| [7][16A | Persons occupying position of management: Provided that the number of such persons in any establishment shall not, except with the sanction of the prescribed authority, exceed 5 per cent. of the total number of employees therein any fraction being rounded up to the next higher integer. | Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive), [8][33 and 63.] [9]* * * * In respect of commercial establishments, also sections 13 and 18 [10][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| 16B | An employee engaged in a confidential capacity: Provided that the number of such employees in any establishment shall not exceed 5 per cent. of the total number of employees therein, any fraction being rounded up to the next higher integer. | Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive) [11][and 33]. In respect of commercial establishments also sections 13 and 18 [12][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof]. |

[1] These words were substituted for the words beginning with the word "Employees" and ending with word "airports" by G. N., Lab. & H. D., No. 8/48, dated 14th December 1951.

[2] This word was substituted for the words "Employees in stalls" by G.N., D. D., No. S. 58, dated 8th December 1954.

[3] These words and figures were substituted for the word and figures "section 19" by G.N., Lab. D. No. 8/48, dated 3rd June 1949.

[4] These words were added, *ibid.*

[5] These words were added by G. N., J. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.

[6] Entry 15 was deleted by G. N., I. &L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.

[7] Entries 16A and 16B were substituted for the original by G.N., D.D., No S. 58, dated 25th March 1954.

[8] These figures and words were substituted for the word and figures "and 33" by G.N., D.D., No. BSE. 1555, dated 18th June 1956.

[9] The portion beginning with the words "subject to the conditions" and ending with the words "on account thereof" was deleted by G.N, I. & L.D., No. BSE. 1463-Lab-III, dated 11th November 1964.

[10] These words were added by G.N., I. & L.D., No. BSE. 1463-LAB-III, dated 11th November 1964.

[11] These figures and words were substituted for the words and figures "33 and 63" by G.N., I. & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.

[12] These words were added by G.N., I. & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1]* | * * * | * * |
| [2][18 | Legal and Income Tax Practitioners .. | [3][Sections 13 and 18 (*1*)] so far as concerns their own attendance and the attendance of the staff exempted from section 18. |
| 19 | Establishments dealing wholly in fruits, [4]* vegetables, [5][betel leaves, meat] [6][bread], [7][mawa,] eggs and Fish [8][and establishments dealing exclusively in preparation of panpatties.] | [9][Section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| 20 | Female attendants for women's clock rooms or lavatories at theatres or other places of public amusement or entertainment or at residential hotels or restaurants. | Section 33. |
| 21 | [10][Female employees doing household work like cleaning, washing the utensils, cooking and female house keepers employed] in [11][residential hotels, restaurants and eating houses] and female artists in cabaret or entertainment shows. | Section 33. |
| [12][22 | Establishments of legal and income-tax practitioners. | Section 15.] |
| 23 | Sections of newspaper on news agency offices pertaining to news collection, editing and publishing. | Sections 13 to 18 (both inclusive) [13][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| 24 | Ice [14][and ice-fruit] manufacturing establishments .. | Sections 13 to 18, [13][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |

[1] Entry 17 was deleted by G.N., I. & L.D., No. BSE. 2067/B 5452-LAB-III, dated 9th January 1969.

[2] Entries 18 to 21 were added by G.N., Lab. D., No. 8/48-III, dated 14th April 1949.

[3] The words, figures and brackets "sections 13 and 18(*1*)" were substituted for the word, figures and brackets "section 18(*1*)" by G.N., Lab. D., No. 8-48-I, dated 28th April 1949.

[4] The word "flowers" was deleted by G.N., I. & L.D., No. BSE-1465-LAB-III, dated 28th March 1968.

[5] These words were inserted, by G. N., Lab. D., No. 8-48-I, dated 28th April 1949.

[6] This word was added by G.N., Lab. D., No. 8/48, dated 17th May 1949.

[7] This word was added by G.N., Lab. & H.D., No. 8/48, dated 22nd June 1949.

[8] These words were added by G.N., I. & L.D., No. BSE. 1465/Lab-III, dated 15th April 1965.

[9] These words and figures were substituted for the word and figure "section 18" by G.N., I & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.

[10] These words were substituted for the words "Female house keepers employees" by G.N., I & L.D., No. BSE. 1461-LAB-III, dated 5th October 1961.

[11] These words were substituted for the words "residential hotels" by G. N., I. & L. D., No. BSE. 1063-LAB-III, dated 7th March 1965.

[12] Entries 22 to 34 were added by G.N., Lab. D., No. 8/48-I, dated 28th April 1949.

[13] These words were added by G.N., I. & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.

[14] These words were added by G.N., Lab. and H.D., No. 8/48, dated 16th February 1951.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][25 | Bakeries .. .. .. .. | Provision relating to opening hours in section 10, and section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [2]* | * * * * * * * * | |
| 27 | Shops dealing in milk, curds, cream and butter .. | Sections 11, 16, 18 and 33 [subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [4][28 | Photography Establishments .. .. | Provision of opening hour in section 10 and provision of closing hour in section 11, or section 13, as the case may be.] |
| 29 | Railway Bookstalls .. .. .. | Sections 10, 11 and 18, [3][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| 30 | Those establishments in organised markets (like the Cotton or stocks and securities markets) recognised by the prescribed authority as involving intermitent work, which observe not more than six and a half total hours of work per day between the limits of 11-30 a.m. and 6-30 p.m. | Section 15. |
| 31 | Sections in banks pertaining to safe deposit vaults or lockers or godowns. | [5][Section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| 32 | Establishments employing not a single employee .. | [6][Section 62, save as regards any visit book prescribed to be maintained.] |
| 33 | Employers of all establishments .. | Provision relating to closing hour in sections 11, 12 and 19 so far as their own work is concerned provided no sale or service to customers is rendered. |

[1] This entry was substituted for the original by G.N., I. & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.

[2] Entry 26 was deleted by G.N., I. & L.D., No. BSE. 1641/Lab-III, dated 1st March 1961.

[3] These words were added by G.N., I. & L.D., No. BSE. 1461/LAB-III, dated 31st December 1962.

[4] This entry was substituted for the original by G.N., D.D., No. BSE. 1456-J, dated 29th September 1956.

[5] These words and figures were substituted for the word and figure "Section 18" by G.N., I. & L.D., No. BSE. 1461/LAB-III, dated 31st December 1962.

[6] This portion was substituted for the word and figure "section 62" by G.N., Lab. & H. D., No. 8/48, dated the 17th March 1952.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| [1][34 | Any establishment wherein a manufacturing process as defined in clause (*m*) of section 2 of the Factories Act, 1948, is carried on. | [2][Section 13(*i*) and 18 subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [3][35 | Shops supplying [4] * * petromax or any other Lanterns on hire. | Provision relating to closing hours in section 11 [5]["and section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from wages on account thereof."] |
| 36 | Shops dealing in newspapers .. .. | [6][Section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [7][37 | Code Departments of Commercial establishments .. | Sections 13 and 18], [8][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [9][38 | Operators employed in cinema theatres on days on which extra charity shows recognised by the prescribed authority are held. | Sections 28 and 30. |
| 39 | Children and young persons exclusively employed in the sport sections of residential clubs. | [10][Sections 32, 33 and 34(2).] |
| [11][40 | Establishments of Telegram Commission Agents .. | Sections 13 and 18, [8][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages account thereof.] |
| [11][41 | Young persons employed as performers in dramatic shows. | Section 33.] |
| [12][42 | Such shops dealing in pan, bidi, cigarettes, matches and other ancillary articles as open not earlier than 6-00 a.m. | Section 10.] |

[1] This entry was substituted for the original by G.N., D. D., No. 8/58, dated 3rd January 1955.
[2] These words and figures were substituted by G. N., I. & L. D., No. BSE. 1463-LAB-III, dated 24th July 1963.
[3] Entries 35 and 36 were added by G. N., Lab. D., No. 8/48, dated 14th May 1949.
[4] The words " Cycles on hire or " were deleted by G. N., I. & L. D., No. BSE. 1459/Lab-III, dated the 16th June 1960.
[5] These words were added by G. N., I. & L. D., No. BSE. 1564/Lab.-III, dated 23rd October 1964.
[6] These words and figures were substituted for the words and figures " section 18 " by G. N., I & L. D., No. 1461-Lab-III, dated 31st December 1962.
[7] This entry was added by G. N., Lab. D., No. 8/48, dated the 19th May 1949.
[8] These words were added by G. N., I. & L. D., No. BSE. 1461-Lab-III, dated 31st December 1962.
[9] Entries 38 and 39 were added by G. N., Lab. D., No. 8/48, dated 31st May 1949.
[10] This word and figures were substituted for the original by G.N., I. & L.D., No. BSE. 1461/Lab-III, dated 31st December 1962.
[11] Entries 40 and 41 were added by G. N., Lab. D., No. 8/48, dated 3rd June 1949.
[12] This entry was added by G. N., Lab. and H. D., No. 8/48, dated 7th November 1949.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][43 | Upcountry depots and transhipment stations belonging to oil companies : | [2][Section 18 subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.]<br>[3][Provided that where any Depot Superintendent is required to work for half a day on the weekly closed day, half days leave for each occasion on which he is so required to work shall be credited to his leave account.] |
| [4][44 | Such employees of the Co-operative Banks as are engaged in propaganda, supervision and training in business methods of agriculturists and rural artisans. | Section 13.] |
| [5][45 | Menial staff employed in stables for attending to the work of feeding, bathing and milking of animals, cleaning of stables and distribution of milk. | Sections 13 to 18 (both inclusive) subject to the condition that an employed instead of being given a weekly holiday shall be given leave with pay for forty-five days or one year of service or such proportionate leave as the period of his service in a year bears to the whole year, in addition to leave admissible under section 35 :<br>Provided that where an employee is given any weekly holiday or holidays during the year, an equal number of days, may be deducted from the total leave for forty-five days or, as the case may be proportionate leave admissible to him. |
| [6][46 | Dal manufacturing establishments .. .. | Sections 16 and 18] [7][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [8][47 | Canteens attached to the Central Telegraph Office, Bombay. | Sections 10, 11 and 18, [7][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |

[1] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 23rd March 1950.
[2] These words and figures were substituted for the words and figures " section 18 " by G. N., I. & L. D. No. BSE. 1461-LAB-III, dated 31st December 1962.
[3] These words were added by G. N., I. & L. D., No. BSE. 1463-Lab.III, dated 26th July 1962.
[4] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 11th April 1950.
[5] This entry was substituted by G. N., L. & S. W. D., No. BSE. 1556, dated 12th December 1958.
[6] This entry was added by G. N., Lab. & H.D., No. 8/48. dated 2nd June 1950.
[7] These words were added by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[8] This entry was added by G. N., Lab. & H. D., No. 8/48, dated 25th July 1950.

SCHEDULE II—*contd.*

| Serial No. | Establishments, empl yees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][48 | [2][Coffee Depots run by the Coffee Board] .. | Sections 35, 36 and 37.] |
| [3][49 | The out-door staff of the motor transport service.. | [4][Sections 13 to 18 (both inclusive) subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [5][50 | Such establishments of suppliers of band parties as close not later than 11 p.m. | Sections 17 and 18, subject to the conditions that (*i*) the spread over shall not exceed 14 hours in any day and (*ii*) that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [6][51 | All shipping Companies .. .. | Section 15.] |
| [7][52 | Shops dealing mainly in pan and bidi and restaurants, being shops and restaurants in the vicinity of Cinemas and Theatres and which are granted special permission by the Commissioner of Police in areas where there is a Commissioner of Police and District Magistrate elsewhere to conduct the business for half an hour after the closing of cinemas and theatres. | Provision relating to the closing hour in sections 11 and 19.] |
| [8][53 | Tea stalls and catering hotels situated on the railway premises. | Section 25 (*d*).] |
| [9][54 | Establishments commonly known as general engineering works wherein the manufacturing process is carried on with the aid of power. | [10][Sections 13 (*1*) and 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.) |
| | [11][* * * * * | |
| | [11][* * * * * | |
| 57 | Water Works establishments supplying water to the Public. | [12][Sections 13 and 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |

[1] This entry was added by G.N., Lab. & H.D. No. 8/48, dated 9th August 1950.
[2] These words were substituted for the words " India Coffee House run by the India Coffee Board " by the G.N., L. & S. W. D., No. BSE. 1457 (*i*), dated 16th February 1959.
[3] This entry was added by G.N., Lab. & H. D., No. 8/48, dated the 28th August 1950.
[4] These words and figures were substituted for the original word and figures " sections 13 to 18 " by G.N., I. & L. D., No. BSE 1461-Lab-III, dated 31st December 1962.
[5] This entry was substituted for the original by G.N., I. & L.D., No. BSE. 1461-Lab-III, dated 31st December 1962.
[6] This entry was added by G.N., Lab. & H.D., No. 8/48, dated 27th November 1950.
[7] This entry was substituted by G.N., I.& L.D., No. BSE. 1466/Lab-III, dated the 19th June, 1967,
[8] This entry was substituted for the original by G.N., I. & L.D., No. BSE. 1461-Lab.III, dated 31st December 1962.
[9] This entry was added by G.N., Lab. & H.D., No. 8/48, dated the 10th March 1952.
[10] This words, figures and brackets were substituted for the original by G.N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[11] Entries 55 and 56 were deleted by G.N., I.& L.D., No. BSE.1461-LAB-III, dated 31st December 1962.
[12] These words and figures were substituted for the word, figures and brakets "Sections 13 (*1*) and 18 " by G.N., I. & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][58 | Annapoorna cafeteria, New Marine Line Street, Churchgate, Bombay-1, run by the Bombay Branch of the All India Women's Food Council. | Section 33).] |
| [2][59 | Hand-loom and power-loom establishments .. | [3][Sections 13 (*i*) and 18 subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.]] |
| [4][60 | The Sales Centre of the Aquarist Society of India, New Citizen Bank House, Palton Road, Bombay-1. | [5][Section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [6][61 | Such theatres or other places of public amusement or entertainment as are granted special permission by the Commissioner of Police, Bombay, or the District Magistrate, to remain open after twelve midnight. | Section 26.] |
| [7][62 | Such Commercial establishments of licence holders of the Agricultural Produce Market Committee established under the Bombay Agricultural Produce Markets Act, 1939 (Bom.) XXII of 1939), as open not earlier than 7-30 a.m. and close not later than 7-30 p.m. | [8][Section 13.]] |
| [9]* | * * * * * | |
| [9]* | * * * * * | |
| [10][65 | Cycle Stand .. .. . | Sections 11 and 18] [11][subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [12]* | * * * * * | |
| [12]* | * * * * * | |

[1] This entry was added by G.N., D.D., No. 8/48, dated 29th April 1953.
[2] This entry was substituted for the original by G.N., I. & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[3] These words and figures were substituted for the words and figures, " Provisions relating to closing hours in section 13 " by G. N., I. & L.D., No. BSE. 1463-Lab-III, dated 24th July 1963.
[4] This entry was added by G.N., D.D., No. 8/48, dated 27th November 1953.
[5] These words and figures were substituted for the words and figures " section 18 " by G.N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[6] This entry was added by G.N., D.D., No. 8/48, dated 8th March 1954.
[7] This entry was added by G.N., D.D., No. S. 125, dated 17th July 1954.
[8] The words and figures were substituted for the words, figures and brackets " Section 13 (*1*)" by G.N., I. & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[9] Entries 63 and 64 were deleted by G.N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[10] This entry was added by G.N., D.D , No. 1331/48, dated 9th February 1955.
[11] These words were added by G.N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[12] Entries 66 and 67 were deleted by G.N., I. & L.D., No. BSE. 1461-LAB-III, dated 31st December 1962.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| [1][68 | Poultry Farms .. .. .. .. | Sections 13, 17 and 18 subject to the condition that the spread over shall not exceed 12 hours a day and [2][that the employees concerned are granted one full day or two half day holidays in a week without making any decuctions from their wages on account thereof.]] |
| [3][69 | The Canteen and Mess in the premises of the Poona University at Ganesh Khind, Poona, run by the Poona Branch of the All India Women's Food Council. | Section 33.] |
| [4]* | * * * * * * | |
| [4]* | * * * * * * | |
| [5][72 | The Kalyan Electric Supply Company Private Limited, Kalyan. | Sections 13 and 18 subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from wages on account thereof.] |
| [6][73 | Employees engaged by the treasury Contractor for the treasury working in the Bombay General Post Office and its five town sub-offices. | Sections 13, 14, 15, 17 and 18 subject to the condition that the employees concerned are granted wages for overtime work as required by section 63 (*1*) read with Explanation (*a*) thereunder and are also granted one day holiday in a week without making may deductions from wages on account thereof.] |
| [7][74 | " Dock workers " [as defined under section 2(*b*) of the Dock Workers (Regulation of Employment) Act, 1948 (Act No. IX of 1948)] employed by the members of the Bombay Stevedors Association Limited. | Sections 13, 14, 15, 17, 18, 63 and 65 subject to the condition that the [8][employees] concerned shall be given the same benefits in the matter of hours of work overtime payment and weekly holidays as are available to the workers employed by the Bombay Dock Labour Board.] |
| [9][75 | Bidi makers and wrappers in the establishments manufacturing bidis. | Section 18(3).] |
| [10][76 | Shops dealings in poultry .. .. | Sections 10 and 18 subject to the condition that the employees [11][concerned] are given one full or two half day holidays in a week without making [12][any deductions from their wages on account thereof.] |

[1] This entry was added by G. N., L. & S. W. D., No. BSE. 1456 dated 7th January 1957.
[2] These words were substituted for the original by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[3] This entry was added by G. N., L. & S. W. D., No. BSE. 1456, dated 8th February 1957.
[4] Entries 70 and 71 were deleted by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[5] This entry was added by G. N., L. & S. W. D., No. BSE. 1457, dated 16th September 1957.
[6] This entry was added by G. N., L. & S. W. D., No. BSE. 1457, dated 13th February 1958.
[7] This entry was added by G. N., L. & S. W. D., No. BSE. 1457- dated 18th March 1958.
[8] This word was substituted for the word " worker " by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[9] This entry was added by G. N., L. & S. W. D., No. 1458-J, dated 9th April 1958.
[10] This entry was added by G. N., L. & S. W. D., No. BSE. 1457, dated 16th May 1958.
[11] This words was added by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December1962.
[12] These words were substituted for the words"any deduction from wages" by G. N., I. & L. D., No. BSE. 1461-LAB.-III, dated 31st December 1962.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| [1][77 | Tea Centre run by the Tea Board at Churchgate, Bombay. | Sections 35, 36 and 37.] |
| [2][78 | Establishments maintained in connection with the Petrol Service Stations and Petrol Pumps. | Section 10, section 11, section 16, subject to the conditions that the spread-over of the work of an employee employed therein shall not exceed fourteen hours in any day ; and section 18), [3][subject to the condition that employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [4][79 | (*a*) Office of the Maharashtra Housing Board, and offices subordinate to it.<br>(*b*) Office of the Industrial Finance Corporation of India.<br>(*c*) Office of the Indian Rare Earths Limited, Bombay<br>(*d*) Office of the Cotton Textiles Export Promotion Council, Bombay.<br>[6][(*e*) Production and Sales Centres or Depots of the Maharashtra State Khadi and Village Industries Board.]<br>(*f*) Office of the Khadi and Village Industries Commission, Bombay.<br>(*g*) Offices of the Agricultural Produce Market Committees established under the Bombay Agricultural Produce Markets Act, 1939.<br>(*h*) Office of the Industrial Credit and Investment Corporation of India, Limited, Bombay.<br>(*i*) Offices of the Life Insurance Corporation of India in the State of Maharashtra.<br>(*j*) Regional Office of the State Trading Corporation of India (Private) Limited, Bombay.<br>(*k*) Office of the Shipping Corporation of India, Bombay.<br>(*l*) Export Risks Insurance Corporation (Private) Limited, Bombay.<br>[7][* * *<br>[8][(*n*) Establishments of the Maharashtra State Warehousing Corporation.]<br>[9][(*o*) Office of the Basic Chemicals, Pharmaceuticals and Soaps Export Promotion Council.<br>[10][(*p*) Offices of the Maharashtra State Farming Corporation Ltd., situated at Bombay and Poona and office of the Kolhapur Sugar Farm. | (*a*) In respect of all the employees: sections 35, 36,37 and 62, [5][subject to the condition that any visit book, register or record maintained immediately before the 1st June 1963 are continued to be maintained properly and such registers and records are made available to the Inspector for inspection.]<br>(*b*) In respect of out-door staff and watchmen : sections 13, 14, 15, 17 and 18 subject to the condition that the employees concerned are granted wages for overtime work and one day holiday in a week without making any deductions from their wages on account thereof.] |

[11][79 (*q*) Office of the Indian Motion Pictures Export Corporation Ltd., Bombay.

[1] This entry was added by G. N., L. & S. W. D., No. BSE. 1458-J, dated 30th October 1958.
[2] This entry was added by G. N., L. & S. W. D., No. BSE. 1458, dated 16th February 1959 read with G. N., L. & S. W. D., No. BSE. 1458, dated 13th March 1959.
[3] These words were added by G. N., I & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[4] This entry was substituted for the original by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[5] These words were added by G. N., I. & L. D., No. BSE. 1462-LAB-III, dated 29th April 1963.
[6] These words were added by G. N., I. & L. D., No. BSE. 1464-LAB-III, dated 20th April 1964.
[7] Entry (*m*) was deleted by G. N., I. & L. D., No. BSE. 1462/Lab.-III, dated the 9th August 1962.
[8] These words were added by G. N., I. & L. D., No. BSE. 1464-Lab-III, dated 11th December 1964.
[9] This entry was added by G. N., & L. D., No. BSE. 1465-Lab-III, dated 2nd August 1967.
[10] This entry was added by G. N., I. & L. D., No. BSE. 1466-Lab-III, dated 28th December 1967.
[11] This entry was added by G. N., I. & L. D., No. BSE. 1467-LAB-III, dated 13th February 1968.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| [1][80 | The Modern Garage, Bombay .. .. | Sections 10, 11, 14, 15, 16 and 18 subject to the condition that the employees concerned are granted one day holiday in a week [2][without making any deductions from their wages on account thereof.]] |
| [3] | * * * * * | |
| [4][82 | The Office of the Bombay Taxi Association, Bombay | Sections 13(*1*), 14, 15, 17 and 18 subject to the condition that the employees concerned are granted [5][one day holiday in a week without making any deductions from their wages on account thereof.] |
| [6][83 | Employees in the canteens at Bus Depots and Bus Stations of the Bombay Electric Supply and Transport Undertaking of the Bombay Municipal Corporation. | Section 19.] |
| [7][84 | Establishments of the Bombay State Road Transport Corporation. | (*a*) In respect of out-door staff and watchmen:—<br>Sections 13, 14, 15, 17, 18, 35, 36, 37, 62 and 66 : subject to the condition that the employees concerned are granted wages for overtime work and one day's holiday in a week without making any deductions on account thereof from the wages.<br>(*b*) In respect of employees other than those mentioned in clause (*a*):—<br>(*i*) Section 13 : only in respect of—<br>(*x*) employees in the following establishments, namely:—<br>Bus Stations, Reservation and Advance Booking Offices, Out-agency, Parcel Booking and Delivery Offices, workshops not covered under the Factories Act, 1948, Control points ; and<br>(*y*) employees in the following establishments, namely:—<br>State Transport Central Offices, 80-81, Annie Besant Road, Worli, Bombay-18, Office of the |

[1] This entry was added by G. N., L. & S.W.D., No. BSE. 1458-J, dated 11th August 1959.
[2] These words were substituted for the original by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[3] Entry 81 was deleted by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[4] This entry was added by G. N., I. & S.W.D., No. BSE. 1458-J, dated 5th October 1959.
[5] These words were substituted for the original by G. N., I. & L. D., No. BSE. 1461-Lab-III, dated 31st December 1962.
[6] This entry was added by G. N., I. & S.W.D., No. BSE. 1459-J, dated 7th November 1959.
[7] This entry was added by G.N., I. & S.W.D., No. BSE. 1458-J, dated 1st December 1959.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| | | Controller of Stores, State Transport Central Stores, Bombay Central Stand, Bellasis Road, Bombay-8. Stores Unit No. II, Petit Mills Compound, Tardeo, Bombay, Office of the Divisional Controllers, State Transport, Poona/Nasik/Thana/Kolhapur/Sholapur/Ahmedabad/Ratnagiri/Nadia/Baroda/Surat/Dhulia/Palanpur/Ahmednagar/Sabarkantha, Administrative Blocks—Central Works Depot and Regional Workshop, Ahmedabad, Office of the Executive Engineer, State Engineer, State Transport, Southern Division, Shankerseth Road, Poona. Office of the Executive Engineer, State Transport, Northern Division, Bombay Central Bombay. Office of the Executive Engineer, State Transport, Regional Workshop, Construction Division at Ahmedabad. State Transport Divisional Stores at Poona/Nasik/Thana/Kolhapur/Sholapur/Ahmedabad/Ratnagiri/Nadiad/Baroda/Surat/Dhulia/Palanpur/Ahmednagar/Sabarkantha. Subject to the condition that no establishment shall open earlier than 7-30 a.m. and close later than 9-30 p.m. |
| | | (*ii*) Section 14 : subject to the condition that the working hours of any employee shall not exceed 9 hours in any day and 54 hours in any week. |
| | | (*iii*) Section 15 : subject to the condition that no employee shall be required or allowed to work for more than five hours before he has had an interval of rest of at least half an hour. |
| | | (*iv*) Section 17 : only in respect of bus stations, bus-depots and stores-Offices subject to the condition that the spread-over of work of an employee shall not exceed 14 hours in any day. |

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| | | (*v*) Section 18 : Subject to the conditions that—<br>(*o*) every employee other than daily-rated staff shall be given one day holiday in a week without making any deduction from wages on account thereof.<br>(*p*) an employee on daily-rated wages shall be granted one day holiday in a week, payment for that day being made at the rate agreed to by the Corporation for that category with the union of the workers.<br>(*q*) the one day holiday referred to in paragraphs (*o*) and (*p*) if not granted in any week shall be granted within a period of not less than two months from the end of that week.<br>(*vi*) Sections 35, 36, 37, 62 and 66.] |
| [1][85 | Shops dealing in pan, bidi, cigarettes, matches and other ancillary articles, at the State Transport Bus Stations. | Sections 10, 11 and 16.] |
| | [2][ .. .. .. .. | |
| [3][87 | The Central Office of the Life Insurance Corporation of India situated in Bombay. | Sections 13, 14, 15, 17 and 18 subject to the condition that (*i*) no employee shall be required or allowed to work for more than five hours before he has had an interval of rest of at least half an hour ;<br>(*ii*) the employees concerned are granted wages for overtime work and one day's holiday in a week without making any deductions on account thereof from the wages.] |
| [4][88 | The office of the Bombay Gas Co. Ltd., at 214, Dr. Dadabhai Naoroji Road, Bombay No. 1. | [5][Provision relating to opening hour in section 13] in respect of two clerks and one office sepoy, subject to the condition that the office will not be opened earlier than 8-00 a.m.] |

[1] This entry was added by G. N., L. & S. W. D., No. BSE. 1458-J, dated 1st December 1959.
[2] Entry 86 was deleted by G. N., I. & L. D., No. BSE. 1461/Lab-III, dated 31st December 1962.
[3] This entry was added by G. N., L. & S. W. D., No. BSE. 1458-J, dated 31st December 1959.
[4] This entry was added by G. N., L. & S. W. D., No. BSE. 1459-J, dated 31st December 1959.
[5] These words and figures were substituted by the words, figures and bracket " Section 13(*1*) so far as opening hour is concerned " by G. N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.

(G.C.P.) MO-B H 5551—10 (3325—6-69)

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][89 | Shops supplying cycles on hire .. .. | (*i*) Provision relating to closing in section 11 ;<br><br>(*ii*) Section 18 subject to the condition that the employees concerned are granted one day holiday in a week without making [2][any deductions from their wages] on account thereof. |
| [3][90 | Establishments of Royal Western India Turf, Club Limited. | Sections 28, 29 and 30 subject to the condition that the employees are granted wages for overtime work as required under section 63(*1*)—<br><br>(*i*) Only in respect of the number of employees, employed on permanent basis at Bombay and Poona, indicated against each as follows :—<br>Ministerial staff .. 37<br>Peons .. .. 54<br>Ambulance driver .. 1<br>Waiter .. .. 1<br>Track supervisor .. 7<br>Attendants .. ..<br><br>(*ii*) only in respect of the number of employees, employed on permanent basis only at Poona indicated against each as follows :<br>Ministerial staff .. 3<br>Peons .. .. 5<br>Motor drivers .. 3<br>Cooks, Waiters, Pantrymen, Butlers. 16<br>[4][on race days and the day following race days, and<br><br>(*iii*) In respect of employees employed in Bombay.] |
| [5][91 | Offices of the State Bank of India .. .. | Section 18, subject to the condition that the employees concerned are granted one day in a week as a holiday without making [6][any deductions from their wages] on account thereof.] |

[1] Entry 89 was added by G. N., I and L. D., No. BSE/Lab-III, dated 16th June 1960.

[2] These words were substituted for the words " deduction from wages " by G. N., I. and L. D. No. BSE. 1461-OAB-III, dated 31st December 1962.

[3] Entry 90 was added by G. N., I. and L. D., No. BSE. 1458-Lab-III, dated 14th September 1960.

[4] These words, figures and brackets, were substituted for the words " on race days and the day following race days " by G. N. I. and L. D., No· BSE. 1462-LAB-III, dated 29th August 1962.

[5] Entry 91 was added by G. N. I and L. D., No. BSE. 1459-Lab-III, dated 1st March 1961.

[6] These words were substituted for the words " deduction from wages " by G. N., I. & L. D., No. BSE. 1461-LAB-III,dated 31st December 1962.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][92 | Cooking Section of the Yezdiar Industrial Institute, 779, Parsee Colony, Dadar, Bombay-14. | Sections 13, 14, 17 and 18, subject to the conditions that—<br>(*i*) The Cooking Section shall not be opened earlier than 5-00 a.m. and closed later than 7-00 p.m.<br>(*ii*) No employee shall be required or allowed to work for more than 9 hours in any day.<br>(*iii*) The spread over of an employee shall not exceed fourteen hours [2][any day].<br>(*iv*) Every employee shall be given one day in a week as a holiday without making [3][any deductions in his wages] on account thereof.<br>(*v*) No female employee shall be required or allowed to work before 7-00 a.m., on any day.] |
| [4][93 | Such hair cutting establishments and hammam-khanas [5]* * * * as open not earlier than 6-00 a.m. | Sections 10 and 16.] |
| [5][94 | Such establishments wherein the process of moulding and/or welding is carried on, as open not earlier than 7-00 a.m. | Provision relating to opening hours in section 13.] |
| [7][95 | Establishments of Weigh-Bridges in Greater Bombay. | Section 18 subject to the condition that the employees concerned are given one day in a week as a holiday without making [8][any deductions from their wages] on account thereof.] |
| [9][96 | Such establishments manufacturing bricks as open earlier than 5-30 a.m. | [10][Provision relating to opening hours in section 13] and section 18 subject to the condition that the employees concerned are given one day in a week as a holiday without making deductions from their wages on account thereof.] |

[1] Entry 92 was added by G.N., I. and L.D., No. BSE. 1460-Lab-III, dated 10th June 1961.
[2] These words were added by G.N., I. & L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[3] These words were substituted for the words "deduction in wages" by G.N., I. and L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[4] Entry 93 was added by G.N., I. and L.D., No. BSE. 1461-LAB-III, dated 7th July 1961.
[5] The words "in all local areas, except Greater Bombay" were deleted by G.N., I. and L.D. No. BSE. 1461-LAB-III, dated 26th December 1961.
[6] Entry 94 was added by G.N., I and L.D., No. BSE. 1461/LAB-III, dated 16th August 1961.
[7] Entry 95 was added by G.N., I. and L.D., No. BSE. 1461/LAB-III, dated 4th December 1961.
[8] These words were substituted for the words "deduction from wages" by G.N., I. and L. D., No. BSE. 1461-LAB-III, dated 31st December 1962.
[9] Entry 96 was added by G.N., I. and L.D., No. B.S.E. 1461-L.A.B. III, dated 28th December 1961.
[10] These words and figures were substituted for the words, figures and brackets "section 13 (*I*) as far as opening hour is concerned" by G.N., I. and L.D., No. BSE. 1461-LAB.III, dated 31st December 1962.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][97 | Office of the Indian Oil Company, Bombay .. | (*a*) In respect of the all employees: sections 35, 36, 37 and 62.<br>(*b*) In respect of out door staff and watchmen, sections 13, 14, 15, 17 and 18 subject to the condition that the employees concerned are granted wages for overtime work and one day holiday in a week without making any deduction on account thereof from their wages.<br>(*c*) In respect of telephone operators sections 13 and 18, subject to the conditions that the employees concerned are granted one day holiday in a week without making any deductions on account thereof from their wages.] |
| [2][98 | The R. H. Patuck Industrial Institute for Parsis, Sleater Road, Bombay. | Sections 13, 14 and 18 subject to the conditions that—<br>(*i*) The institute shall not be opened earlier than 7-00 a.m. and close later than 5-00 p.m.<br>(*ii*) No employee shall be required or allowed to work for more than 9 hours in any day.<br>(*iii*) Every employee shall be given [3][one day holiday in a week without making any deductions from his wages] on account thereof.] |
| [4][99 | Motor car drivers attached to the head offices of the Tata Hydro-Electric Power Supply Company Limited, the Andhra Valley Power Supply Company Limited, and the Tata Powder Company Limited, Bombay. | Sections 13, 14, 17 and 18, subject to the condition that the motor car drivers concerned are given [5][one day holiday in a week] without making deduction from their wages on account thereof.[ |
| [6][100 | Establishments of race horse trainers .. | Sections 13, 17 and 18 subject to the conditions that—<br>(*i*) The spread over of an employee shall not exceed fourteen hours in any day.<br>(*ii*) Every employee shall be given [7][one day holiday in a week without making any deductions from his wages] on account thereof.] |

[1] Entry 97 was added by G.N., I. and L.D., No. BSE.1461-LAB-III, dated 29th December 1961.
[2] Entry 98 was added by G.N., I. and L.D., No. BSE. 1461/LAB-III, dated 12th January 1962.
[3] These words were substituted for the original by G.N., I. and L.D., No. BSE.1461/Lab-III, dated 31st December 1962.
[4] Entry 99 was added by G.N., I. and L.D., No. BSE. 1462/Lab-III, dated 14th March 1962.
[5] These words were substituted for the words " one day in a week as a holiday " by G.N., I, and L.D., No. B.S.E., 1461-LAB-III, dated 31st December 1962.
[6] Entry 100 was added by G.N., I.and L.D., No. BSE. 1461-LAB-III, dated 28th April 1962.
[7] These words were substituted for the original by G.N., I. and L.D., No. BSE. 1461/LAB-III, ated 31st December 1962.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][101 | * * * * * | * * * ] |
| [2][102 | Establishment of the Maharashtra State Electricity Board. | (*a*) In respect of all employees : Section 62.<br>(*b*) In respect of out door staff and watchmen : sections 13, 14, 15, 17 and 18, subject to the condition that the employees concerned are granted wages for overtime work and one day holiday in a week without deductions from their wages on account thereof.] |
| [3][103 | Sub-Office of Coffee Board at Haroon House, Bazargate Street, Bombay-1. | (*a*) In respect of all the employees : sections 35, 36, 37 and 62.<br>(*b*) In respect of outdoor staff : sections 13, 14, 15, 17 and 18, subject to the condition that the employees concerned are granted wages for overtime work and one day holiday in a week without making deductions from their wages on account thereof.] |
| [4][104 | Motor drivers employed by the Scindia Steam Navigation Company, Limited, Bombay. | Section 13, subject to the condition that the employees concerned are, during the period of operation of the award [being an award, dated 17th July 1961 given by the Arbitrator in the Industrial Dispute between the Scindia Steam Navigation Company Ltd., the Bombay Steam Navigation Company (1953) Private Ltd., and the Scindia Workshop Private Ltd., of the first part and the monthly paid clerical and non-clerical staff employed by them at their offices in Bombay and Branch offices located at the ports within the State, of the second part], given allowance in lieu of overtime as provided in the said award.<br>Sections 14 and 17.<br>Section 18, subject to the condition that the employees concerned are given one day as holiday with wages in a week during the period of operation of the said award.] |
| [5][105 | Canteen and Stores run at Poona by the Poona Seva Sadan Society, Poona. | Section 33.] |

[1] Entry 101 was added by G.N., I. and L.D., No. BSE. 1462/Lab-III, dated 3rd July 1962 and was effective till 1965.
[2] Entry 102 was added by G.N., I. and L.D., No. BSE. 1462/Lab-III, dated 9th August 1962.
[3] Entry 103 was added by G.N., I. and L.D., No. BSE. 1461/Lab-III, dated 9th August 1962.
[4] Entry 104 was added by G.N., I. and L.D., No. BSE. 1461/Lab-III, datted 14th September 1962.
[5] Entry 105 was added by G.N., I.and L.D., No. BSE. 1462/Lab-III, dated 15th October 1962.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][106 | Establishment of Jayems Chemicals, Nasik Road, Deolali, Nasik. | Provision relating to opening hours in section 13, so long as the Government order sanctioning electric power to the establishment from 11 p.m. to 6 a.m., is in force.] |
| [2][107 | * * * * * * *] | |
| [3][108 | Hair Dressing Saloon Stalls situated within railway premises. | Sections 10, 11 and 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [4][109 | Employees in the Production Department of the Publicity Society of India, Limited, Bombay-1. | Section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [5][110 | * * * * * * * *] | |
| [6][111 | Pay clerks and peons and cash-guards, accompanying them of the Tata Hydro-Electric Power Supply Co. Ltd., The Andhra Valley Power Co. Ltd., and the Tata Power Co. Ltd., Bombay House, Bruce Street, Fort, Bombay-1. | Sections 13, 14, 17 and 18 subject to the condition that the employees concerned are granted wages for overtime and one day holiday in a week without making any deduction from their wages on account thereof.] |
| [7][112 | Women employees, working as gate-keepers, for classes exclusively reserved for women in cinema theatres in Vidarbha and Marathwada. | Section 33.] |

[1] Entry 106 was added by G.N., I. and L.D., No. BSE. 1462/Lab-III, dated 24th December 1962.
[2] Entry 107 was deleted by G.N., I. and L.D., No. BSE. 1461/Lab-III, dated 6th May 1965.
[3] Entry 108 was added by G.N., I. and L.D., No. BSE. 1462/Lab-III, dated 28th February 1963.
[4] Entry 109 was added by G.N., I. and L.D., No. BSE. 1463/Lab-III, dated 13th July 1963.
[5] Entry 110 was deleted by G.N., I. and L.D., No. BSE. 1464/Lab-III, dated 18th May 1965.
[6] Entry 111 was added by G.N., I. and L.D., No. BSE. 1463 Lab-III, dated 9th September 1963.
[7] Entry 112 was added by G.N., I. and L.D., No. BSE. 1463/Lab-III, dated 7th September 1963.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][113 | Messrs. Arun Printing Press, Gajanan Talkies Road, Malkapur, District Buldhana. | In respect of section 62, so far it relates to the maintenance of registers under rule 20(1), 20(4) and 20(11) of the Maharashtra Shops and Establishments Rules, 1961.] |
| [2][114 | Bombay Industrial Business Machines Bureau, Meher Chambers, Nicol Road, Ballard Estate, Bombay-1. | Section 13.] |
| [3][115 | Staff car drivers employed in— | |
| | (*i*) Shops .. .. .. | Sections 10, 11, 14, 16 and 18, subject to the condition that the drivers concerned are given one day in a week as a holiday without making deduction from their wages on account thereof. |
| | (*ii*) Commercial establishments .. .. | Sections 13, 14, 17 and 18, subject to the condition that the drivers concerned are given one day in a week as a holiday without making deduction from their wages on account thereof.] |
| [4][116 | Employees of the Chartered Bank, Bombay-1, engaged for exchange of money on board the ship or wharf in Bombay Port. | Section 13.] |
| [5][117 | Employees in the Car Pool Department of the Greaves Cotton and Company Limited, Bombay-1. | Sections 13, 14, 17 and 18, subject to the condition that the employees concerned are granted wages for overtime work and one day holiday in a week without making any deductions on account thereof from their wage.] |
| [6][118 | Banks .. .. .. | Provision relating to closing hours in section 13 on the first working day of a month and the working day preceding and succeeding public holiday subject to the condition that the employees concerned are granted wages for overtime work.] |
| [7][119 | Purchase and Liaison Office of the Fertilizer Corporation of India Limited, Bombay. | (*a*) In respect of all employees: sections 35, 36, 37 and 62.<br>(*b*) In respect of outdoor staff: sections 13, 14, 15, 17 and 18, subject to the condition that the employees concerned are granted wages for overtime work and one day holiday in a week without making any deductions on account thereof from their wages. |

[1] Entry 113 was added by G. N., I. & L. D., No. BSE. 1463/Lab-III, dated 7th September 1963.
[2] Entry 114 was added by G. N., I. & L. D., No. BSE. 1463/Lab-III, dated 10th October 1963.
[3] Entry 115 was added by G. N., I. & L. D., No. BSE. 1463/Lab-III, dated 26th December 1963.
[4] Entry 116 was added by G. N., I. & L. D., No. BSE. 1464/Lab-III, dated 8th January 1964.
[5] Entry 117 was added by G. N., I. & L. D., No. BSE. 1464/Lab-III, dated 5th October 1964.
[6] Entry 118 was added by G. N., I. & L. D., No. BSE. 1464/Lab-III, dated 11th January 1965.
[7] Entry 119 was added by G. N., I. & L. D., No. BSE. 1464/Lab-III, dated 22nd February 1965.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| | | (*c*) In respect of telephone operator sections 13 anc 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions on account thereof from wages.] |
| [1][120 | Cooking Section of the Vindyu Home Industries, 116, Dadasaheb Phalke Road, Bombay-14. | Sections 13 and 18, subject to the conditions that—<br>(1) the cooking section shall not be opened earlier than 6-00 a.m. and closed later than 5-00 p.m.<br>(2) every employee shall be given one day in a week as a holiday without making any deductions in his wages on account thereof.] |
| [2][121 | Office of the Maharashtra State Co-operative Marketing Society Ltd., at Wadala, Bombay. | Section 18 subject to the condition that the employees concerned are granted one day in a week as a holiday without making any deductions from their wages on account thereof.] |
| [3][122 | Offices of the Maharashtra State Khadi and Village Industries Board (excluding Production and Sales Centres or Depots). | All provisions.] |
| [4][123 | Employees in the Marine Department of Messrs. Caltex (India) Limited, Bombay. | Sections 13, 14, 17 and 18 subject to the conditions that the employees concerned are granted wages for the overtime work and one day holiday in a week without making any deductions on account thereof from their wages.] |

[1] Entry 120 was added by G.N., I. & L. D., Nc.. BSE. 1464/LAB-III, dated the 22nd February 1965.

[2] Entry 121 was added by G. N., I. & L. D., No. BSE. 1464/LAB-III, dated the 7th April 1965.

[3] Entry 122 was added by G. N., I. & L. D., No. BSE. 1464/LAB-III, dated the 26th April 1965.

[4] Entry 123 was added by G. N., I. & L. D., No. BSE. 1465/LAB-III, dated the 23rd September 1965.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][124 | Distribution Office of Noble Distributors located at Margaret Building, Antop Hill, Wadala, Bombay-31. | Section 18, subject to the condition that the employees concerned are granted one day in a week as a holiday without making any deductions from their wages on account thereof. |
| [2][125 | Employees in Research Centre of the CIBA or India Limited, Goregaon, Bombay. | Section 13(*1*) subject to the condition that the Research Centre will not be opened earlier than 8-00 a.m.] |
| [3][126 | All mills which are prohibited from using or consuming electrical energy for milling flour during the hours of 5-30 p.m. and 8-30 p.m. under Government Order No. VAC. 10667/3827-Elec.-II, dated the 28th January 1966 issued under clauses (*a*) and (*b*) of sub-section (*1*) of section 6-A of the Bombay Electricity (Special Powers ) Act, 1946. | Sections 11 and 16, subject to the condition that no flour mill shall on any day be kept open later than 9-30 p.m.] |
| [4][127 | Establishment of the Dharamsi Morarji Chemical Company Limited, Bombay, at Parel Road Cross Lane, Byculla, Bombay. | Section 18 subject to the condition that employees are granted holidays as are declared by the Mill-Owners' Association, Bombay for their member mill and a list is sent to the Shops Inspector of the area each year.] |
| [5][128 | IBM Section of Accounts Department of the Bombay Suburban Electric Supply Limited, Bombay. | Section 13(*1*).] |
| [6][129 | Employees employed in the Mechanical Billing Unit of the Maharashtra State Electricity Board, Shivajinagar, Poona. | .....] |
| [7][130 | Establishments of Co-operative Societies in the Bombay Municipal Corporation area. | Sub-section (*1B*) of section 18, subject to the condition that these establishments shall remain closed on one day of the week as required by sub-section (*1*) of section 18. |

[1] Entry No. 124 was added by G. N., I. & L. D., No. BSE. 1465/Lab-III, dated the 9th April 1966.
[2] Entry No. 125 was added by G. N., I. & L. D., No. BSE. 1465/Lab-III, dated the 11th May 1966.
[3] Entry No. 126 was added by G. N., I. & L. D., No. BSE. 1466/Lab-III, dated the 17th May 1966.
[4] Entry No. 127 was added by G. N., I. & L. D., No. BSE. 1465/Lab-III, dated the 15th May 1966.
[5] Entry No. 128 was added by G. N., I. & L. D., No. BSE. 1466/Lab-III, dated the 19th August 1966.
[6] Entry No. 129 was added by G. N., I. & L. D., No. BSE. 1465/Lab-III, dated the 4th October 1966.
[7] Entry No. 130 was added by G. N., I. & L. D., No. BSE. 1466/Lab-III, dated the 7th October 1966

SCHEDULE II– *concld.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][131 | Shop belonging to Shri R. M. Agarwal of Shirpur, District Dhulia, carrying on business of repairs to motor vehicles and supply and essential services for travel arrangements. | Sections 10, 11 and 18 subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof. |
| [2][132 | | |
| [3][133 | Pan shop in the vicinity of the III Class waiting hall of Nasik Road Station on the Central Railway. | Section 10, section 11, section 16 subject to the condition that the spread-over of the work of an employee employed therein, if any, shall not exceed fourteen hours in any day and section 18 subject to the condition that employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [4][134 | Establishment known as " Matru Samaj " run by the Vishva Vatsalaya Prayogik Sangh, at 138-A, C. P. Tank Road, Bombay-4. | Section 33. |
| [5][135 | Females employed by Co-operative Consumers' Stores registered under the Maharashtra Co-operative Societies Act, 1960. | Section 33. |
| [6][136 | Establishment of the Parbhani Zilla Madhyavarthi Sahakari Grahak Bhandar, Parbhani. | Sub-section (*IB*) of section 18 subject to the condition that these establishments shall remain closed on one day of the week as required by sub-section (*1*) of section 18. |
| [7][137 | Shops dealing in flowers and other ancillary articles such as garlands, *venies* and the like made out of natural flowers only. | Sections 10, 11 and 16 subject to the condition that no flower shop shall be opened earlier than 5-00 a.m. and be closed later than 11-00 p.m. on any day ; section 18 subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof. |

[1] Entry No. 131 was added by G. N., I. & L. D., No. BSE. 1464-LAB-III, dated 29th November 1966.

[2] Entry No. 132 was added by G. N., I. & L. D., No. BSE. 1466-Lab-III, dated 24th May 1967, but was effective for three months only from the date of the Notification.

[3] Entry No. 133 was added by G. N., I. & L. D., No. BSE. 1465-LAB-III, dated 20th July 1967.

[4] Entry No. 134 was added by G. N., I. & L. D., No. BSE. 1466-LAB-III, dated 27th December 1967.

[5] Entry No. 135 was added by G. N., I. & L. D., No. BSE. 1467-LAB-III, dated 23rd December 1967.

[6] Entry No. 136 was added by G. N., I. &. L. D., No. BSE. 1468-LAB-III, dated 13th March 1968.

[7] Entry No. 137 was added by G. N., I. & L. D., No. BSE. 1465-LAB-III, dated 28th March 1968.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| [1][138 | The firms or establishments— | Sections 13, 14 and 17, subject to the conditions that— |
| | (1) dealing in transport of fresh fish (including fish preserved in ice) ;<br>(2) engaged in actual fishing ; | (*i*) if an employee is required to work for more than 9 hours in any day or more than 48 hours in any week he shall be granted over-time wages as per section 63(*1*) of the Act ; and (*ii*) the spread-over of the work of an employee shall not exceed fourteen hours in any day. |
| | (3) dealing in processing of fish and other aquatic products such as freezing plants, canning plants and fish meal plants. | Section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.) |
| [2][139 | Employees employed in the Pest Clearance Service Unit of Messts. Tata Fison Industries Limited, Ralli House, 21, Ravelin Street, Fort, Bombay. | Section 13.] |
| [3][140 | Messrs. Kadbakutti Karbhandar Pvt. Ltd., 230, Mangalwar Peth, Poona-11. | Sections 10, 11 and 18, subject to the condition that the employees concerned are given one day in a week as holiday without making any deduction from their wages, on account thereof.] |
| [4][141 | The following employees of the Bombay Suburban Electric Supply Company Limited, Bombay-55 AS, namely :—<br>(1) *Stores Section*—<br>(*i*) Assistant Store-Keeper.<br>(*ii*) Six Clerks.<br>(*iii*) Twelve Mazdoors.<br>(2) *Time-Keeper Section*—<br>(*i*) Two Clerks. | Sections 13, 14, 17 and 18, subject to the conditions that—<br>(*i*) the employees concerned shall be granted wages for over-time work as required by section 63(*1*) read with clause (a) of the Explanation thereunder ;<br>(*ii*) the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof ;<br>(*iii*) the list of names of employees shall be sent to the Inspector having jurisdiction every month before the commencement of such month. If there is change in employees during the currency of any month, the names of new employees shall be sent to the Inspector forthwith.] |

[1]Entry No. 138 was added by G. N., I. & L. D., No. BSE. 1466/123394-Lab-III, dated 30th July 1968.
[2]Entry No. 139 was added by G. N., I. & L. D., No. BSE. 1467/Lab-III, dated 7th August 1968.
[3]Entry 140 was added by G. N., I & L. D., No. BSE. 1468/133606/LAB-III, dated 4th January 1969.
[4]Entry 141 was added by G. N., I. & L. D., No. BSE. 1466/120237/LAB-III, dated 28th April 1969.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act. |
|---|---|---|
| (1) | (2) | (3) |
| [1][142 | Office of the Manganese Ore (India) Ltd., Nagpur. | (*a*) In respect of all the employees, section 62, subject to the condition that any visit book, register or records maintained in immediately before the 1st June 1963, are continued to be maintained and records are made available to the Inspector for Inspection.<br><br>(*b*) In respect of outdoor staff and watchman : sections 13, 14, 15, 17 and 18, subject to the conditions that the employees concerned are granted wages for over-time work and one day holiday in a week without making any deduction from their wages on account thereof.] |
| [2][143 | Establishments dealing in handloom products at Kamptee. | Provisions relating to opening hours in section 13(*1*).] |
| [3][144 | Employees of the Maharashtra Housing Board, Bombay. | Sections 13, 14, 15, 17 and 18, subject to the conditions that (*i*) the employee concerned are granted wages for over-time work and one day holiday in a week without making any deductions from their wages on account thereof ; (*ii*) the exemption will remain in operation for the period of one year from the date of issue of this Notification.] |
| [4][145 | Establishments known as—<br>(*i*) Prakash Mangal Service, Bombay<br>(*ii*) Mangal Vastu Bhandar, Bombay. | .. Sections 13 and 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.] |

[1] This entry was added by G.N., I. & L.D., No. BSE. 1468/121362-Lab-III, dated 12th June 1969.

[2] This entry was added by G.N., I. & L.D., No. BSE. 1466/142865-Lab-III, dated 12th September 1969.

[3] This entry was added by G.N., I. & L.D., No. BSE. 1469/143143-Lab-III, dated 12th September 1969.

[4] This entry was added by G.N., I. & L.D., No. BSE. 1467/122551-Lab-III, dated 15th June 1970.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| [1][146 | Office of the Tariff Advisory Committe, Bombay. | Sections 13 and 15.] |
| [2][147 | Khadi Gramodyog Bhandar, Andheri (West), Bombay-58, run by the Mahila Parishad, Andheri, Bombay. | Section 33.] |
| [3][148 | Employees in the Offices of the following establishments situated in 'Cresent House', Ballard Estate, Bombay :—<br>(*i*) Indian Explosives Limited.<br>(*ii*) The Alkali and Chemical Corporation of India Limited.<br>(*iii*) F.C.I. (India) Private Limited. | Section 15, subject to the condition that they observe 40 minutes interval for rest.] |
| [4][149 | Shops selling flowers, pans, garlands, coconuts and sweet oil, etc., situated in the premises of Shri Tulja Bhavani Temple, Tuljapur. | Sections 10(*1*), 11(*1*)(*a*), subject to the condition that no shops shall be opened earlier than 5-00 a.m. and be closed later than 10-00 p.m. on any day. Section 18, subject to the condition that the employees concerned are granted one day holiday in a week without making any deduction from their wages on account thereof.] |
| [5][150 | Happy Home Airconditioned Department Store, Worli, Bombay-25. | Section 33, subject to the condition that female employees are not required to work after 8-00 p.m.] |
| [6][151 | Employees in the office of the Colgate-Palmolive (India) Private Limited, Steelcrete House, Bombay-20. | Section 15, subject to the condition that they observe half an hour interval for rest.] |

[1] This entry was added by G.N., I. & L.D., No. BSE.1470/129045-Lab-III, dated 15th June 1970.

[2] This entry was added by G.N., I. & L.D., No. BSE. 1469/125588-Lab-III, dated 23rd July 1970.

[3] This entry was added by G.N., I. & L.D., No. BSE. 2070/128564-Lab-III, dated 10th July 1970.

[4] This entry was added by G.N., I. & L.D., No. BSE. 1470/144263-Lab-III, dated 16th September 1970.

[5] This entry was added by G.N., I. & L.D., No. BSE. 1470/151896-Lab-III, dated 26th November 1970.

[6] This entry was added by G.N., I. & L.D., No. BSE. 2071/101811-Lab-III, dated 18th January 1971.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][152 | Shop at Laxmi Road, Poona, run by the Hindu Women's Rescue Home Society, Poona. | Section 33.] |
| [2][153 | Peons and sweepers employed in the office of the Cadbury-Fry (India) Private Limited, Bombay. | Section 13(*1*) subject to the condition that they shall not be called for work earlier than 7 a.m.] |
| [3][154 | Female booking clerks employed in Amber and Oscar cinemas of M/s. R. R. Enterprises, Bombay. | Section 33, subject to the condition that they are not required to work after 8-00 p.m.] |
| [4][155 | Females employed in the Departmental Store of M/s. Bajaj Electricals Limited, situated at 2, East Street, Poona-1. | Section 33.] |
| [5][156 | Kalyan Branch of the United Western Bank Ltd., Satara. | Provisions relating to opening hours in section 13(*1*), subject to the condition that the Bank will not be opened earlier than 7-00 a.m.] |
| [6][157 | Shops situated in the premises of the residential hotels approved by the Department of Tourism, Government of India, New Delhi. | Sections 10, 11 and 18, subject to the condtion that employees concerned are given one day holiday in a week without making any deductions from their wages on account thereof.] |
| [7][158 | Female employees employed in the Departmental Stores of M/s. Noorsons, situated at 257, Swami Vivekanand Road, Bandra, Bombay-50. | Section 33.] |
| [8][159 | Employees in the Office of M/s. Hindustan Feredo Ltd., Ghatkopar, Bombay-86. | Section 15, subject to the condition that they observe 50 minutes interval for rest.] |
| [9][160 | Biotech Laboratories, Poona .. .. | Sections 13, 14, 17 and 18, subject to the conditions that (*i*) the spread-over shall not exceed fourteen hours in any day ; and (*ii*) the employees concerned are granted wages for overtime work in accordance with section 63 of the Act and one day holiday in a week without making any deductions from their wages on account thereof.] |

[1] This entry was added by G.N., I. & L.D., No. BSE. 1470/100250-Lab-III, dated 20th January 1971.
[2] This entry was added by G.N., I. & L.D., No. BSE. 1470/107019-Lab-III, dated 18th March 1971.
[3] This entry was added by G.N., I. & L.D., No. BSE. 1471/112422-Lab-III, dated 24th March 1971.
[4] This entry was added by G.N., I. & L.D., No. BSE. 1471/119807-Lab-III, dated 22nd April 1971.
[5] Added by G.N., I. & L.D., No. BSE. 1459/135207-Lab-III-A, dated 21st July 1972.
[6] Added by G.N., I. & L.D., No. BSE. 1470/148683-Lab-III-A, dated 12th November 1971.
[7] Added by G.N., I. & L.D., No. BSE. 1471/164318-Lab-III-A, dated 15th January 1972.
[8] Added by G.N., I. & L.D., No. BSE. 2072/118730-Lab-III-A, dated 19th April 1972.
[9] Added by G.N., I. &L.D., No. BSE. 1462/127279-Lab-III-A, dated 20th June 1972.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][161 | Establishments wholly or principally engaged in the sale of sugarcane juice. | Sections 11, 14, 15 ar d 18, subject to the conditions that—<br>(*i*) no establishment shall on any day closed later than 11-00 p.m.<br>(*ii*) if any employee is required to work beyond 9 hours in any day or 48 hours in any week, he shall be paid in respect of overtime work (which shall be noted in the prescribed register) wages at the rate prescribed in section 63 of the Act ; and<br>(*iii*) the employees concerned shall be granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [2][162 | Computer Section of the State Bank of India Offices, Bombay. | Section 13(*I*), subject to the conditions that—<br>(*i*) the computer should be used only for work which cannot properly be done by manual methods.<br>(*ii*) there should be no displacement of any employees whatsoever in any Sections or Offices of the State Bank of India on account of utilisation of the computer system.<br>(*iii*) the working of the computer should be open to the inspection of the Officers of the Commissioner of Labour, who will have the right to scrutinise, satisfy themselves from time to time whether the above conditions are adhered to by the State Bank of India.] |
| [3][163 | Female employees employed in the Establishments of " Vaishali " known as—<br>(*i*) Vaishali,<br>(*ii*) Chunar, and<br>(*iii*) Shaishao, Bombay-6. | Section 33, subject to the condition that they are not required to work after 7-30 p.m.] |
| [4][164 | Departmental store of Messrs. Zarapkar Industries, Bhawani Shankar Road, Dadar, Bombay-28. | Section 33, subject to the condition that the female employees are not required to work after 8-00 p.m.] |

[1] This entry was added by G.N., I. and L. D., No. BSE. 2072/144973-Lab-III-A, dated 22nd June 1972.

[2] This entry was added by G.N., I. and L. D., No. BSE. 1472/131209-Lab-III-A, dated 20th July 1972.

[3] This entry was added by G. N., I. and L. D., No. BSE. 1472/129829-Lab-III-A, dated 2nd August 1972.

[4] This entry was added by G. N., I. and L. D., No. BSE. 1472/133620-Lab-III-A, dated 3rd August 1972.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][165 | Head Office of Messrs. Siemens India Ltd., Bombay-18. | (*a*) In respect of Peons and other menial staffs, Section 13(*1*).<br>(*b*) In respect of all employees Section 15, subject to the condition or allowed to work for more than five hours before he has had an interval of rest of at least 45 minutes.] |
| [2][166 | Duty-free Shop of the Indian Tourism Development Corporation, New Delhi, situated at the Santa Cruz Airport, Bombay. | Sections 10, 11, 14, 16, 18, 32, 33 and 63 subject to the conditions that—<br>(1) the employees concerned are not required to work for more than 48 hours in any week ;<br>(2) the spread over shall not exceed 12 hours in any day ;<br>(3) the employees concerned shall be granted one day holiday in a week without making any deductions from their wages on account thereof ; and<br>(4) the employees on the sales side shall be granted holiday every alternate day without making any deductions from their wages on account thereof.] |
| [3][167 | Office of the Fertilizer Association of India, Bombay | Sections 35, 36, 37 and 62 subject to the condition that any visit book, registers and records maintained by the Association are continued to be maintained properly and such registers and records are made available to the Inspector for inspection.] |

[1] This entry was added by G.N., I. & L.D., No. BSE. 1472/135340-Lab-III-A, dated 14th August 1972.

[2] This entry was added by G.N., I. & L.D., No. BSE. 1472/146797-Lab-III-A, dated 1st December 1972.

[3] This entry was added *vide* G.N., I. & L.D., No. BSE. 1472/152607-Lab-III-A, dated 5th February 1973.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][168 | B. Kaikhushroo & Co., Bombay-1 | .. Sections 13, 14, 17 and 18 subject to the conditions that—<br>(*i*) the total hours of work shall not exceed 9 hours a day or 48 hours a week ;<br>(*ii*) Spread over shall not exceed 12 hours in any day ;<br>(*iii*) if any employee is required to work in excess of the limit of hours of work specified in section 63 of the said Act, he shall be paid overtime wages at the rate not less than those prescribed under section 63 of the said Act ; and<br>(*iv*) the employees concerned shall be granted one day holiday in a week without making any deductions from their wages on account thereof.] |
| [2][169 | Punching Section of Messrs. Hoechst Pharmaceuticals Limited, Bombay. | Section 13(*1*), subject to the conditions that—<br>(*i*) the Computer shall be used only as a management-aid to help decision making in the areas which cannot properly be serviced by manual method. It should not be used for information oriented jobs such as pay-roll, financial accounting, share accounting building, etc. ;<br>(*ii*) there shall be no displacement of any employee whatsoever in, any section or offices of the Company on account of utilisation of the Computer system ; and<br>(*iii*) the working of the Punching Section and utilisation of computer shall be open to the inspection of officers of the Commissioner of Labour, who will have the right to scrutinise and satisfy themselves from time to time, whether the above conditions are adhered to by the Company.] |

[1] This entry was added *vide* G.N., I. & L.D., No. BSE. 1472/154419/Lab-III-A, dated 26th February 1973.
[2] This entry was added *vide* G.N., I. & L.D., No. BSE. 1471/158918/Lab-III-A, dated 16th March 1973.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][170 | Exchange Bureau of the State Bank of India at Taj Intercontinental Hotel, Bombay. | Section 13.] |
| [2][171 | Female employee employed in the Taj Mahal Intercontinental Hotel, Bombay. | Section 33, subject to the conditions that—<br>(1) no woman shall be given night duty continuing for more than one week ;<br>(2) all women, whose duty terminates or starts after 9-00 p.m. and before 6-00 a.m., should be provided with Company's conveyance from their residence to hotel and back ;<br>(3) women should be placed in groups at night ;<br>(4) rest rooms and separate lockers shall be provided in the hotel premises for women ;<br>(5) in the Bar room, no women shall be put on duty as attendant.] |
| [3][172 | Establishment of the Food Corporation of India, Bombay. | All provisions except the provisions of section 63 thereof.] |
| [4][173 | Female employees employed in the Oberoi Sheraton Hotel, Bombay. | Section 33, subject to the conditions that—<br>(1) no woman shall be given night duty continuing for more than one week ;<br>(2) all women, whose duty terminates or starts after 9-00 p.m. and before 6-00 a.m., should be provided with Company's conveyance from their residence to hotel and back ;<br>(3) women should be placed in groups at night ;<br>(4) rest rooms and separate lockers shall be provided in the hotel premises for women ;<br>(5) in the Bar room, no women shall be put on duty as attendant.] |

[1] This entry was added *vide* G.N., I. & L.D., No. BSE. 1472/159657/Lab-III-A, dated 23rd March 1973.

[2] This entry was added *vide* G.N., I. & L.D., No. BSE. 1472/166018/Lab-III-A, dated 7th May 1973.

[3] This entry was substituted *vide* G.N., I. & L.D., No. BSE. 1473/122840/Lab-III-A, dated 22nd July 1975.

[4] This entry as added *vide* G.N., I. & L.D., No. BSE. 1473/189290--Lab-III-A, dated 18th, September 1973.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][174 | (*a*) Office of the Maharashtra Fisheries Development Corporation Limited, Bombay. | Sections 35, 36, 37 and 62 subject to the condition that any visit book, registers and records maintained by the Corporation are continued to be maintained properly and such registers and records are made available to the inspector for inspection.] |
| [2][174 | (*b*) Regional Sales Office of Messrs. Bharat Ophthalmic Glass Ltd., Bombay.] | |
| [3][175 | Female employees employed in the Hotel President, Cuffe Parade, Bombay-400 005. | Section 33, subject to the condition that—<br>(1) no woman shall be given night duty continuing for more than one week ;<br>(2) all women, whose duty terminates or starts after 9-00 p.m. and before 6-00 a.m., should be provided with Company's conveyance from their residence to the hotel and back ;<br>(3) women should be placed in groups at night ;<br>(4) rest rooms and separate lockers shall be provided in the hotel premises for women ;<br>(5) in the Bar room, no women shall be put on duty as attendant.] |
| [4][176 | Employees in the Regional Accounts Office and Area Sales Office of Messrs. Brooke Bond India Ltd., Nagpur. | Section 15 subjects to the condition that they observe 30 minutes interval for rest.] |

[1] This entry was added *vide* G.N., I. & L.D., No. BSE.1473/193920/Lab-III-A, dated 17th October 1973.

[2] This entry was added *vide* G.N., I. & L.D., No. BSE. 1473/191990/Lab-III-A, dated 31st October 1973.

[3] This entry was added *vide* G.N., I. & L.D., No. BSE. 1473/198424/Lab-III-A, dated 31st October 1973.

[4] This entry was added *vide* G.N., I. & L.D., No. BSE. 1473/208620/Lab-III-A, dated 28th December 1973.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| [1][177 | Peons and sweepers employed in the Head Office and Bombay Branch Office of Messrs. Hoechst Dyes and Chemicals Ltd., Bombay. | Section 13(*1*), subject to the condition that they shall not be called for work earlier than 7-30 a.m.] |
| [2][178 | Peons and sweepers employed in the Head Office and Bombay Branch Office of Messrs. Hoechst Pharmaceuticals Ltd., Bombay. | Section 13(*1*), subject to the condition that they shall not be called for work earlier than 7-30 a.m.] |
| [3][179 | Sweepers and coolies employed in the Head Office of Messrs. Hindustan Lever Ltd., Bombay. | Section 13(*1*), subject to the condition that they shall not be called for work earlier than 6-30 a.m.] |
| [4][180 | Transport Unit of the India Tourism Development Corporation, Bombay. | Sections 10, 11, 14, 15, 16, 18 and 62, subject to the condition that the employees concerned are granted wages for overtime work and one day holiday in a week without making any deductions in their wages on account thereof.] |
| [5][181 | Touring Staff of Messrs. India Tobacco Company Ltd., in its Sales Branch at Royal Insurance Building, Bombay 400 020. | Section 18, subject to the condition that the said staff members are allowed to avail leave with pay as soon as possible on their return from tour to their Head Quarters at Bombay ; such leave being not less than at least one day for every week during which they are on tour.] |
| [6][182 | Peons and sweepers employed in the following double shift Branches of the Bank of Baroda in Bombay, namely :—<br><br>(1) Ambedkar Road, (2) Andheri, (3) Bhaudaji Road, (4) Borivali (West), (5) Bandra, (6) Dadar (Ranade Road), (7) Ghatkopar, (8) Kandivali, (9) Khar, (10) Khar Pali Road, (11) Malad, (12) Matunga (Chardavarkar Road), (13) Mulund, (14) Santa Cruz (East), (15) Santa Cruz (West), (16) Shivaji Park, (17) Vile Parle (East), (18) Vile Parle (West), (19) Wadala, (20) Sion, (21) Chembur, (22) Kalina. | Provisions relating to opening hours in section 13(*1*), subject to the condition that the Establishment will not be opened earlier than 7-00 a.m.] |

[1] This entry was added *vide* G.N., I. & L.D., No. BSE. 1473/156022/Lab-III-A, dated 18th February 1974.

[2] This entry was added *vide* G.N., I. & L.D., No. BSE. 1473/157853/Lab-III-A, dated 2nd March 1974.

[3] This entry was added *vide* G.N., I.& L.D., No. BSE. 1473/157657/Lab-III-A, dated 25th March 1974.

[4] This entry was added *vide* G.N., I. & L.D., No. BSE. 1473/157051/Lab-III-A, dated 26th April 1974.

[5] This entry was added *vide* G.N., I. & L.D., No. BSE. 1474/159376/Lab-III-A, dated 6th June 1974.

[6] This entry was added *vide* G.N., I. & L.D., No. BSE. 1473/157047/Lab-III-A, dated 4th June 1974.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][183 | Employees in Messrs. Manganese Ore (India) Ltd., Nagpur. | Section 15, subject to the condition that they observe 45 minutes interval for rest.] |
| [2][184 | Female employees employed in the shops of Messrs. Artistic Trading Private Limited, Registered Office : National House, Tulloch Road, Bombay 400 001, at Taj Intercontinental and Oberoi-Sheraton Hotels, Bombay. | Section 33, subject to the condition that they are not required to wrok after 8-00 p.m.] |
| [3][185 | Kashmir Government Arts Emporium, Sir Pherozshah Mehta Road, Fort, Bombay 400 001. | Section 62.] |
| [4][186 | National Agricultural Co-operative Marketing Federation Limited, Bombay Branch, "Rajmahal", 3rd Floor, 84, Veer Nariman Road, Churchgate, Bombay 400 020. | All provisions.] |
| [5][187 | Employees in Tanneries and Leather Manufactory. | Section 18(*3*)] |

[1] This was added *vide* G.N., I. & L.D., No. BSE. 1474/168240 /Lab-III-A, dated 10th July 1974.

[2] This was added *vide* G.N., I. & L.D., No. BSE. 1474/180381/Lab-III-A, dated 8th August 1974.

[3] This was added *vide* G.N. I. & L.D., No. BSE. 1474/189577/Lab-III-A, dated 5th October 1974

[4] This was added *vide* G.N., I. & L.D., No. BSE. 1474/193 902/Lab-III-A, dated 8th January 1975.

[5] This was added *vide* G. N., I. & L. D., No. BSE. 1474/204299(*i*)/ Lab-III-A, dated 6th January 1975.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act. (3) |
|---|---|---|
| [1][188 | Teleprinter operators in the Office of Tata Engineering and Locomotive Company Limited, Bombay House, 24, Homi Mody Street, Fort, Bombay 400 032. | Section 13 on the condition that the daily hours of work should not be increased on this account.] |
| [2][189 | Peons and sweeper employed in the Office of Messrs. Blue Star Limited, Band Box House, Prabhadevi, Bombay 400 025. | Section 13(*1*) subject to the condition that they shall not be called earlier than 8 a,m. and there shall be no increase in the daily hourse of work on this account.] |
| [3][190 | Two operators of Adrema Printing Machine in the Amalgamated Electricity Company Limited, 17-B, Horniman Circle, Fort, Bombay 400 001. | Section 13(7) on the condition that the hours of work are not increased on this account.] |
| [4][191 | Peon-*cum*-Messengers of Messrs. Polyolefins Industries Limited, Mafatlal Centre, Nariman Point, Bombay 400 001. | Section 13(*1*) subjecte to the condition that total hours of work and spread over of these employees are not changed.] |
| [5][192 | Sepoys/Hamals of Messrs Patvolk, Division of Gokak Patel Volkart Limited, 19, Graham Road, Ballard Estate, Bombay 400 001. | Section 13(*1*) subject to the condition that the total hours of work and spread over of these employees are not changed.] |
| [6][193 | Messrs. Electronics Trade and Technology Development Corporation Private Limited, Regional Office at Air-India Building. 8th Floor, Nariman Point, Bombay 400 001. | All provisions except sections 7 and 8.] |

[1] This was added *vide* G.N., I.,E. & L.D., No. BSE. 1474/121871/Lab-7, dated the 26th September 1975.

[2] This was added *vide* G.N., I.,E. & L.D., No. BSE. 1474/802/Lab-7, dated 26th September 1975.

[3] This was added *vide* G.N., I.,E. & L.D., No. BSE. 1475/673/Lab-7, dated 26th September 1975.

[4] This was added *vide* G.N., I.,E. & L.D., No. BSE. 1474/801/Lab-7, dated 9th October 1975.

[5] This was added *vide* G.N.,I., E. & L.D., No. BSE. 1474/800/Lab-7, dated 9th October 1975.

[6] This was added *vide* G.N., I.,E. & L.D., No. BSE. 1475/604/Lab-7, dated 9th October 1975.

SCHEDULE II—*contd.*

| Serial No. | Establoshments, employees or other persons | Provisions of the Act. |
|---|---|---|
| (1) | (2) | (3) |
| [1][194 | Branches of the Union Bank of India, Bombay at (1) Bhat Bazar, (2) Princess Street, (3) Mohammadali Road, (4) Grant Road. | Section 13(*1*).] |
| [2][195 | The Mahila Sahakari Mandal Limited, Jalgaon .. | Section 33, subject to the condition that the women employees shall not be allowed to work after 8-30 p.m.] |
| [3][196 | The Poona Metropolition Central Co-operative Stores Limited, Poona-30. | Section 33, subject to the condition that the female employees are not required to work after 8-00 p.m.] |
| [4][197 | Female employees employed by Shri Jain Udyog Gruha, Bombay 400 004, having 4 shops—two shops at C. P. Tank, one at Tardeo and one at Ghatkopar. | Section 33, subject to the condition that women employees are not required to work after 8-00 p.m. and that the employees should be given overtime wages as requested by the existing provisions of the law.] |

[1] This was added *vide* G.N., I.,E. & L.D., No. BSE. 1475/1009/Lab-7, dated 9th October 1975.

[2] This was added *vide* G.N., I.,E. & L.D., No. BSE. 1475/359/Lab-7, dated 13th December 1975.

[3] This was added *vide* G.N., I.,E. & L.D., No. BSE 1475/389/Lab-7, dated 15th December 1975.

[4] This was added *vide* G.N., I.,E., & L.D., No. BSE. 1475/498/Lab-7, dated 2nd January 1976.

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1]198 | Messrs. Escort and Guide Leather Goods Shop and Barbar Shop, situated at Bombay Airport, Santa-Cruz, Bombay. | Sections 10, 11, 13, 14, 15, 16, 18, 33, 34. Subject to the conditions that,—<br>(*i*) No female employees should be asked to work between 9-00 p.m. to 6-00 a.m.<br>(*ii*) Working hours of the employees shall not xceed 9 hour a day and 48 hours in a week.<br>(*iii*) The concerned employees shall be given at least ½ an hour's rest interval.<br>(*iv*) The spread-over of employees shall not exceed 14 hours on any day.<br>(*v*) Employees concerned shall be given one day in a week as a holiday without making any deduction in wages on account thereof.<br>(*vi*) No young person shall be allowed to wrok between 9-00 p.m. to 6-00 a.m. and otherwise than the provisions of of section 34.] |

[1] This was added *vide* G.N., I.,E. &L.D. No. BSE. 1475/501-Lab-7, dated 3rd January 1976.

SCHEDULE II—*contd.*

| Serial No. | Establishments, empolyees or other persons | Provisoans of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][199 | Indian Arts and Crafts Shop of Messrs. Sterling Exports Private Limited, Bombay, Situated at International Transit Lounge, Santa Cruz Air-Port, Bombay. | Sections 10, 11, 14, 15, 16, 18 and 33, subject to the Conditions,— (1) The employees concerned are not required to work for more than 48 hours in any week.<br>(2) The spread-over shall not exceed 12 hours in any day.<br>(3) The employees concerned shall be granted one day holiday in a week without making any deductions from their wages.] |
| [2][200 | I. B. M. Section of the Accounts Department of the Maharashtra Small Scale Industries Development Corporation Limited, Bombay. | Section 13(*l*) subject to compliance with the provisions of section 33 regarding employment of young persons and women workmen.] |
| [3][201 | Female employees employed in the Hotel Corporation of India Ltd., Bombay-1. | Section 33.] |

[1] This was added *vide* G.N., I.,E. &L.D., No. BSE. 1475/360-Lab-7, dated 10th January 1976.

[2] This was added *vide* G.N., I.,E. &L.D., No. BSE. 1476/330-Lab-7, dated 23rd January 1976.

[3] This was added *vide* G.N., I.,E. &L.D., No. BSE. 1474/CR-714-Lab-5, dated 15th June 1976

SCHEDULE II—*contd.*

| Serial No. | Establishments, employees or other persons | Provisions of the Act. |
|---|---|---|
| (1) | (2) | (3) |
| [1][202 | Boutique Shop of M/s. Satyajit Traders, Bombay-3, situated in the International Transit Lounge, Santacruz Airport, Bombay. | (*a*) Sections 10 and 11.<br>(*b*) Sections 15, 16, 18 and 33 subject to the condition that ,—<br>(*i*) They observe one hour interval for rest ;<br>(*ii*) The spread-over shall not exceed 14 hours in any day ;<br>(*iii*) The employees concerned shall be granted one day holiday in a week without making any deduction from their wages on account thereof and a holiday notice shall be exibited at the shop ; and<br>(*iv*) the female employees shall not be required to work after 9-00 p.m. and before 6-00 a.m. regard being given to section 34.] |

[1] This was added *vide* G.N., I.,E. &L.D., No. BSE. 1475/CR-709-Lab-5, dated 15th June 1976.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishment, employees and other persons (2) | Provisons of the Act (3) |
|---|---|---|
| [1][203 | The Best Parel Staff Quarters Consumers Co-operative Society Ltd., E-5, Best Quarters, Dr. Rao Road, Parel, Bombay-12. | Section 33, subject to the condition that—,<br>(1) no employee shall be required to work for more than nine hours on any day and forty-eight hours in a week ;<br>(2) the spread-over shall not exceed eleven hours in any day ; and<br>(3) the period of work of employees shall be so fixed that period of continuous work shall exceed five hours and the employees shall be required or allowed to work for more than five hours, before the employee has an interval for rest of at least one hour.] |
| [2][204 | Jewellers Shop at M/s. Nataraj Jewellers, Bombay, situated in the International Transit Lounge, Santacruz Airport, Bombay. | (*i*) Sections 10 and 11 subject to the conditions that each employee shall be given eight hours duty;<br>(*ii*) Section 15 subject to the condition that no employer shall be required or allowed to work for more than five hours before he has had an interval of rest of one hour ;<br>(*iii*) Section 16 subject to the condition that the spread-over shall not exceed 14 hours in any day ; and<br>(*iv*) Section 18 subject to the condition that the employee concerned shall be granted one day holiday in a week without making any deduction from their wages on account thereof.] |

[1] This was added *vide* G.N., I.,E. &L.D., No. BSE. 1475/CR-716/Lab-5, dated 15th June 1976.
[2] This was added *vide* G.N., I.,E. &L.D., No. BSE. 1475/CR-729 Lab-5, dated 15th June 1976.

SCHEDULE II—*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| [1][205 | Vijaya Bank Ltd., Topaz Apartments, 55, Waroda Road, Bandra, Bombay-400 050. | Section 33 subject to the condition that :—<br>(1) no employee may be given more than 9 hours duty in any day and 48 hours in any week as per section 14 ; and<br>(2) employees concerned shall be granted one day holiday in a week without making any deduction from their wages.] |
| [2][206 | M/s. Navhind Hardware, Ichalkaranji, District Kolhapur. | Sections 10 and 11 subject to the conditions that :—<br>(*i*) No employee shall be asked to work more than 9 hours in a day and 48 hours in a week, and shall not work overtime in excess of the limits prescribed under section 14.<br>(*ii*) The employees shall be allowed to avail rest interval as per section 15.<br>(*iii*) The employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.<br>(*iv*) The employees concerned shall be rotated every month from 1st shift to second, second to third and third to first shift.] |
| [3][207 | Offices and Establishments of the Marathwada Development Corporation Ltd., Auragabad. | Sections 13, 14, 15, 17, 18, 35, 37 and 62.] |
| [4][208 | Calico Chemicals Plastics and Fibre Division, Anik, Chembur, Bombay-400 074. | Section 13 (*1*).] |

[1] This was added *vide* G.N.,I.E. & L.D., No. BSE-1476/CR-817/LAB-5, 28th June 1976.
[2] This was added *vide* G.N.,I.E. & L.D., No. BSE-1476/CR-856/LAB-5, dated 2nd July 1976.
[3] This was added *vide* G.N.,I.E. &L.D., No. BSE-1473/CR-707/LAB-5, dated 2nd July 1976.
[4] This was added *vide* G.N.,I.E. & L.D., No. BSE-1476/CR-692/LAB-5, dated 2nd July 1976.

SCHEDULE II—*contd.*

| Serial No. | Establishment, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1][209 | Development Corporation of Vidarbha Ltd., Nagpur. | Sections 35 and 36.] |
| [2][210 | Female employees working at Jawahar Nagar Grahavasti Bhandar, Nayak Bldg., Jayprakash Road, Jawahar Nagar, Khar (East), Bombay-51. | Section 33 subject to the condition that the female employees are not required to work after 8-30 p.m.] |
| [3][211 | Airport Plaza Hotel, situated at 70-C, Nehru Road, Vile Parle (East), Santacruz Airport, Bombay-57. | Section 33, subject to the condition that the duty hours of the employees should not exceed 8 hours a day and should be given lunch break as provided under the Act.] |
| [4][212 | Employees working at the Foreign Exchange counter of the State Bank of India, Centaur Hotel (Bombay Airport) Branch, Bombay-57. | Sections 13(*1*), 14, 15, 17 and 18.] |

[1] This was added *vide* G.N.,I.E. & L.D., No. BSE-1475/CR-806/LAB-5, dated 6th July 1976.
[2] This was added *vide* G N.,I E. & L.D., No. BSE-1476/CR-813 /LAB-5, dated 19th July 1976.
[3] This was added *vide* G.N.,I.E. & L.D., No. BSE-1475/CR-804/LAB-5, dated 22nd July 1976.
[4] This was added *vide* G.N.,I.E. &, L.D., No. BSE-1476/CR-831/LAB-5, dated 3rd August 1976.

SCHEDULE II—*concld.*

| Serial No. | Establishment, employees or other persons | Provisions of the Act |
|---|---|---|
| (1) | (2) | (3) |
| [1]213 | Shop belonging to M/s. Laxmichand Kartari, Travellers Requisite Stores, situated at Bombay Airport, Opposit to Indian Airlines Enquiry Counter, Bombay-29. | Sections 10, 11, 14, 16, and 18 subject to the conditions that the employees concerned are granted wages for overtime work and one day holiday in week without making deductions in their wages.] |
| [2]214 | Cleaners and Mukadam employed at Head Office of M/s. Pfizer Ltd., located at Express Towers, Nariman Point, Bombay-21. | Section 13(*1*),] |

[1] This was added *vide* G.N.,I.E. & L.D., No. BSE-1476/CR-815/LAB-5, dated 3rd August 1976.

[2] This was added *vide* G.N.,I.E. & L.D., No. BSE-1474/CR-932/LAB-5, dated 6th August 1976.

SCHEDULE II —*contd.*

| Serial No. (1) | Establishments, employees or other persons (2) | Provisions of the Act (3) |
|---|---|---|
| | [1](*r*) The Offices of the Minerals and Metals Hiding Corporation of India Limited, Bombay. | |
| | [2](*s*) Zonal Office and Godown of Bharat Earth Movers Limited, Bangalore, situated at Bombay. | |
| | [3](*t*) Offices of the Maharashtra Small Scale Industries Development Corporation Limited, Bombay. | |
| | [4](*u*) Branch Office of the Engineers India Limited, New Delhi, situated in Bombay. | |
| | [4](*v*) Sales Establishment of the Hindustan Machine Tools Limited, Bangalore, situated in Bombay. | |
| | [5](*w*) Offices of the Maharashtra State Financial Corporation in the State of Maharashtra. | |
| | [6](*x*) Establishment of the Central Warehousing Corporation, New Delhi, situated in the State of Maharashtra. | |
| | [7][(*y*) Office of the Vidarbha, Housing Board and offices subordinate to it.]. | |
| | [8](*z*) Office of the Maharashtra Agro-Industries Development Corporation Limited, Bombay. | |
| | [9](*za*) Establishments of the Maharashtra Agricultural Development and Fertilizer Promotion Corporation Ltd., Bombay. | |
| | [10](*zb*) Office of the State Industrial and Investment Corporation of Maharashtra Ltd., Bombay. | |
| | [11](*zc*) Office of the City and Industrial Development Corporation of Maharashtra Ltd., Bombay. | |
| | [12](*zd*) Office of the General Insurance Corporation of India, Bombay. | |
| | [13](*ze*) India Tourism Development Corporation Regional Office, "Nirmal", 11th Floor, Nariman point, Bombay 400 001. | |
| | [14](*zf*) Branch Office of the Regional Sales Office of the Hindustan Machine Tools Limited, Bombay, situated in Poona. | |
| | [15](*zi*) Indian Dairy Corporation, Raj Mahal, 6th Floor, 84, Veer Nariman Road, Bombay-400 020. | |

[1] This entry was added by G.N., I. & L.D., No. BSE. 1468/126030-LAB-III, dated 30th November 1968.

[2] This entry was added by G.N., I. & L.D., No. BSE. 1468/130104-LAB-III, dated 21st January 1969.

[3] This entry was added by G.N., I. & L.D., No. BSE. 1567/138667-LAB-III, dated 18th February 1969.

[4] These entries were added by G.N., I. & L.D., No. BSE. 1467/126809-LAB-III, dated 22nd February 1969.

[5] This entry was substituted by G.N., I. & L.D., No. BSE. 1469/124245-LAB-III, dated 24th May 1969.

[6] This entry was added by G.N., I. & L.D., No. BSE. 1469/119926-LAB-III, dated 13th May 1969.

[7] This entry was added by G.N., I. & L.D., No. BSE. 1470/126879-LAB-III, dated the 24th July 1970.

[8] This entry was added by G.N., I. & L.D., No. BSE. 1471/164487-LAB-III-A, dated 28th December 1971.

[9] This entry was added by G.N., I. & L.D., No. BSE. 1472/103444-LAB-III-A, dated 9th February 1971.

[10] This entry was added by G.N., I. & L.D., No. BSE. 1472/104192-LAB-III-A, dated 9th February 1972.

[11] This entry was added by G.N., I. & L.D., No. BSE. 1472/152482-LAB-III-A, dated 1st March 1973.

[12] This entry was added by G.N., I. & L.D., No. BSE. 1473/171694-LAB-III-A, dated 2nd June 1973.

[13] This entry was added by G.N., I. & L.D., No. BSE. 1473/194091-LAB-III-A, dated 13th November 1973.

[14] This entry was added by G.N., I. & L.D., No. BSE. 1475/100061/LAB-7, dated 12th August 1975.

[15] This entry was added by G.N., I. & L.D., No. BSE. 1475/57/LAB-7, dated 25th October 1975.

*The Poona City and Poona Suburban Municipal Boroughs (Appointment of Municipal Commissioner) Act, 1948 (Bom. LXXX of 1948), at pages 2879-2888 has been repealed by the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), section 492.*

**Replacement Series No. LXII—p. 12**

2895-2902

*The Bombay Sugarcane Cess Act, 1948 (Mah. LXXXII of 1948) at pages 2895-2902 has been repealed by the Maharashtra Repealing and Amending Act, 1976 (Mah. XI of 1976), s. 3, First Schedule.*

# BOMBAY ACT No. VI OF 1949.[1]

[THE AGRICULTURISTS' LOANS AND THE BOMBAY NON-AGRICULTURISTS' LOANS (AMENDMENT) ACT, 1949.]

[*11th April 1949.*]

**An Act to amend the Agriculturists' Loans Act, 1884, in its application to the Province of Bombay and the Bombay Non-Agriculturists' Loans Act, 1928.**

XII of 1884. Bom. III of 1928. WHEREAS it is expedient to amend the Agriculturists' Loans Act, 1884, in its application to the Province of Bombay and the Bombay Non-Agriculturists' Loans Act, 1928, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Agriculturists' Loans and the Bombay Non Agriculturists' Loans (Amendment) Act, 1 49.

Amendment of section 4 of Act XII of 1884. XII of 1884. 2. In section 4 of the Agriculturists' Loans Act, 1884, in sub-section (*1*) after the word " objects " the following words shall be added, namely :—

" or for erecting, rebuilding or repairing houses".

3-4. [*The amendments made by sections 3 and 4 of this Act have been incorporated in the Bombay Non-Agriculturists' Loans Act, 1928.*]

[1] For Statement of Objects and Reasons, see *Bombay Government Gazette* 1949, Part V, page 75.

# THE PRISONERS (BOMBAY AMENDMENT) ACT, 1949.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of heading to part III of Act III of 1900.
3. Amendment of section 5 of Act III of 1900.
4. Amendment of section 7 of Act III of 1900.
5. Amendment of section 8 of Act III of 1900.
6. Amendment of section 9 of Act III of 1900.
7. Amendment of section 11 of Act III of 1900.
8. Amendment of section 13 of Act III of 1900.
9. Amendment of heading to Part IV of Act III of 1900.
10. Amendment of section 15 of Act III of 1900.

# BOMBAY ACT No. VII OF 1949.[1]

[THE PRISONERS (BOMBAY AMENDMENT) ACT, 1949.]

[*11th April 1949.*]

**An Act to amend the Prisoners Act, 1900, in its application to the Province of Bombay.**

III of 1900. WHEREAS it is expedient to amend the Prisoners Act, 1900, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Prisoners (Bombay Amendment) Act, 1949. Short title.

III of 1900. 2. In the heading to Part III of the Prisoners Act, 1900 (hereinafter called the said Act), for the words "the Presidency-towns" the words "Greater Bombay" shall be substituted. Amendment of heading to Part III of Act III of 1900.

3. In section 5 of the said Act,— Amendment of section 5 of Act III of 1900.

(*a*) after the words "criminal jurisdiction" the words "or by the Court of Session for Greater Bombay" shall be inserted;

(*b*) after the words "such jurisdiction" the words "or within the limits of Greater Bombay, as the case may be" shall be added.

4. In section 7 of the said Act,— Amendment of section 7 of Act III of 1900.

(*a*) for the words "criminal jurisdiction" the words "or appellate criminal jurisdiction or by the Court of Session for Greater Bombay" shall be substituted;

(*b*) for the words "the Court" the words "the High Court or the Sessions Court, as the case may be," shall be substituted;

(*c*) for the words "returned by him to the High Court when executed" the words "when executed returned by him to the High Court or the Sessions Court, as the case may be" shall be substituted;

(*d*) in the merginal note to the said section, after the words "High Court" the words "or Sessions Court" shall be added.

5. In section 8 of the said Act,— Amendment of section 8 of Act III of 1900.

(*a*) for the words "criminal jurisdiction" the words "or appellate criminal jurisdiction or by the Court of Session for Greater Bombay" shall be substituted;

(*b*) for the words "the Court" the words "the High Court or the Sessions Court, as the case may be," shall be substituted;

(*c*) in the marginal note to the said section, after the words "High Court" the words "or Sessions Court" shall be added.

6. In section 9 of the said Act,— Amendment of section 9 of Act III of 1900.

(*a*) after the words "High Court," the words "the Bombay City Civil Court or the Court of Session for Greater Bombay, shall be inserted;

(*b*) for the words "the Court" the words "the High Court, the City Court or the Sessions Court, as the case may be," shall be substituted;

(*c*) in the marginal note to the said section, after the words "High Court" the words ", City Court or Sessions Court" shall be inserted.

[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1949, Part V, page 71.

Amendment of section 11 of Act III of 1900.

**7.** In section 11 of the said Act,—

(*a*) after the words "criminal jurisdiction" the words "or by the Court Session for Greater Bombay" shall be inserted;

(*b*) for the words "the Court", at both the places where they occur the words "the High Court or the Sessions Court, as the case may be," shall be substituted;

(*c*) in the marginal note to the said section, after the words "High Court" the words "or Sessions Court" shall be added.

Amendment of section 13 of Act III of 1900.

**8.** In section 13 of the said Act,—

(*a*) in sub-section (*1*), for the words "a Presidency,-town" the words "Greater Bombay" shall be substituted;

(*b*) in the marginal note to the said section, for the word "Presidency-town" the words "Greater Bombay" shall be substituted.

Amendment of heading to Part IV of Act III of 1900.

**9.** In the heading to Part IV of the said Act, for the words "the Presidency-towns" the words "Greater Bombay" shall be substituted.

Amendment of section 15 of Act III of 1900.

**10.** In section 15 of the said Act in sub-section (*1*), for the words "the Presidency-towns" the words "Greater Bombay" shall be substituted.

# THE BOMBAY ANATOMY ACT, 1949.

CONTENTS

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. [*Deleted*].
4. Power of State Government to authorize officers to act under section 5.
5. Unclaimed dead bodies to be used for therapeutic purpose or anatomical examination.

5A. Doubt or dispute whether person claiming body is near relative to be referred to Coroner or Executive Magistrate and body to be preserved pending decision.

6. Penalty
7. Duty of police and other officers to assist.
8. Protection of persons acting under the Act.
9. Officers to be public servants.
10. Rules.
11. Repeal and saving.

[*Price*—12 nP. or 2*d*.]

O 3679—1

# BOMBAY ACT No. XI OF 1949.[1]

[THE BOMBAY ANATOMY ACT, 1949.]*

[*22nd April 1949*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
Amended by Bom. 33 of 1957.
Amended by Bom. 44 of 1959.
Adapted and modified by the Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

**An Act to provide for the supply of unclaimed bodies of deceased persons to hospitals and medical and teaching institutions [2][for therapeutic purposes or] for the purposes of anatomical examination and dissection.**

WHEREAS it is expedient to provide for the supply of unclaimed bodies of deceased persons to hospitals and medical and teaching institutions [2][for therapeutic purposes or] for the purpose of anatomical examination and dissection; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Anatomy Act, 1949.

[3][(*2*) It extends to the whole of the [4][State of Maharashtra].]

(*3*) This section shall come into force at once.

(*4*) The [5][State] Government may, by notification in the *Official Gazette*, direct that the remaining provisions of this Act shall come into force on such date and in such area as may be specified in the notification :

Bom. XLIV of 1950. M. P. XVI of 1954. Hyd. X of 1955. Sau. XXX. II of 1955.

[6][Provided that on the date of commencement of the Bombay Anatomy (Extension and Amendment) Act, 1959, the remaining provisions of this Act shall come into force in those local areas in the Vidarbha region, Hyderabad area and Saurashtra area of the [7][State of Bombay] in which the provisions of the Madhya Pradesh Anatomy Act, 1954, the Hyderabad Pathology and Anatomy Act, 1955 or, as the case may be, the Saurashtra Anatomy Act, 1955, were brought into force before such commencement.]

Definitions.

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

(*1*) "approved institution" means a hospital or a medical or teaching institution approved by the [5][State] Government [8][for all or any of the purposes of this Act ;

(*2*) "authorised officer" means an officer authorised to act under section 5 ;

(*3*) "near relative" means any of the following relatives of the deceased, namely, a wife, husband, parent, son, daughter, brother and sister and includes, any other person who is related to the deceased (*a*) by lineal or collateral consanguinity within three degrees in lineal relationship and six degrees in collateral relationship, or (*b*) by marriage either with the deceased or with any relative specifically mentioned in this clause or with any other relative within the aforesaid degrees.

*Explanation.*—The expressions "lineal and collateral consanguinity" shall have the meanings assigned to them in the Indian Succession Act, 1925.

XXX IX of 1925.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 65.

* This Act was extended to that part of the State of Bombay to which, immediately before the commencement of Bom. 44 of 1959, it did not extend (*vide* Bom. 44 of 1959, s. 2).

[3] These words were inserted by Bom. 38 of 1957, s. 8(*a*).

[3] Sub-section (*2*) was substituted for the original by Bom. 44 of 1959, s. 3(*1*).

[4] These words were substituted for the words "State of Bombay" *ibid.*

[5] This word was substituted for the word "Provincial" by the Bombay Adaptation of Laws Order, 1950.

[6] This proviso was added by Bom. 44 of 1959, s. 3(*2*).

[7] These words stand unmodified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[8] These words were substituted for the words 'to carry on Anatomical examination and dissection by Bom. 33 of 1957, s. 8(*b*).

(G.C.P.) MO-A O 3679—2 (1,625—6-64)

(*4*) " prescribed " means prescribed by rules made under this Act ;

(*5*) " unclaimed body " means the body of a deceased person who has no near relative or whose body has not been claimed by any of his near relatives within such period as may be prescribed.

3. [*Doubt or dispute as to near relative to be referred to Coroner or authorised Officer.*] *Deleted by Bom. 44 of 1959, s. 4.*

Power of Provincial Government to authorise officers to act under section 5.

4. The [1][State] Government may, by notification in the *Official Gazette* authorise for the area in which this Act comes into force or any part thereof, one or more officers to whom a report shall be made under section 5 and who shall be competent to act under the said section.

Unclaimed dead bodies to be used for [4][therapeutic purpose or anatomical examination.

5. (*1*) Where a person under treatment in a hospital whether established by or vesting in, or maintained by, the [1][State] Government or any local authority, dies in such hospital and his body is unclaimed, the authorities in charge of such hospital shall with the least practicable delay report the fact to the authorised officer and such officer shall then hand over the unclaimed body to the authorities in charge of an approved institution [2][for any therapuetic purpose or] for the purpose of conducting anatomical examination and dissection.

(*2*) Where a person dies at a hospital other than a hospital referred to in sub-section (*1*) or in a prison and his body is unclaimed, the authorities in charge of such hospital or prison shall with the least practicable delay report the fact to the authorised officer, and the said officer shall hand over the unclaimed body to the authorities in charge of an approved institution for the purpose specified in sub-section (*1*).

(*3*) Where a person having no permanent place of residence in the area where his death has taken place dies in any public place in such area and his body is unclaimed, the authorised officer shall take possession of the body and shall hand it over to the authorities in charge of an approved institution for the purpose specified in sub-section (*1*).

[3][(*4*) Where there is any doubt regarding the cause of death or when for any other reason the authorised officer considers it expedient so to do, he shall forward the unclaimed body to a police officer referred to in section 174 of the Code of Criminal Procedure, 1898.] V of 1898.

Doubt or dispute whether person claiming body is near relative to be referred to Coroner or Executive Magistrate and body to be preserved pending decision.

[5][5A. (*1*) If any doubt or dispute arises as to whether a person claiming the body of a deceased person under section 5 is a near relative of the deceased or not, the matter shall be referred in Greater Bombay to the Coroner or an Additional Coroner appointed under the Coroners Act, 1871 and elsewhere to the Executive Magistrate or such officer as may be appointed in this behalf by the State Government and his decision shall be final and conclusive. IV of 1871.

(*2*) Pending such decision, the authorised officer shall take all reasonable care and steps to preserve the body of the deceased person from decay.]

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[1] This word was substituted for the word " Provincial " by the Bombay Adaptation of Laws Order, 1950.

[2] These words were inserted by Bom. 33 of 1957, s. 8(*c*).

[3] Sub-section (*4*) was added by Bom. 44 of 1959, s. 5(*1*).

[4] These words were inserted, *ibid.*, s. 5(2).

[5] Section 5A was inserted, *ibid.*, s. 6.

Penalty.

6. Whoever disposes of, or abets the disposal of, an unclaimed body save as permitted by this Act,or obstructs any authority in charge of an approved institution or an authorised officer from handing over, taking possession of, removing or using, such dead body for the purpose specified in the Act, shall, on conviction, be punished with fine which may extend to five hundred rupees.

Duty of police and other officers to assist.

[1][7. All officers and servants of the Police, Medical and Public Health Departments, all officers and servants in the employ of a local authority and all village officers and servants shall be bound to take all reasonable measures to assist the authorities and officers authorised under this Act in the discharge of their duties under this Act.]

Protection of persons acting under the Act.

8. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under his Act.

Officers to be public servants.

9. All officers appointed or authorised to act under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Rules.

10. (*1*) The [1][State] Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*) such rules may prescribe the period within which a near relative shall claim the body of a deceased person.

Repeal and saving.

Bom. XLIV of 1959.

[2][11. On the date of commencement of the Bombay Anatomy (Extension and Amendment) Act, 1959 (hereinafter in this section referred to as "the said Act"), the following Acts shall stand repealed, namely :—

M. P. XVI of 1954.

(*1*) the Madhya Pradesh Anatomy Act, 1954, in its application to the Vidarbha region of the [3][State of Bombay];

Hyd. X of 1955.

(*2*) the Hyderabad Pathology and Anatomy Act, 1955, in its application to the Hyderabad area of the [3][State of Bombay] ; and

Sau. XXXII of 1955.

(*3*) the Suarashtra Anatomy Act, 1955:

Provided that such repeal shall not affect,—

(*a*) the previous operation of any enactment so repealed ;

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ;

(*c*) any penalty incurred in respect of any offence committed against any enactment so repealed ; or

(*d*) any investigation, legal proceeding, remedy in respect of any such right, privilege, obligation, liability or penalty as aforesaid ;

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[1] Section 7 was substituted for the original by Bom. 44 of 1959, s. 7.
[2] Section 11 was added, *ibid.*, s. 8.
[3] These words stand unmodified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if the said Act had not been passed :

Provided further that, subject to the preceding proviso, any officer appointed or authorised, or institution approved, or reference made by or under such enactment shall, in so far as it is not inconsistent with this Act, be deemed to have been appointed, authorised, approved or made under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act :

Provided also that the rules made under this Act and in force immediately before the date of commencement of the said Act, shall be deemed to be the rules made under this Act in relation to the whole of the State, unless and until superseded by anything done under this Act.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

# THE BOMBAY PROHIBITION ACT, 1949.

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68. Penalty for opening, etc., of common drinking house.

69. Penalty for illegal import, etc., of mhowra flowers.

70. Penalty for illegal import, etc., of molasses.

71. [*Deleted.*]

72. Penalty for removal of intoxicant, etc.

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73. Penalty for printing or publishing advertisements in contravention of provisions of Act, etc.

74. Penalty for circulating, etc., newspapers, etc., containing advertisements regarding intoxicants, etc.

75. Penalty for inciting or encouraging certain acts.

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# BOMBAY ACT No. XXV OF 1949.[1]

[THE BOMBAY PROHIBITION ACT, 1949.]†

[*20th May 1949*]

Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom 28 of 1950.
" " " 26 of 1952.
" " " 18 of 1953.
" " " 67 of 1953.
" " " 21 of 1954.
" " " 36 of 1954.
" " " 64 of 1954.
" " " 20 of 1955.
Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.
Amended by Bom. 12 of 1959.
" " " 22 of 1960.
Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
Amended by Mah. 46 of 1962.
Amended by Mah. 33 of 1972.
Amended by Mah. 52 of 1973. (14-1-1974).*

**An Act to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition and also the Abkari law in the [2][State] of Bombay**

WHEREAS it is expedient to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition; and whereas it is also necessary to amend and consolidate the Abkari law in the [2][State] of Bombay for the said purpose and to provide for certain other purposes hereinafter appearing; It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be cited as the Bombay Prohibition Act, 1949.

[3][(*2*) It extends to the whole of the [4][State of Maharashtra].

**(*3*) It shall come into force [5][in the area comprising the pre-Reorganisation State of Bombay] on such date as the [6][State] Government may by notification in the *Official Gazette* [7][specify.

Bom. II of 1959.

In those areas of the State to which it is extended by the Bombay Prohibition (Extension and Amendment) Act, 1959, it shall come into force on such other date as that Government may, by like notification, appoint :

Provided that having regard to the nature of the outstill area of the Chanda District, the general backwardness of the people residing therein, and the necessity of preparing an adequate background before the introduction of Prohibition therein, the State Government may, if it thinks fit, fix a different date for bringing the Act into force in that area.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 655.
[2] This word was substituted for the word " Province " by Bom. 12 of 1959, s. 4.
[3] This sub-section was substituted for the original, *ibid.*, s. 5(*a*).
[4] These words were substituted for the words " State of Bombay " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
[5] These words were inserted by Bom. 12 of 1959, s. 5(*b*)(*i*).
[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[7] This portion was substituted for the word " specify " by Bom. 12 of 1959, s. 5(*b*)(*ii*).
† This Act was extended to those areas of the State of Bombay to which immediately before the commencement of Bom. 12 of 1959, it did not extend (*vide* Bom. 12 of 1959, s. 2).
** Sub-section (*3*) shall stand unmodified (*vide* the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
* This indicates the date of commencement of Act.

*Explanation.*—In this sub-section the expression "outstill area of the Chanda District" means the areas of the Chanda District specified in Schedule I-A].

*[1][(*4*) On the commencement of this Act in the manner, provided in sub-section (*3*) in any area to which this Act is extended by the Bombay Prohibition (Extension and Amendment) Act, 1959, all rules, regulations, orders and notifications made or issued or deemed to be made or issued under this Act and in force in the pre-Reorganisation State of Bombay excluding the transferred territories immediately before such commencement, shall also extend to, and be in force in that area. ] Bom. XII of 1959.

Definitions.

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

(*1*) "authorization" means an authorization granted under section 45 for the use of liquor for sacramental purposes ;

(*2*) "to bottle", with its various grammatical variations, means to transfer any article from a cask or other vessel to a bottle, jar, flask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not ; bottling includes re-bottling ;

[2] * * * * * *

[3][(*4*) "Collector" includes an officer appointed by the State Government to exercise all or any of the powers and to perform all or any of the duties or functions of a Collector under this Act ;

[4][(*5*) "Commissioner" means an officer appointed as the Commissioner of Prohibition and Excise under section 3 of this Act and includes any officer on whom the State Government may confer all or any of the powers of the Commissioner under this Act ;]]

(*6*) "committee [5][or board]" means [6][a committee or board] appointed by the [7][State] Government under section 7 ;

(*7*) "common drinking house" means a place where the drinking of liquor or consumption of any intoxicating drug is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care or management or control of such place whether by way of charge for the use of the place or for drinking facilities provided, or otherwise howsover and includes the premises of a club or any other place which is habitually used for the purpose of drinking liquor or consuming any intoxicating drug by more than one person without a licence granted under this Act ;

(*8*) "country liquor" includes all liquor produced or manufactured in India ;

[8][(*9*) "cultivation" means raising a plant from seed and includes the tending ; or protecting of a plant during its growth ;]

(*10*) "denatured" means subjected to a process prescribed for the purpose of rendering unfit for human consumption ;

[9][(*10a*) "denatured spirituous preparation" means any preparation made which denatured spirit [10][or denatured alcohol] and includes lacquers, French Polish, and varnish prepared out of such spirit or alcohol ;]

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[1] This sub-section was added by Bom. 12 of 1959, s. 5(*c*).
[2] Clause (*3*) was deleted by Bom. 22 of 1960, s. 2(*a*).
[3] Clauses 4 and 5 were substituted for the original by Bom. 12 of 1959, s. 6(*a*).
[4] Clause (*5*) was substituted by Mah. 52 of 1973, s. 3, Sch.
[5] These words were inserted by Bom. 22 of 1960, s. 2(*b*).
[6] These words were substituted for the words "any of the committees", *ibid.*
[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[8] This clause was substituted for the original by Bom. 22 of 1960, s. 2(*c*).
[9] Clause (*10a*) was inserted by Bom. 36 of 1954, s. 2.
[10] These words were substituted for the words "or alcohol" by Bom. 22 of 1960, s. 2(*d*).
* Sub-section (*4*) shall stand unmodified *vide* the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

(*24*) " liquor " includes—

(*a*) [1][spirits], [2][denatured spirits], wine, beer, toddy and all liquids consisting of or containing alcohol ; and

(*b*) any other intoxicating substance which the [3][State] Government may, by notification in the *Official Gazette*, declare to be liquor for the purposes of this Act ;

(*25*) " manufacture " includes—

(*a*) every process whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also redistillation and every process for the [4][rectification, flavouring, or colouring of liquor or intoxicating drug] but does not include flavouring, blending or colouring of liquor or intoxicating drug lawfully possessed for private consumption ; and

(*b*) every process of producing and drawing of toddy from trees ;

(*26*) " Medical Board " means a board constituted under section 8 ;

(*27*) " mhowra flower " does not include the berry or seed of the mhowra tree ;

(*28*) " molasses " means the heavy, dark coloured [5][viscous liquid produced] in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented, [6][and includes the solid form of such liquid and also any product formed by the addition to such liquid or solid of any ingredient which does not substantially alter the character of such liquid or solid ;] but does not include any article which the [3][State] Government may, by notification in the *Official Gazette*, declare not to be molasses, for the purposes of this Act ;

(*29*) " Officer in charge of a Police Station " includes—

(*a*) in the Greater Bombay the officer in charge of a police station as provided under the provisions or the [7][Bombay Police Act, 1951, and]

Bom. XXII of 1951.

(*b*) elsewhere the officer in charge of a police station as defined in the Code of Criminal Procedure, 1898 ;

V of 1898.

(*30*) " opium " means—

(*a*) the capsules of the poppy (Papaver Somniforum L), [8][whether in their original form or cut or crushed or powdered and whether or not the juice has been extracted therefrom] ;

(*b*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulation other than those necessary for packing and transport ; and

(*c*) any mixture with or without neutral materials of any of the above forms of opium ;

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[1] This word was substituted for the words " spirits of wine " by Bom. 22 of 1960, s. 2(*i*).
[2] These words were substituted for the words " methylated spirits " by Bom. 26 of 1952, s. 2(*2*).
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words " rectification of liquor " by Bom. 22 of 1960, s. 2(*j*).
[5] These words were substituted for the words " residual syrup drained away ", *ibid.*, s. 2(*k*).
[6] These words were substituted for the words beginning with the words " and includes " and ending with the words " alter the character of such syrup ", *ibid.*
[7] These words and figures were substituted for the words and figures " City of Bombay Police Act, 1902 " by Bom. 12 of 1969, s. 6(*b*).
[8] These words were added by Bom. 22 of 1960, s. 2(*i*).

but does not include any preparations containing not more than 0·2 per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930 ; II of 1930.

[1]* * * * * *

(*32*) " permit " means a permit granted under [2][the provisions of this Act] and the expression " permit holder " shall be construed accordingly ;

(*33*) " police station " means in the Greater Bombay a police section as provided under the provisions of the [3][Bombay Police Act, 1951] and elsewhere any place declared to be a police station for the purposes of the Code of Criminal Procedure, 1898 ; Bom. XXII of 1951. V of 1898.

(*34*) " prescribed " means prescribed by the rules, orders or regulations under this Act ;

(*35*) " Prohibition officer " includes the [4][Commissioner], Collector or any officer or person appointed to exercise any of the powers or to perform any of the duties and functions under the provisions of this Act [5][and also includes any officer or person invested with any such powers and on whom any such functions or duties are imposed, and any member of a committee, board or medical board ];

[6][(*36*) " State " means the [7][State of Maharashtra], including the space within the limits of the territorial waters appertaining to it ;]

[8][(*37*) " rectification " includes every process whereby liquor is purified or refined ;]

[9][(*38*) " registered medical practitioner " means a person who is entitled to practise any system of medicine in the State under any law for the time being in force relating to medical practitioners; and includes registered dentists as defined in the Dentists Act, 1948 and a veterinary practitioner registered under the Bombay Veterinary Practitioners Act, 1953 or under any law corresponding thereto in any part of the State ;] XVI of 1948. Bom. LXV-III of 1953.

(*39*) " regulations " means regulations made under this Act ;

(*40*) " rules " means rules made under this Act ;

(*41*) " sell " with its grammatical variations includes—

(*a*) any transfer whether such transfer is for any consideration or not,

(*b*) any supply or distribution for mutual accommodation, and

(*c*) any supply by a club to its members on payment of price or of any fees or subscription, but does not include selling of opium for export across the customs frontier [10]* * * * * * ;

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[1] Clause (*31*) was deleted by Bom. 22 of 1960, s. 2(*n*).

[2] These words were substituted for the words and figures " section 40, 41, 46, or 47 " by Bom. 26 of 1952, s. 2(*4*).

[3] These words and figures were substituted for the words and figures " City of Bombay Police Act, 1902, " by Bom. 12 of 1959 s. 6(*b*).

[4] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

[5] These words were substituted for the words " and also includes any member of a committee or the Medical Board " by Bom. 22 of 1960, s. 2(*n*).

[6] This clause was substituted by Bom. 12 of 1969, s. 6(*c*).

[7] These words were substituted for the words " State of Bombay " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

[8] This clause was substituted for the original by Bom. 22 of 1960, s. 2(*a*).

[9] This clause was substituted for the original by Bom. 12 of 1959, s. 6(*b*).

[10] The words " as deemed by the Dominion Government " were deleted by Bom. 26 of 1952, s. 2(*l*).

The word " buy " with its grammatical variations shall be construed accordingly;

[1]* * * * * * *

(*43*) " spirit " means any liquor containing alcohol and obtained by distillation (whether it is denatured or not) ;

(*44*) " sweet toddy or nira or neera " means unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree into receptacles treated in the prescribed manner so as to prevent fermentation ;

[2][(*45*) " territorial waters " with reference to the State, means any part of the open sea within a distance of six nautical miles measured from the appropriate base line according to the President's Proclamation published in this behalf in the Government of India, Ministry of External Affairs, Notification No. SRO. 669, dated the 22nd March 1956, or such other distance as may be fixed from time to time by the President hereafter ;]

(*46*) " toddy " means fermented or unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree and includes sweet toddy or nira or neera ;

(*47*) " to tap " means to prepare any part of a tree, or to use any means, for the purpose of causing juice to exude from the tree ;

[3][(*47A*) " tourist " means a person who is not a citizen of India and who is either born or brought up or domiciled in any country outside India, but who visits India on a tour for a temporary period ;

(*47B*) " tourists permit " means a permit granted under section 46-A ;]

(*48*) " trade and import licence " means a licence granted under section 33 ;

(*49*) " transport " means to move from one place to another within the [4][State];

(*50*) " vendor's licence " means a licence granted under section 34 ;

(*51*) " visitor's permit " means a permit granted under section 46 ;

V of 1898. Bom. VI of 1933. Bom. XXII of 1951.

[5][(*52*) any reference to the Code of Criminal Procedure, 1898, the Bombay Village Panchayats Act, 1933, or the Bombay Police Act, 1951, includes a reference to any law corresponding to those Acts respectively, in force in any part of the State.]

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## CHAPTER II.

### ESTABLISHMENT

**3.** The [7][State] Government may, by notification in the *Official Gazette*, appoint [8][Commissoner] of Prohibition and Excise. an officer to be called the [6][Commissioner of Prohibition and Excise], who subject to the control of the [6][State] Government and subject to such general or special orders

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[1] Clause 42 was deleted by Bom. 22 of 1960, s. 2(*p*).
[2] This clause was substituted for the original by Bom. 12 of 1959, s. 6(*e*).
[3] Clauses (*47A*) and (*47B*) were inserted by Bom. 20 of 1955, s. 2.
[4] Substituted by Bom. 12 of 1959, s. 3.
[5] This clause was added by Bom. 12 of 1959, s. 6(*f*).
[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[7] These words were substituted for the words " Director of Prohibition and Excise " by Mah. 52 of 1973, s. 3, Sch.
[8] This word was substituted for the word " Director ", *ibid.*

as the [1][State] Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or under the provisions of this Act and shall superintend the administration and carry out generally the provisions of this Act :

[2][Provided that the person holding the office of Director of Prohibition and Excise immediately before the commencement of the Maharashtra Director of Prohibition and Excise (Change in Designation) Act, 1973 shall be the Commissioner of Prohibition and Excise for the State and shall hold that office until the State Government otherwise directs.] Mah. LII of 1973.

Collectors.

**4.** (*1*) The Collectors shall, within the limits of their jurisdiction [3]* * * * * * * * * * exercise such powers and perform such duties and functions as are provided by or under the provisions of this Act.

(*2*) For the purposes of this Act all Collectors including the Collector of Bombay shall be subordinate to the [4][Commissioner].

(*3*) The [1][State] Government may, by notification in the *Official Gazette*, appoint any person other than the Collector [5]* * * to exercise in any district or place [6][all or any of the powers and perform all or any of the duties] all the duties and functions as are assigned by or under this Act to a Collector subject to such control, if any, in addition to that of the [4][Commissioner] and of the [1][State] Government as the [1][State] Government may from time to time direct.

Subordinate officers.

**5.** To aid the [4][Commissioner] and the Collectors in carrying out the provisions of this Act, the [1][State] Govenment may appoint such subordinate officers with such designations, and assign to threm such powers, duties and functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary.

Investing officers of [7][Police and] other departments with powers and duties under this Act.

**6.** (*1*) The [1][State] Government may invest any officer of the Police department or any officer of any other department either personally or in right of his office with such powers, impose upon him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary and any such officers shall, thereupon, exercise the said powers, discharge the said duties and perform the said functions in addition to the powers, duties and functions incidental to his principal office.

(*2*) The [1][State] Government may also invest any person [8]* * * with such powers, impose on him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Such persons may be given such designations as the [1][State] Government may deem fit.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[2] This proviso was substituted by Mah. 52 of 1973, s. 3, Sch.

[3] The words and figures " for which they are appointed as Collectors under the Bombay Land Revenue Code, 1879, " were deleted by Bom. 12 of 1959, s. 8(*a*).

[4] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

[5] The words " of land revenue " were deleted by Bom. 12 of 1959, s. 8(*b*)(*i*).

[6] These words were substituted for the words " all the powers and perform all the duties ", *ibid.*, s. 8(*b*)(*ii*).

[7] These words were inserted by Bom. 22 of 1960, s. 3(*b*).

[8] The words " working in an honorary capacity or otherwise " were deleted by Bom. 22 of 1960, s. 3(*a*).

Board of Experts.

[1][6A. [2][(*1*) [3][For the purpose of enabling the State Government to determine] whether—

(*a*) any medicinal or toilet preparation containing alcohol, or

(*b*) any antiseptic preparation or solution containing alcohol, or

(*c*) any flavouring extract, essence or syrup containing alcohol,

[4][is an article fit for use as intoxicating liquor, the State Government shall constitute a Board of Experts.]

(*2*) The Board of Experts constituted under sub-section (*1*) shall consist of such members, not less than [5][five in number], with such qualifications as may be prescribed. The members so appointed shall hold office during the pleasure of the State Government.

(*3*) [6][Three members] shall form a quorum for the disposal of the business of the Board.

(*4*) Any vacancy of the member of the Board shall be filled in as early as practicable :

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

(*5*) The procedure regarding the work of the Board shall be such as may be prescribed.

[7][(*6*) It shall be the duty of the Board to advise the State Government on the question whether any article mentioned in sub-section (*1*) is fit for use as intoxicating liquor and also on any matters incidental to the question, referred to it by the State Government. On obtaining such advice, the State Government shall determine whether any such article is fit for use as intoxicating liquor, and upon determination of the State Government that it is so fit, such article shall, until the contrary is proved, be presumed to be fit for use as intoxicating liquor.]

[8][(*7*) Until the State Government has determined as aforesaid any article mentioned in sub-section (*1*) to be fit for use as intoxicating liquor, every such article shall be deemed to be unfit for such use.]

[10][Other Boards and Committees].

**7.** (*1*) The [9][State] Government may appoint [10][other boards and committees] to advise and assist officers in carrying out the provisions of this Act.

(*2*) Such [10][other boards and committees] shall perform such functions [11][as may be prescribed.]

(*3*) The constitution of such [10][other boards and committees] and the procedure regarding their work shall be as may be prescribed.

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[1] Section 6A was inserted by Bom. 26 of 1952, s. 3.
[2] Sub-section (*1*) was substituted for the original by Bom. 36 of 1954, s. 3(*i*).
[3] These words were substituted for the words " For the purpose of determining " by Bom. 22 of 1960, s. 4(*a*).
[4] These words were substituted for the words " is or is not an article unfit for use as intoxicating liquor, the State Government shall constitute a Board of Experts. ", *ibid.*
[5] These words were substituted for the words " three in number ", *ibid.*, s. 4(*b*).
[6] These words were substituted for the words " Two members ", *ibid.*, s. 4(*c*).
[7] Sub-section (*6*) was substituted for the original, *ibid.*, s. 4(*d*).
[8] Sub-section (*7*) was added, *ibid.*, s. 4(*e*).
[9] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[10] These words were substituted for the word " committees ", by Bom. 22 of 1960, s. 5 (*a*).
[11] These words were substituted for the words " as are provided by or under the provisions of this Act ", *ibid.*, s. 5(*b*).

(*4*) The [4][State] Government may direct that the members of such [2][other boards and committees] shall be paid such fees and allowances as may be prescribed.

Medical Boards.

**8.** (*1*) The [1][State] Government may constitute one or more medical boards [3][or panels thereof] for such areas and consisting of such members as it may deem fit.

(*2*) A medical board [4][or a panel thereof] so constituted shall perform such functions [5][as are prescribed].

(*3*) The procedure regarding the work of the medical board [4][or a panel thereof] shall be as may be prescribed.

(*4*) The members of the medical board [4][or a panel thereof] shall be entitled to such fees and allowances as may be prescribed.

Control of [6][Commissioner] over Prohibition Officers and other officers.

**9.** In exercise of their powers and in discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder, all Prohibition Officers and all officers including the officers of the Police and other departments shall, subject to the general or special orders of the [1][State] Government be subordinate to and under the control of the [6][Commissioner] and shall be bound to follow such orders as the [6][Commissioner] may, from time to time, make.

Delegaion.

**10.** (*1*) The [1][State] Government may delegate any of the powers exercisable by it under this Act to the [6][Commissioner] or such other officers as it deems fit.

(*2*) Subject to the control and direction of the [1][State] Government the powers conferred on the [6][Commissioner] or any other officer appointed or invested with powers under this Act may be delegated by him to any of his subordinates.

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950
[2] These words were substituted for the word " committees ", by Bom. 22 of 1906, *s.* 5(*a*).
[3] These words were inserted *ibid.*, s. 6(*a*).
[4] These words were inserted, *ibid.*, s. 6(*b*) and (*c*).
[5] These words were substituted for the words " as are provided by or under this Act ", *ibid.*
[6] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

## CHAPTER III.

### PROHIBITIONS.

Manufacture, etc., of intoxicant to be permitted in accordance with provisions of Act, rules, etc.

**11.** Notwithstanding anything contained in the following provisions of this Chapter, it shall be lawful to import, export, transport, manufacture, [1][bottle,] sell, buy, possess, use or consume any intoxicant or hemp [2][or to cultivate or collect hemp] or to tap any toddy producing tree or permit such tree to be tapped or to draw toddy from such tree or permit toddy to be drawn therefrom in the manner and to the extent provided by the provisions of this Act [3][or] any rules, regulations or orders made or in accordance with the terms and conditions of a licence, permit, pass or authorization granted thereunder.

Prohibition of manufacture of liquor and construction and working of distillery or brewery.

**12.** No person shall—

(*a*) manufacture liquor;

(*b*) construct or work any distillery or brewery;

(*c*) import, export, transport or possess liquor; or

(*d*) sell or buy liquor.

Prohibition of sale, etc. of liquor.

**13.** No person shall—

(*a*) bottle any liquor for sale;

(*b*) consume or use liquor; or

(*c*) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any liquor.

Prohibition of export, import, transport, sale, manufacture, etc. of intoxicating drugs.

**14.** No person shall—

(*a*) export, im[illegible]ort, transport or possess any intoxicating drug;

(*b*) cultivate or collect the hemp [4]* * * *

(*c*) u e, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any intoxicating drug;

(*d*) sell or buy any intoxicating drug;

(*e*) consume or use any intoxicating drug; or

(*f*) manufacture any intoxicating drug.

Prohibition of import, export, transport, sale, etc., of sweet toddy.

**15.** No person shall—

(*a*) import, export, transport or possess sweet toddy or nira;

(*b*) bottle sweet toddy or nira for sale; or

(*c*) sell or buy sweet toddy or nira.

Prohibition of tapping of toddy producing trees and drawing of toddy.

**16.** No person shall—

(*a*) tap any toddy producing tree or permit to be tapped any toddy producing tree belonging to him or in his possession; or

(*b*) draw toddy from any tree or permit toddy to be drawn from any tree belonging to him or in his possession.

Prohibition of possession, etc., of opium.

**17.** No person shall—

(*a*) possess opium;

(*b*) transport opium;

(*c*) import or export opium;

(*d*) sell or buy opium; or

(*e*) consume or use opium.

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[1] This word was inserted by Bom. 22 of 1960, s. 7.

[2] These words were inserted by Bom. 26 of 1952, s. 4 (*1*)

[3] This word was inserted, *ibid.*, s. 4 (*2*).

[4] The words "or extract any portion of such plant from which any intoxicating drug can be manufactured" were deleted by Bom. 22 of 1960, s. 8.

Prohibition of sale to [2][minors].

**18.** No licensed vendor and no person in the employ of such licensed vendor or acting with the express or implied permission of such licensed vendor on his behalf shall sell or deliver any intoxicant [1][ to any person who is a minor], whether for consumption by such person or by other person and whether for consumption on or off the premises of such licensed vendor.

**19.** [*Prohibition of sale of toddy.*] *Deleted by Bom. 22 of 1960, s. 10.*

Prohibition of production, etc., of charas.

**20.** No person shall—

(*a*) produce,
(*b*) manufacture,
(*c*) possess,
(*d*) export,
(*e*) import,
(*f*) transport,
(*g*) buy,
(*h*) sell,
(*i*) consume, or
(*j*) use,

charas.

Alteration of denatured spirit.

**21.** No person shall—

(*a*) alter or attempt to alter any denatured spirit by dilution with water or by any method whatsoever, with the intention that such spirit may be used for human consumption, whether as a beverage or internally as a medicine or in any other way whatsoever ; or

(*b*) have in his possession any denatured spirit in respect of which he knows or has reason to believe that such alteration or attempt has been made.

Alteration of denatured spirituous preparation.

[4][**21A.** No person shall—

(*a*) alter or attempt to alter any dentured spirituous preparation by dilution with water or by any method whatsoever, with the intention that such preparation may be used for human consumption as an intoxicating liquor ; or

(*b*) have in his possession any denatured spirituous preparation in respect of which he knows or has reason to believe that such alteration or attempt has been made.]

Prohibition of allowing any premises to be used as common drinking house.

**22.** No person shall—

(*a*) open or keep or use any place as a common drinking house ; or

(*b*) have the care, management or control of, or in any manner assist in conducting the business of, any place opened, or kept or used as a common drinking house.

Prohibition of issuing prescriptions for intoxicating liquor except by registered medical practitioners.

[5][**22A.** (*1*) No person other than a registered medical practitioner, shall issue any prescription for any intoxicating liquor.

(*2*) No registered medical practitioner shall prescribe such intoxicating liquor, unless he believes in good faith after careful medical examination of the person for whose use such prescription is sought, that the use of such intoxicating liquor by such person is necessary ; and will afford relief to him from some known ailment.

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[1] These words were substituted for the words " to any person apparently under the age of twenty-one years " by Bom. 22 of 1960, s. 9 (*a*).

[2] This word was substituted for the word " children ", *ibid.*, s. 9 (*b*).

[3] Section 19 was deleted. *ibid.*, s. 10.

[4] Section 21A was inserted by Bom. 36 of 1954, s. 4.

[5] Section 22A was inserted by Bom. 22 of 1960, s. 11.

(*3*) A registered medical practitioner shall state, in every prescription for intoxicating liquor issued by him, the name and address of the person to whom issued, the date of issue, directions for use, and the amount and frequency of the dose, and shall preserve a copy of the prescription for one year from the date of issue. On the copy so preserved he shall state the purpose or ailment for which the intoxicating liquor is prescribed.]

[4][Prohibition of soliciting use of intoxicant or hemp or doing and act calculated to incite or encourage member of public to commit offence.

**23.** No person shall—

(*a*) [1]* solicit the use of, [2][or] offer any intoxicant or hemp ; or

[3]* * * * * *

(*c*) do any act which is calculated to incite or encourage any member of the public or a class of individuals or the public generally to commit any offence under this Act or to commit a breach of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

Prohibition of publication of advertisements relating to intoxicant, etc.

**24.** (*1*) No person shall print or publish in any newspaper, news-sheet, book, leaflet, booklet or any other single or periodical publication or otherwise display, or distribute any advertisement or other matter,—

(*a*) which [5]* solicits the use of or offers any intoxicant or hemp ;

(*b*) whieh is caleulated to encourage or incite any individual class or 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, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted, 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 [6][Commissioner] in this behalf ;

(*b*) any advertisement or other matter contained in any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the [7][State] ;

(*c*) any advertisement or other matter contained in any newspaper printed, and published in the [7][State] before such date as the [8][State] Government may by notification in the *Official Gazette*, specify ; and

(*d*) any other advertisement or matter which the [8][State] 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 [8][State] Government may, by notification in the *Official Gazette*, prohibit within the [7][State] the circulation, distribution or sale of any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the [7][State] which contains any advertisement or matter,—

(*a*) which [5]* solicits the use of or offers any intoxicant or hemp ; or

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[1] The word " commend " was deleted by Bom. 26 of 1952, s. 5 (*1*).
[2] This word was inserted, *ibid.*
[3] Clause (*b*) was deleted, *ibid.*, s. 5 (*2*).
[4] This marginal note was substituted for the original, *ibid.*, s. 5 (*3*).
[5] The word " commends " was deleted *ibid.*, s. 6.
[6] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.
[7] This word was substituted for the words " pre-Reorganisation State of Bombay excluding the transferred territories," by Bom. 12 of 1959, s. 3.
[8] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

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

This Chapter not to apply[1] to [2][certain articles.]

[**24A.** Nothing in this Chapter shall be deemed to apply to—

(*1*) any toilet preparation containing alcohol which is unfit for use as intoxicating liquor ;

(*2*) any medicinal preparation containing alcohol which is unfit for use as intoxicating liquor ;

[3][(*3*) any antiseptic preparation or solution containing alcohol which is unfit for use as intoxicating liquor ;

(*4*) any flavouring extract, essence or syrup containing alcohol which is unfit for use as intoxicating liquor :]

Provided that [4][such article] corresponds with the description and limitations mentioned in section 59A :

Provided further that the purchase, possession or use of any liquor or alcohol for the manufacture of any [4][such article] shall not be made or had except under a licence granted under section 31A].

[5][*Explanation.*—Nothing in this section shall be construed to mean that any person may drink any toilet preparation, or antiseptic preparation or solution, containing alcohol ; and it is hereby provided that no person shall drink any such preparation.]

## CHAPTER IV.

### CONTROL, REGULATION AND EXEMPTIONS.

Exemption of preparations.

**25.** The [6][State] Government may, by notification in the *Official Gazette*, direct that any preparation containing alcohol not exceeding a specified percentage by volume shall be exempt from any of the provisions of this Act or rules, regulations or orders made thereunder.

Distilleries and warehouses for intoxicants.

**26.** The [7][State Government] may—

(*a*) establish a distillery in which spirit may be manufactured in accordance with a licence issued under this Act on such conditions as the [6][State] Government deems fit to impose ;

(*b*) discontinue any distillery established ;

(*c*) license, on such conditions as the [6][State] Government deems fit to impose, the construction and working of a distillery or brewery ;

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[1]Section 24A was inserted by Bom. 26 of 1952, s. 7.
[2]These words were substituted for the words "certain toilet and medicinal preparations" by Bom. 36 of 1954, s. 5(*iii*).
[3]Clauses (*3*) and (*4*) were inserted by Bom. 36 of 1954, s. 5(*i*).
[4]These words were substituted for the words "such preparation", *ibid.*, s. 5 (*ii*).
[5]This explanation was added by Bom. 22 of 1960, s. 12.
[6]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[7]These words were substituted for the word "Director" by Bom. 22 of 1960, s. 13 (*2*).

(*d*) establish or license a warehouse wherein any [1][intoxicant], hemp, mhowra flowers or molasses may be deposited and kept without payment of duty ; and

(*e*) discontinue any warehouse so established.

[Intoxicant] or hemp not to be removed from warehouse, etc.

**27.** No [1][intoxicant], hemp, mhowra flowers or molasses shall be removed from any distillery, warehouse or other place of storage established or licensed under this Act, except under a pass and unless the duty, if any, imposed under the provisions of this Act, has been paid or a bond has been executed for the payment thereof.

Passes for import, etc.

**28.** (*1*) The [3][State] Government may, by general or special order, authorize a Collector or any other officer to grant passes for the import, export or transport of any [1][intoxicant] or hemp.

(*2*) Such passes may be either general for definite periods of time and definite kinds of [1][intoxicant] or hemp or special for specified occasions and particular consignments only.

(*3*) Every such pass shall specify—

(*a*) the name of the person authorized to import, export or transport [4][intoxicant] or hemp ;

(*b*) the period for which the pass is to be in force ;

(*c*) the quantity and description of [1][intoxicant] or hemp for which it is granted; and

(*d*) the places from and to which [1][intoxicant] or hemp are to be imported, exported or transported and in the case of places more than ten miles apart, the route by which they are to be conveyed.

Through transport.

[4][**29.** The through transport—

(*a*) of any consignment of any intoxicant, hemp, denatured spirituous preparation, mhowra flowers or molasses by a railway administration or by any steamer, ferry, road transport or air service, or

(*b*) of any intoxicant, hemp, denatured spirituous preparation, mhowra flowers or molasses, otherwise than by way of consignment,

shall be subject to such conditions as may be prescribed.]

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[1] This word was substituted for the words "liquor, intoxicating drug" by Bom. 22 of 1960, s. 13 (*1*).
[2] This word was substituted for the words "Intoxicating drug", *ibid*, s. 13(*3*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950,
[4] This section was substituted for the original by Bom, 22 of 1960, s. 14,

**30.** [*Licence for possession of denatured or rectified spirit and alcohol for industrial or medical purposes.*] *Deleted by Bom. 22 of 1960, s. 15.*

Licences for *bona fide* medicinal or other purposes.

[1]**[31.** The State Government may, by rules or by an order in writing, authorise an officer to grant licences to any person, or institution, whether under the management of Government or not, for the manufacture, sale, purchase, possession, consumption, or use of any intoxicant or hemp or any article containing an intoxicant or hemp for a *bona fide* medicinal, scientific, industrial or educational purpose :

Provided that, where any intoxicant or hemp, or article containing such intoxicant or hemp, has been obtained by any person for a *bona fide* medicinal purpose, from any person or institution licensed to sell the same under this section, it shall not be necessary for such person to obtain a licence for the possession, purchase, consumption or use thereof :

Provided further that, no licence shall be necessary for the possession of denatured spirit to the extent of such quantity as may be prescribed.]

Licences for purchase, etc. of liquor for manufacture of [4][(articles mentioned] in section 24A.

[2]**[31A.** The State Government may, by rules or an order in writing, authorise an officer to grant licences for the purchase, possession of use or any liquor or alcohol for the manufacture of [3][any article mentioned in section 24A] on such conditions as may be prescribed.]

Licences for tapping for [10][neera].

**32.** The [5][State] Government may authorise an officer by rules or an order in writing to grant licences for [6][the tapping of, [7][and drawing juice from], any palm trees for the purpose of sale or consumption as neera or] [8]* * * manufacture of gur or any other article which is not an intoxicant [9][and on a licence being granted the person to whom the trees belong, or who is in possession of such trees, may permit them to be tapped or permit toddy to be drawn therefrom.]

Trade and import licences.

**33.** The [5][State] Government may, by rules or an order in writing, authorise an officer to grant trade and import licences to persons intending to import and to sell by wholesale any [11][foreign liquor].

Vendor's licence.

**34.** (*1*) The [5][State] Government may, by rules or an order in writing, authorise an officer to grant a vendor's licence [12][for the sale of foreign liquor.]

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[1] This section was substituted for the original by Bom. 22 of 1960, s. 16.
[2] Section 31A was inserted by Bom. 26 of 1952, s. 9.
[3] These words were substituted for the words, figures and letter "any preparation to which section 24A applies" by Bom. 36 of 1954, s. 6(*i*).
[4] These words were substituted for the words ", preparation referred to" *ibid.*, s. 6(*ii*).
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] These words were substituted for the words "the tapping of palmyra or date palm trees for juice intended to be used" by Bom. 26 of 1952, s. 10(*1*).
[7] These words were substituted for the words " or drawing juice from" by Bom. 22 of 1960, s. 17(*a*).
[8] The words "for the" were deleted, *ibid.*, s. 17(*b*).
[9] This portion was added, *ibid.*, s. 17(*c*).
[10] This word was substituted for the word "toddy" by Bom. 26 of 1952, s. 10(2).
[11] These words were substituted for the words "liquor, intoxicating drug or hemp" by Bom. 22 of 1960, s. 18.
[12] These words were added, *ibid.*, s. 19(*a*).

(*2*) A vendor's licence shall be granted on the following conditions :—

(*i*) the stock of foreign liquor with the licensee (except what is permitted for the disposal in the shop) shall be kept by him at [1][godown] approved by Government ;

[2]* * * * * *

(*iii*) the licensee shall pay all rent, costs, charges and expenses incidental to warehousing and supervision ;

[3][(*iv*) the licensee may sell any part of the stock of foreign liquor to foreign liquor licensees or to chemists, canteens, messes and clubs, holding licences in the State, or to any persons outside the State, subject to such conditions as the [4][Commissioner] may impose ;

(*v*) the licensee shall be permitted to sell foreign liquor only to holders of permits or authorizations ;]

(*vi*) the licensee shall be entitled to keep in his shop such quantity of liquor as may be required by him from time to time for retail sale ;

(*vii*) the licensee shall keep accounts and shall dispose of [5][foreign liquor] according to such instructions as may be given by the [4]Commissioner] or any officer authorized in this behalf by the [4][Commissioner].

Hote licences.

**35.** (*1*) The [6][State] Government may, by rules or an order in writing, authorize an officer to grant licences to the managers of hotels to sell foreign liquor to the holders of permits granted under this Act :

Provided that the [5][State] Government is satisfied that such hotel has ordinarily a sufficient number of boarders eligible to hold permits.

(*2*) Such licences shall be issued on the following conditions :—

(*i*) liquor shall be sold [7]* * * * to the permit-holders [8][residing or boarding] at the hotel,

(*ii*) consumption of liquor sold shall not be allowed in any of the rooms of the hotel to which any member of the public has access.

(*iii*) the holders of hotel licences shall pay the expenses of any officer of the excise establishment, if any, required for the grant and control of permits on the premises [9][or for the supervision over the issue and consumption of foreign liquor in the hotel].

**36.** (*Special import licences to hotels.*) *Deleted by Bom. 22 of 1960, s. 21.*

**37.** (*Dining car licences.*) *Deleted by Bom. 22 of 1960, s. 21.*

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[1] This word was substituted for the word ", warehouse ", by Bom. 22 of 1960., s. 19(*b*)(*i*).
[2] Clause (*ii*) was deleted, *ibid.*, s. 19(*b*)(*ii*).
[3] These clauses were substituted for the original, *ibid.*, s. 19(*b*)(*iii*).
[4] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.
[5] These words were substituted for the words " the goods ", *ibid.*, s. 19(*b*)(*iv*).
[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[7] The words " in sealed bottles " were deleted, by Bom. 26 of 1959, s. 12(1).
[8] These words were substituted for the word " residing ", *ibid.*, s. 12(2).
[9] This portion was added by Bom. 22 of 1960, s. 20.

Licences to shipping companies [and to Masters of ships].

38. The [1][State] Government may, by rules or an order in writing, authorize an officer to grant licences to any shipping company for each ship [2][or to the Master of any ship] to sell foreign liquor [3][and to permit the use or consumption of foreign liquor on such ship on such conditions as may be prescribed.]

Permission to use or consume foreign liquor on [4]* * warships, troopships and in [7][messes and canteens of armed forces].

39. The [1][State] Government may, on such conditions as may be specified [5][by a general or special order, permit—

(*i*) the sale of foreign liquor to,

(*ii*) the purchase, use or consumption of such liquor by—

(*a*) the members of the armed forces in messes and canteens [8][of the armed forces], and

(*b*) the crew of warships or troopships and the members of the armed forces thereon.]

Permits.

40. (*1*) The [1][State] Government may, by rules or an order in writing, authorize an officer to grant permits for the use or consumption of foreign liquor to person on the following conditions :—

(*a*) that such person is not a minor ;

[9]* * * * *.

(*c*) (*i*) that such person was either born and brought up or domiciled in any country outside India where such liquor is being generally used or consumed ; or

[XVI of 1939.] (*ii*) that such person is on the Register of Foreigners under the Registration of Foreigners Act, 1939, and is not domiciled in [10][India] :

Provided that, in the case of any person falling under sub-clause (*i*) or (*ii*)—

(*a1*) such person has been residing and intends to reside in India temporarily and that such person has a fixed and settled purpose of making his sole and permanent home in any country outside India ; and

(*b1*) that such person has been ordinarily using or consuming such liquor.

[11]* * * * * *

(*3*) Such permits shall be granted for such quantities as may be prescribed.

[12][(*4*) If any question arises whether the conditions imposed by clause (*a*) or (*c*) of sub-section (*1*) are satisfied or not in any case, the State Government shall decide the question and its decision shall be final.]

[13]* * * * *

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were inserted by Bom. 26 of 1952, s. 14(*1*).
[3] These words were substituted for the words "on condition that such liquor shall be sold only to *bona fide* passengers on such ship," *ibid.*, s. 14(*2*).
[4] These words were added, *ibid.*, s. 14(*3*).
[5] This portion was substituted for the words beginning with the words "in the notification" and ending with the word "canteens" *ibid.*, s. 15(*1*).
[6] The words "cargo boats" were deleted, *ibid.*, s. 15(*2*).
[7] These words were substituted for the words "military and naval messes and canteens", *ibid.*
[8] These words were inserted by Bom. 22 of 1960, s. 22.
[9] Clause (*b*) was deleted, by Bom. 26 of 1952 s. 16(*1*).
[10] This word was substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.
[11] sub-section (*2*) was deleted by Bom. 22 of 1960, s. 23.
[12] Sub-section (*4*) was added by Bom. 26 of 1952, s. 16(*2*).
[13] The explanation was deleted, *ibid.*, s. 16(*3*).

Health permits.

[1][40A. (*1*) The State Government may by rules or orders in writing authorize an officer to grant a health permit for the use or consumption of foreign liquor to any person who requires such liquor for the preservation or maintenance of his health :

Provided that no such permit shall be granted to a minor.

(*2*) Such permit shall be granted for such quantity and shall be subject to such further conditions as may be prescribed.

Emergency permits.

**40B.** (*1*) The State Government may by rules or orders in writing authorize an officer to grant emergency permits for the use or consumption of brandy, rum or champagne or any other kind of liquor to any person for his own use or consumption or to any head of a household for the use of his household for medicinal use on emergent occasions :

Provided that the person to whom a permit is granted under this section may [2][subject to such conditions as may be prescribed] allow the use or consumption of liquor in respect of which the permit has been granted to any other person who requires the use thereof for medicinal purpose on emergent occasions :

Provided further that no permit shall be granted to more than one member of a household at any one time.

[3]* * * * * *

(*3*) Such permits shall be granted for such quantities and shall be subject to such further conditions as may be prescribed.

[3]* * * * * *

Special permits to foreign sovereigns, etc.

**41.** The [4][State] Government may grant special permits for the use or consumption of foreign liquor [5][to any person who is—

(*a*) a Sovereign or Head of a *foreign State ;*

(*b*) an Ambassador, Diplomatic Envoy or Consul, Honorary Consul or Trade, Commerce or other representative of a *foreign State* ;

(*c*) a member of the staff appointed by or serving under any person, specified in clause (*a*) or (*b*) : Provided t at such member is a national of a *foreign State;*[6]*

[7](*c*[1]) a member of a foreign Government ;

(*c*[2]) a representative or officer of any international organization to which privileges and immunities are given from time to time by or under the United Nations (Privileges and Immunities) Act, 1947 ; and] XLV of 1947

(*d*) the Consort of any person specified in clause (*a*), (*b*), [8][(*c*), (*c*[1]) or (*c*[2])] or any relation of such person dependent upon him].

**42.** [*Permits to be non-transferable.*] *Deleted by Bom. 22 of 1960, s. 26.*

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[1] Sections 40A and 40B were inserted by Bom. 26 of 1952, s. 17.

[2] These words were inserted by Bom. 22 of 1960, s. 24(*a*).

[3] sub-section (*2*) and the *Explanation* were deleted, *ibid.*, s. 24(*b*).

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] This portion was substituted for the words beginning with the words " to sovereigns " and ending with the words " envoy or consul ", by Bom. 26 of 1952, s. 18.

[6] The word " and " was deleted by Bom. 22 of 1960, s. 25(*a*).

[7] clauses (*c*[1]) and (*c*[2]) were inserted, *ibid.*, s. 25(*b*).

[8] These brackets, letters, figures and word were substituted for the word, brackets and letter " or (*c*) " *ibid.*, s. 25(*c*).

[9] This section was deleted *ibid.*, s. 26.

[1][43. (*1*) No holder of a permit granted under any of the provisions of this Act other than section 40B shall drink in a public place or in the rooms of a hotel or institution to which the public may have access. Regulation of use or consumption of foreign liquor by certain permit holders.

(*2*) No holder of a permit granted under section 40A shall allow the use or consumption of any part of the quantity held by him to any other person.

[2][(*3*) A person holding a permit under section 40, 41, 46, 46A or 47 may allow the use or consumption of any part of the quantity of foreign liquor possessed by him under the permit, to any other person who holds a permit under any of those sections.

(*4*) No holder of a permit under section 40, 41, 46, 46A or 47 shall serve any liquor at any ceremonial or other function or any assembly of persons where persons (not being members of his family or his employees) who do not hold any of the permits aforesaid, are present.]]

44. (*1*) The [3][State] Government may, by rules or an order in writing, [4][grant or authorise an officer to grant] licences to a club approved by the [3][State] Government in this behalf to sell foreign liquor [5][to its members holding permits]. Licence to clubs.

(*2*) Such licences shall be granted on the following conditions :—

[6]* * * * * * *

(*b*) that no liquor shall be served to the holder of any permit in any room of the club to which the public have access at the time when any person who does not hold such permit is present ;

(*c*) that the club when authorized [7][in writing] by any member who is the holder of a permit may stock the permitted quantity of liquor on account of such member; [7]*

[6]* * * * * * *

[8]* * * * * * *

45. (*1*) The [3][State] Government may, by rules or an order in writing, authorise an officer to grant any authorization to any person for the use of liquor for sacramental purposes : Authorization for sacramental purposes.

Provided that the officer so authorized is satisfied that the use of such liquor is required in accordance with the religious tenets of the community to which such person belongs.

[9][(*2*) An authorization under this section shall be granted on the recommendation of such members of the community to which the person applying for the authorization belongs, as may be approved by the State Government in that behalf.]

[10]* * * * * * * *

(*4*) If any dispute arises whether the use of liquor is required by any person for sacramental purpose, the person requiring such use may apply to the [11][Commissioner]. The [11][Commissioner], after holding a summary inquiry [12]* * *

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[1] Section 43 was substituted for the original by Bom. 26 of 1952, s. 20.
[2] Sub-sections (*3*) and (*4*) were substituted for the original sub-section (*3*) by Bom. 22 of 1960, s. 27.
[3] This was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words " authorize or grant " by Bom. 26 of 1952, s. 21.
[5] These words were added by Bom. 22 of 1960, s. 28(*a*).
[6] Clauses (*a*) and (*d*) were deleted, *ibid.*, s. 28(*b*)(*i*).
[7] These words were inserted and the word " and " was deleted *ibid.*, s. 28(*b*)(*ii*).
[8] The Explanation was deleted, *ibid.*, s. 28(*b*)(*iii*).
[9] This sub-section was substituted for the original, *ibid.*, s. 29(*a*)
[10] Sub-section (*3*) was deleted, *ibid.*, s. 29(*b*).
[11] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.
[12] The words " in the prescribed manner " were deleted by Bom. 22 of 1960, s. 29(*c*).

shall decide whether or not the liquor is required by the person for sacramental purposes.

(*5*) The decision of the [1][Commissioner] under sub-section (*4*) shall be final.

Visitor's permit.

[2][46. (*1*) The State Government may by rules or an order in writing, authorise an officer to grant a visitor's permit for the purchase, possession, use or consumption of foreign liquor to a person who—

(*a*) (*i*) is a citizen of a foreign country, or a citizen of India and resides in any part of India, where consumption of alcoholic liquor is not generally prohibited by law ; or

(*ii*) is a citizen of a foreign country or is a citizen of India and resides in any part of India, where consumption of liquor is prohibited by law, but has been consuming such liquor under a permit or other authorization ; and

(*b*) visits the State for a period of not more than a week.

(*2*) Such permit shall be granted ordinarily for a period not exceeding one week at any one time ; but may be extended from time to time for further periods not exceeding one week at a time, so however that the total period shall not exceed in the aggregate one month.]

[7][Tourist's permit.]

[3][46A. (*1*) The State Government may, by rules or an order in writing, authorise an officer to grant [4][a tourist's permit] to consume, use and buy foreign liquor to a person who is a tourist.

(*2*) A tourist's permit may be granted for the period of the tourist's intended stay in the [5][State], but shall in no case be granted for a period exceeding one month.

(*3*) Such permits shall be available at such places as may be [6][fixed] by the [1][Commissioner] in this behalf.]

Interim permits.

47. (*1*) Notwithstanding anything contained in sections [8][40, 40A and 41] the [9][State] Government may, by rules or an order in writing, [10][authorize an officer to] grant interim permits to persons applying for permits under any of the said provisions.

(*2*) Such interim permits shall not be granted for any period exceeding two months.

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[1] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

[2] Section 46 was substituted for the original by Bom. 22 of 1960, s, 30.

[3] Section 46A was inserted by Bom. 20 of 1955, s. 4.

[4] These words were substituted for the words " tourists' permits " by Bom. 22 of 1960, s. 31(*a*).

[5] This word was subsituted for the words " Pre-Reorganisation State of Bombay, excluding the transferred territories " by Bom. 12 of 1959, s. 3.

[6] This word was substituted for the word " notified " by Bom. 22 of 1960, s. 31(*b*).

[7] This marginal note was substituted for the words " Tourists' permits ", *ibid.*, s. 31(*c*).

[8] These figures, letter and word were substituted for the figures and word " 40 and 41 " by Bom. 26 of 1952, s. 22(*1*).

[9] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[10] These words were inserted by Bom. 26 of 1952, s. 22(*2*).

48. (*1*) The [1][State] Government may, by rules or an order in writing, authorize an officer to grant [2][permits] for the [3][consumption or use] of [4][intoxicating drugs] [5][or opium] in such quantities as may be prescribed. [6][[7][Permits] for consumption or use of intoxicating drugs] [8][or opium.]

(*2*) Such [2][permits] shall be granted on the certificate of the Medical Board.

[9][48A. Permits granted under section 40, 40A, 40B, 41, 46, 46A, 47 or 48 shall be non-transferable.] Permits to be non-transferable.

49. [*Power to make rules or pass orders for possession, etc. of opium.*] *Deleted by Bom. 22 of 1960, s. 34.*

50. [*Warehousing of opium.*] *Deleted by Bom. 22 of 1960, s. 34.*

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word " licences " by Bom. 22 of 1960, s. 32(*a*).
[3] These words were substituted for the word " sale " by Bom. 26 of 1952, s. 23(*1*).
[4] These words were substituted for the words " hemp drugs ", *ibid.*
[5] These words were inserted by Bom. 22 of 1960, s. 32(*b*).
[6] This marginal note was substituted for the original by Bom. 26 of 1952, s. 23(*2*).
[7] This word was substituted for the word " Licence " by Bom. 22 of 1960, s. 32(*c*).
[8] These words were inserted *ibid.*
[9] Section 48A was inserted, *ibid.*, s. 33.

**51.** [*Rules for sale, etc., of warehoused intoxicant or hemp.*] *Deleted by Bom. 22 of 1960, s. 34.*

**52.** Notwithstanding anything in this Act, it shall be lawful for any officer authorized by the [1][State] Government in this behalf to grant any licences, passes or permits for import, export, transport, possession, sale, buying, cultivation, collection, manufacture, [2][bottling,] consumption and use of any intoxicant, hemp, or mhowra flowers or molasses or for the tapping of any toddy producing tree or the drawing of toddy from such tree in cases other than those specifically provided under any of the provisions of this Act. Power of authorised officer to grant licences, permits and passes in certain cases.

**53.** All licences, permits, passes, or authorizations granted under this Act shall be in such form and shall, in addition to or in variation or substitution of any of the conditions provided by this Act, be subject to such conditions as may be prescribed and shall be granted on payment of the prescribed fee: General conditions regarding licences, etc.

Provided that every licence, permit, pass or authorization shall be granted only on the condition that the [3][person applying] undertakes, and in the opinion of the officer authorized to grant the licence, permit, pass or authorization is likely to abide by all the conditions of the licence, permit, pass or authorization and the provisions of this Act. [4]* * * * * *

[5][**53A.** Every person who manufactures or sells any intoxicant or hemp under a licence granted under this Act, shall be bound— Certain licensees required to keep measures, etc.

(*a*) to equip himself with and keep such measures and weights and such instruments for testing the strength or quality of the intoxicant or hemp as the Collector may prescribe, and to keep the same in good condition, and

(*b*) on a requisition of any Prohibition Officer, duly empowered in this behalf, at any time to measure, weigh or test any intoxicant or hemp in his possession or to have it measured, weighed or tested in such manner as the Prohibition Officer may require.]

**54.** (*1*) [6][The authority granting any licence, permit, pass or authorization under this Act may for reasons to be recorded in writing cancel or suspend it,] Power to cancel or suspend licences and permits.

(*a*) if any fee or duty payable by t e holder thereof is not duly paid;

(*b*) if the purpose for which the licence, permit, pass or authorization was granted ceases to exist;

(*c*) in the event of any breach by the holder of such licence, permit, pass or authorization or by his servant or by any one acting with his express or implied permission on his behalf of any of the terms or conditions of such licence, permit, pass or authorization or of any licence, permit, pass or authorization previously held by the holder;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was inserted by Bom. 22 of 1960, s. 35.
[3] These words were substituted for the words "holder thereof", *ibid*, s. 36.
[4] The words beginning with the words "and not to do anything" and ending with the words "object and purposes of this Act" were deleted by Bom. 26 of 1952, s. 24.
[5] This section was inserted by Bom. 22 of 1960, s. 37.
[6] These words were substituted for the portion beginning with the words "The Director or any officer authorised in this behalf" and ending with the words "granted under this Act", *ibid*, s. 38 (*a*) (*i*).

(*d*) if the holder thereof or any person in the employ of such holder or any person acting with his express or implied permission on his behalf is convicted of any offence under this Act or if the holder of the licence, permit, pass or authorization is convicted of any cognizable and non-bailable offence or [1][of any offence under the Dangerous Drugs Act, 1930 or under the Drugs Act, 1940 or under the Bombay Drugs (Control) Act, 1952,] or under the Indian Merchandise Marks Act, 1889, or of any offence punishable under sections 482 to 489 (both inclusive) of the Indian Penal Code, or of any offence punishable under Article 8 of the Schedule to section 167 of the Sea Customs Act, 1878; II of 1930. XXIII of 1940. Bom. XXIX of 1952. IV of 1889. XLV of 1860. VIII of 1878.

[2][(*e*) if the licence, permit, pass or authorization has been obtained through wilful misrepresentation or fraud.]

(*2*) Where a licence, permit, pass or authorization held by any person is cancelled, under sub-section (*1*), the authority aforesaid may cancel any other licence, permit, pass or authorization granted or deemed to have been granted to such person under this Act.

[3][(*3*) Notwithstanding anything contained in this section, the State Government may, for reasons to be recorded in writing, suspend or cancel any licence permit, pass or authorization.]

Holder of licence, etc., not entitled to compensation or refund of fee for cancellation or suspension thereof.

**55.** No holder of a licence, permit, pass or authorization shall be entitled to any compensation for the cancellation or suspension of the licence, permit, pass or authorization under section 54 nor to a refund of any fee or deposit made in respect thereof.

Cancellation for other reasons.

**56.** (*1*) Whenever the authority granting a [4][licence, permit, pass or authorization] considers that it should be cancelled for any cause other than those specified in section 54, he may cancel [5][it] either—

(*a*) on the expiration of not less than fifteen days' notice in writing of his intention to do so; or

[6][(*b*) forthwith without notice, recording his reasons in writing for doing so.]

[7][(*2*) Where a licence, permit, pass or authorization is cancelled under sub-section (*1*), a part of the fee for the licence, permit, pass or authorization proportionate to the unexpired portion of the term thereof and the deposit made by the holder thereof in respect of such licence, permit, pass or authorization shall be refunded to him after deducting any amount due from him to the State Government.]

Attachment of licence.

**57.** Notwithstanding anything contained in any other section, when a licence is liable under that section to cancellation owing to default in the payment of any duty or fee payable by the holder thereof, the authority granting the licence may

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[1] These words and figures were substituted for the word and figures " of any offence under the Dangerous Drugs Act, 1930 " by Bom. 22 of 1960 s. 38(*a*)(*ii*).

[2] This clause was inserted, *ibid*, s. 38(*a*)(*iii*).

[3] This sub-section was substituted for the original, *ibid.*, s. 38(*b*).

[4] These words were substituted for the word "licence", *ibid.*, s. 39(*a*)(*i*).

[5] This word was substituted for the words "the licence", *ibid*, s. 39(*a*)(*ii*).

[6] This clause was substituted, *ibid*, s. 39(*a*)(*iii*).

[7] This sub-section was substituted, *ibid*, s. 39(*b*).

attach and take such licence under management, and if the profits received from such management after meeting all the expenses of such attachment and management are less than the amount of the arrears for which the licence was attached and the amount falling due on such licence during the remaining period of such licence the difference shall be recovered from the licensee as if it were a duty or fee leviable under any one of the provisions of this Act, and in the event of the said profits exceeding the amount so due under the licence, the licensee shall not be entitled to receive any of the said profits.

Right, title or interest under licence not liable to be sold or attached in execution.

**58.** Notwithstanding anything contained in any law for the time being in force no right, title or interest in any licence, permit, pass or authorization granted under this Act shall be liable to be sold, transferred or attached in execution of any process of any civil or any other court.

Supervision over manufacture, etc.

[1][**58A.** The State Government may by general or special order direct that the manufacture, import, export, transport, storage, sale, purchase, use, collection, or cultivation of any intoxicant, denatured spirituous preparation, hemp, mhowra flowers, or molasses shall be under the supervision of such Prohibition and Excise or Police staff as it may deem proper to appoint, and that the cost of such staff shall be paid to the State Government by the person manufacturing, importing, exporting, transporting, storing, selling, purchasing, using, collecting or cultivating the intoxicant, denatured spirituous preparation, hemp, mhowra flowers or molasses :

Provided that, the State Government may exempt any class of persons or institutions from paying the whole or any part of the cost of such staff.]

[5][Commissioner] entitled to require licence holder [6][or owner] to dispose of stocks.

**59.** (*1*) Notwithstanding the fact that the period during which any licence, permit, pass or authorization is to be in force has not expired, the [2][Commissioner] may direct the holder thereof to dispose of his stock of intoxicant, [3][denatured spirituous preparation,] or hemp or mhowra flowers before such date as may be specified in the order.

[4][(*1A*) The [2][Commissioner] may also direct the owner of the stock of any intoxicant, [3][denatured spirituous preparation,] hemp or mhowra flowers who does not hold any licence, permit, pass or authorization for such stock to dispose of the said stock before such date as may be specified in the order, and the owner shall comply with such direction.]

(*2*) Any stock of intoxicant, [3][denatured spirituous preparation,] hemp or mhowra flowers left undisposed of after the date so specified shall, together with receptacles or packages in which it is contained, be liable to forfeiture to [6][the State Government] by the order of the [2][Commissioner]. On the cancellation or the expiry of the period of any licence, permit, pass or authorization, the [2][Commissioner] may also direct that any stock of any intoxiciant, [3][denatured spirituous preparation,] hemp or

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[1] This section was inserted by Bom. 22 of 1960, s. 40.
[2] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.
[3] These words were inserted by Bom. 22 of 1960, s. 41(*a*).
[4] Sub-section (*1A*) was inserted by Bom. 26 of 1952, s. 26(*1*).
[5] These words were inserted, *ibid.*, s. 26(*2*).
[6] These words were substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.

mhowra flowers remaining with the holder of the licence, permit, pass or authorization together with receptacles or packages thereof be forefeited to [1][the State Government.]

(*3*) If the articles which are forfeited under sub-section (*2*) are sold, the [2][Commissioner] may, if he thinks fit, order the whole or any portion of the sale proceeds of such articles to be paid to the owner thereof.

[3][(*4*) No direction or order under sub-section (*1*), (*1-A*), (*2*) or (*3*) shall be made unless the person likely to be adversely affected by such direction or order is given reasonable opportunity of being heard, and the reasons for the direction given or order made are recorded in writing by the [4][Commissioner].

## [5][CHAPTER IV-A.

### CONTROL AND REGULATION OF [6][ARTICLES MENTIONED IN SECTION 24A] TO PREVENT THEIR USE AS INTOXICATING LIQUOR.

Control on manufacture etc. of articles mentioned in section 24A.

[7][**59AA.** No article mentioned in section 24-A shall be manufactured, imported or exported, except under a licence which shall, subject to the provisions of any rules made in that behalf, be granted by an officer authorised in that behalf by an order in writing by the State Government :

Provided that no such licence shall be necessary for the import or export of such article to the extent of such quantity as may be prescribed.]

[10][Manufacture of articles mentioned in section 24A.]

**59A.** (*1*) No manufacturer of any of the articles mentioned in section 24-A shall sell, use or dispose of any liquor purchased or possessed for the purposes of such manufacture under the provisions of this Act otherwise than as an ingredient of the articles authorised to be manufactured therefrom. No more alcohol shall be used in the manufacture of any of the articles mentioned in section 24A than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the articles :

Provided that in the case of manufacture of any of the articles mentioned in section 24A in which the alcohol is generated by a process of fermentation the amount of such alcohol shall not exceed 12 per cent. [8][by volume].

(*2*) No person shall—

(*a*) knowingly sell any [9][article mentioned in section 24A] for being used as an intoxicating drink, or

(*b*) sell any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose.

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[1] These words were substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.

[2] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

[3] This sub-section was inserted by Bom. 22 of 1960, s. 41(*b*).

[4] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

[5] Chapter IV-A was inserted by Bom. 26 of 1952, s. 27.

[6] These words were substituted for the words " Medicinal and Toilet Preparations " by Bom. 36 of 1954, s. 7.

[7] This section was inserted by Bom. 22 of 1960, s. 42.

[8] These words were added, *ibid.*, s. 43.

[9] These words were substituted for the words, figures and letters " article to which section 24A applies " by Bom. 36 of 1954, s. 8(*i*).

[10] This marginal note was substituted for the original, *ibid.*, s. 8(*ii*).

[Analysis of articles mentioned in section 24A.]

**59B.** [2][(*1*)] Whenever the [3][Commissioner] has reason to believe that any of the articles mentioned in section 24A does not correspond with the description and limitations provided in section 59A, he shall cause an analysis of the said articles to be made and if upon such analysis the [2][Commissioner] shall find the said article does not so correspond, he shall give not less than 15 days' notice in writing to the person who is the manufacturer thereof or is known or believed to have imported [4][or obtained] such article to show cause why the said article should not be dealt with as an intoxicating liquor, such notice to be served personally or by registered post as the [3][Commissioner] may determine, and shall specify the time when, place where, and the name of the officer before whom such person is required to appear.

[5][(*1-A*) If such person fails to show to the satisfaction of the [3][Commissioner] that the said article corresponds with the description and limitations provided in section 59A, the [3][Commissioner] may by notification in the *Official Gazette* direct that the said article be dealt with as an intoxicating liquor and thereupon the provisions of this Act relating to liquor shall apply to that article.]

[6][(*2*) Whenever the [3][Commissioner] causes an analysis of an article mentioned in section 24A to be made under sub-section (*1*) [7][or gives notice thereunder], he may require the person who is the manufacturer thereof or who is known or believed to have imported [7][or obtained] such articles not to sell, distribute or otherwise deal with such article, or to remove it from any place without the previous permission of the [3][Commissioner], for any period not exceeding three months from the date of such requisition or till the result of the analysis is known and [8][communicated to him in writing by the [3][Commissioner], whichever is earlier, or as the case may be, till such manufacturer or other person satisfies the [3][Commissioner] that the article corresponds to the description and limitations provided in section 59-A] ; and thereupon such manufacturer or person shall comply with such requisition during the said period.]

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## [9][CHAPTER IV-B.

### CONTROL AND REGULATION OF DENATURED SPIRITUOUS PREPARATIONS TO PREVENT THEIR USE AS INTOXICATING LIQUOR.

Prohibition against possession of denatured spirituous preparation in excess of prescribed limit and the regulation of its possession in excess of prescribed limit.

**59C.** (*1*) No person shall have in his possession, except under a permit granted by any officer empowered by the State Government in that behalf, any quantity of denatured spirituous preparation in excess of such a quantity as the State Government may, by notification in the *Official Gazette*, specify.

(*2*) In specifying quantity of possession of denatured spirituous preparation under sub-section (*1*) regard shall be had to the necessity for the free possession of such preparation for legitimate domestic and other purposes, and different limits may be fixed for—

(*i*) different local areas,

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[1] This marginal note was substituted for the original by Bom. 36 of 1954, s. 9.
[2] The original section 59B was re numbered as sub-section (*1*) of that section by Bom. 20 of 1955, s. 5.
[3] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.
[4] These words were inserted by Bom. 22 of 1960, s. 44(*1*).
[5] This sub-section was inserted, *ibid.*, s. 44(*2*).
[6] Sub-section (*2*) was added by Bom. 20 of 1955, s. 5.
[7] These words were inserted by Bom. 22 of 1960, s. 44(*3*).
[8] These words, figures and letter were substituted for the words " communicated to him, whichever is earlier " *ibid.*, s. 44(*3*).
[9] Chapter IV-B was inserted, *ibid.*, s. 45.

(*ii*) different classes of persons, and

(*iii*) different occasions.

Regulation of manufacture, e c., of denatured spirituous preparations.

**59D.** (*1*) No person shall—

(*a*) manufacture, sell or bottle for sale any denatured spirituous preparation, except under the authority and in accordance with the terms and conditions of a licence,

(*b*) import, export or transport any denatured spirituous preparation in excess of the limit of possession specified under sub-section (*1*) of section 59C, except under the authority and in accordance with the terms and conditions of a pass,

(*c*) drink any denatured spirituous preparation.

(*2*) A licence or pass required under sub-section (*1*) shall be granted by any officer empowered in writing in that behalf by the State Government.]

## CHAPTER V.

### MHOWRA FLOWERS.

Prohibition of export or import of mhowra flowers.

**60.** (*1*) No person shall export or import mhowra flowers except under a pass granted by the Collector or an officer authorised in this behalf.

Control and regulation of transport, sale, e c., of mhowra flowers.

(*2*) [1][No person or head of household on his behalf or on behalf of the members of his household shall in the aggregate] collect or transport or sell or buy or have in his possession mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the conditions of a licence, permit or pass granted [2][by the Collector or an officer authorised] in this behalf :

Provided that no licence, permit or pass shall be necessary for the collection, transport, sale, purchase, or possession within such area and during such period (hereinafter called vacation period) as the [3][State] Government may, by notification in the *Official Gazette*, notify, of any quantity of mhowra flowers which shall be the produce of that year [4][and of that area] :

Provided further that unless the [3][State] Government by a notification in the *Official Gazette*, otherwise directs, no licence, permit or pass shall be necessary for the transport by rail of any quantity of mhowra flowers through an area which has no vacation period or the vacation period for which has expired at the time when the transport takes place, provided that—

(*i*) the said flowers are not unloaded in transit, and

(*ii*) there is a vacation period at the place from which and to which the said flowers are transported at the time when the said flowers are despatched or arrive, as the case may be.

[5]* * * * * * * *

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[1] These words were substituted for the words " No person shall " by Bom. 26 of 1952, s. 28(*1*).
[2] These words were inserted, *ibid.*, s. 28(*2*).
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were added by Bom. 26 of 1952, s. 28(*3*).
[5] The *Explanation* was omitted by Bom. 22 of 1960, s. 46.

## CHAPTER VI.

### CONTROL AND REGULATION OF MOLASSES.

**Control of export, etc., of molasses.**

**61.** (*1*) Except as otherwise provided in sub-sections (*2*) and (*3*), no person shall export, import, transport, sell or have in his possession any quantity of molasses.

(*2*) The [1][State] Government may, by general or special order, authorise any Collector [2][or any other officer] to grant licences for the import, export, sale or possession of molasses.

(*3*) The [1][State] Government may also authorise any Collector or any other officer to grant permits for the transport of molasses.

**Provisions of sections 53 to 59 to apply to licences granted under section 61.**

**62.** The provisions of sections 53 to 59 [3][(both inclusive)] shall, so far as may be applicable, apply to licences or permits granted under section 61.

**Provision of Act in relation to molasses to be in addition to, and not in derogation of, Bom. XXXVIII of 1956.**

[4][**63.** The provisions of this Act in relation to molasses shall be in addition to, and not in derogation of, the provisions of the Bombay Molasses (Control) Act, 1956 or of any rule or order made thereunder.]

Bom. XXXVIII of 1956.

**64.** [*Power of State Government to direct holder of stock of molasses to sell them at fixed price to any officer, person or class of persons.*] *Deleted by Bom. 26 of 1952, s. 30.*

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## CHAPTER VII.

### OFFENCES AND PENALTIES.

**Penalty for illegal import, etc., of intoxicant or hemp.**

**65.** Whoever, in contarvention of the provisions of this Act, or of any rule, regulation or order made or of any licence, pass, permit or authorization granted thereunder—

(*a*) imports or exports any intoxicant [5][(other than opium)] or hemp,

(*b*) manufactures any intoxicant [5][(other than opium)],

(*c*) constructs or works any distillery or brewery,

(*d*) bottles liquor,

(*e*) sells or buys any intoxicant [5][(other than opium)] or hemp, or

(*f*) uses, keeps or has in his possession any materials, still, utensils, implements or apparatus for the purpose of manufacturing any intoxicant [6][(other than opium)],

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were inserted by Bom. 26 of 1952, s. 29.
[3] These brackets and words were inserted by Bom. 22 of 1960, s. 47.
[4] This section was inserted, *ibid.*, s. 48.
[5] These brackets and words were inserted, *ibid.*, s. 49(*a*).
[6] These brackets and words were substituted for the brackets and words "(other than toddy)" *ibid.*, s. 49 (*b*).

[1][(*g*) cultivates or collects hemp,]

[2][shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three years and also with fine :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court,—

(*i*) for a first offence, such imprisonment shall not be less than six months, and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, such imprisonment shall not be less than nine months, and fine shall not be less than one thousand rupees ;

(*iii*) for a third or subsequent offences, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.]

Penalty for illegal cultivation and collection of hemp and other matters.

66. [3][(*1*)] Whoever in contravention of the provisions of this Act, or of any rule, regulation or order made, or of any licence, permit, pass or authorization issued, thereunder—

[4]* * * * * *

(*b*) consumes, uses, possesses or transports any intoxicant [5][(other than opium)] or hemp,

(*c*) taps or permits to be tapped any toddy producing tree,

(*d*) draws or permits to be drawn toddy from any tree,

shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees ;

(*iii*) for a third or subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees.

[6][(*2*) Subject to the provisions of sub-section (*3*), where in any trial of an offence under clause (*b*) of sub-section (*1*) for the consumption of an intoxicant, it is alleged that the accused person consumed liquor, and it is proved that the concentration of alcohol in the blood of the accused person is [7][not less than 0·05 per cent. weight in volume] then the burden of proving that the liquor consumed was a medicinal or toilet preparation, or an antiseptic preparation or solution, or a flavouring extract essence or syrup, containing alcohol, the consumption of which is not in contravention of the Act or any rules, regulations or orders made thereunder, shall be upon the accused person, and the Court shall in the absence of such proof presume the contrary.

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[1] This clause was inserted by Bom. of 961, s. 49 (*c*).

[2] This portion was substituted for the portion beginning with the words "shall on conviction be punished" to the end of the section, *ibid.*, s. 9 (*a*).

[3] Section 66 was renumbered as sub-section (*1*) by Bom. 12 of 1959, s. 9.

[4] Clause (*a*) was deleted by Bom. 22 of 1960, s. 50 (*a*)(*i*).

[5] These brackets and words were inserted, *ibid.*, s. 50 (*a*)(*ii*).

[6] Sub-sections (*2*) and (*3*) were added by Bom. 12 of 1959, s. 9.

[7] These words and figures were substituted and shall be deemed always to have been substituted for the words and figures "not less than 0·05 per cent." by Bom. 22 of 1960, s. 50 (*b*).

(*3*) The provisions of sub-section (*2*) shall not apply to the consumption of any liquor—

(*a*) by in-door patients during the period they are being treated in any hospital, convalescent home, nursing home, or dispensary, maintained or supported by Government or a local authority, or by charity, or

(*b*) by such other persons, in such other institutions, or in such circumstances as may be prescribed.]

Penalty for illegal import, etc., of opium.

[1][66A. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made thereunder or of any licence, pass, permit or authorisation granted by or under this Act, imports, exports, transports, consumes, uses, possesses, sells or buys, opium shall, on conviction, be punished, for each such offence with imprisonment for a term which may extend to three years and also with fine :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court,—

(*i*) for a first offence, such imprisonment shall not be less than six months, and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, such imprisonment shall not be less than nine months, and fine shall not be less than one thousand rupees ;

(*iii*) for a third or subsequent offences, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.]

Penalty for alteration or attempting to alter denatured spirit.

67. [2][(*1*)] Whoever in contravention of section 21 alters or attempts to alter any denatured spirit or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

[3][(*2*) In prosecutions under this section, it shall be presumed, until the contrary is proved, that the alteration or attempt to alter any denatured spirit was done with the intention that such spirit may be used for human consumption as an intoxicating liquor.]

Penalty for alteration or attempting to alter denatured spirituous preparation.

[4][67-1A. [5][(*1*)] Whoever in contravention of section 21A alters or attempts to alter any denatured spirituous preparation or has in his possession any such preparation in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.]

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[1] This section was inserted by Bom. 22 of 1960, s. 51.
[2] Section 67 was renumbered as sub-section (*1*), *ibid.*, s. 52.
[3] This sub-section was added, *ibid.*
[4] Section 67-1A was inserted by Bom. 36 of 1954, s. 10.
[5] Section 67-1A was renumbered as sub-section (*1*) by Bom. 22 of 1960, s. 53.

[1][(2) In prosecutions under this section, it shall be presumed, until the contrary is proved, that the alteration or attempt to alter any denatured spirituous preparation was done with the intention that it may be used for human consumption as an intoxicating liquor.]

Penalty for contravention of provision regarding prescriptions.

[2][67-1B. Whoever—

(*a*) not being a registered medical practitioner issues a prescription for intoxicating liquor, or

(*b*) being a registered medical practitioner,—

(*i*) prescribes intoxicating liquor in contravention of the provisions of sub-section (*2*) of section 22A, or

(*ii*) fails, without reasonable excuse, to state in the prescription for intoxicating liquor the particulars required by that section to be stated therein, or

(*iii*) fails to preserve such prescription, or a copy thereof, for the period for which it is required by that section to be preserved,

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

Penalty for manufacturing [12][articles mentioned in section 24A] in contravention of the provisions of section 59A.

[3][67A. (*1*) Whoever in contravention of the [4][provisions of section 59AA or, as the case may be, of section 59A]—

[5][(*1a*) manufactures, imports or exports any article mentioned in section 24A, or]

(*a*) sells, uses or disposes of any liquor otherwise than as an ingredient of any [6][article mentioned in section 24A], or

(*b*) uses more alcohol [7][in the manufacture of any of the articles mentioned in section 24A] than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of such [8][article], or

(*c*) knowingly sells [9][any such article] for being used as an intoxicating drink, or sells any such article under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose,

shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

(*2*) No person who has been convicted for any offence under this section or has paid any sum of money under section 104 [10][by way of composition] for such offence shall be entitled to manufacture, import or to sell any [11][article mentioned in section 24A] for a period of one year from the date of such conviction or payment, and

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[1] This sub-section was added by Bom. 22 of 1960, s. 53.

[2] This section was inserted *ibid.*, s. 54.

[3] Sections 67A and 67B were inserted by Bom. 26 of 1952, s. 31.

[4] These words, figures and letters were substituted for the words, figures and letters "provisions of section 59A" by Bom. 22 of 1960, s. 55(*a*)(*i*).

[5] Clause (*1a*) was inserted *ibid*, s. 55(*a*)(*ii*).

[6] These words were substituted for the words "medicinal or toilet preparation" by Bom. 36 of 1954, s. 11 (*i*) (*a*).

[7] These words, figures and letter were substituted for the words "in the manufacture of such article which may be used as intoxicating liquor" by Bom. 22 of 1960, s. 55 (*a*) (*iii*).

[8] This word was substituted for the word "preparation" by Bom. 36 of 1954, s. 11 (*i*) (*b*).

[9] These words were substituted for the words, figures and letter "any article to which section 24A applies", *ibid.*, s. 11 (*i*) (*c*).

[10] These words were inserted by Bom. 22 of 1960, s. 55 (*b*).

[11] These words were substituted for the words, figures and letter "preparation to which section 24A applies" by Bom. 36 of 1954, s. 11 (*ii*) (*a*).

[12] These words were substituted for the words "medicinal or toilet preparations", *ibid.*, s. 11 (*iii*).

any person who imports, manufactures or sells any [1][such article] in contravention of this sub-section shall be liable to the same punishment as is provided for an offence punishable under section 65.

**67B.** [2][(*1*)] If the manufacturer of any of the articles mentioned in section 24A fails to show to the satisfaction of the [3][Commissioner] that the article corresponds to the description and limitations provided in section 59A, his licence for the purchase, use or possession of liquor or alcohol for the manufacture of such article shall be revoked. [5][Penalty for failure to satisfy the [Commissioner] under sub-section (*1*), or to comply with a requisition under sub-section (2) of section 59-B.]

[4][(*2*) Any person who fails to comply with any requisition made by the [3][Commissioner] under sub-section (*2*) of section 59B, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.] ]

[6][**67C.** Whoever,— Penalty for possessing, etc., denatured spirituous preparations in contravention of provisions of sections 59C and 59D.

(*a*) in contravention of the provisions of section 59C, possesses, without a permit, any denatured spirituous preparation in excess of the quantity prescribed under that section, or

(*b*) in contravention of the provisions of section 59D, manufactures, sells, bottles for sale or imports, exports or transports, any denatured spirituous preparation, or

(*c*) drinks any denatured spirituous preparation,

shall, on conviction, be punished—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees ;

(*iii*) for a third or subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees.]

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[1] These words were substituted for the words " such preparation " by Bom. 36 of 1954, s. 11(*ii*)(*b*).
[2] The original section 67B was re-numbered as sub-section (*1*) of that section by Bom. 20 of 1955, s. 6(*1*).
[3] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.
[4] Sub-section (*2*) was added by Bom. 20 of 1956, s. 6(*1*).
[5] This marginal note was substituted for the original *ibid.*, s. 6(*2*).
[6] This section was inserted by Bom. 22 of 1960, s. 56.

Penalty for opening, etc., of common drinking house.

68. Whoever—

(*a*) opens, keeps or uses any place as a common drinking house; or

(*b*) has the care, management or control of, or in any manner assists in conducting the business, of any place opened, kept or used as a common drinking house,

[1][shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three years and also with fine:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court,

(*i*) for a first offence, such imprisonment shall not be less than six months, and fine shall not be less than five hundred rupees;

(*ii*) for a second offence, such imprisonment shall not be less than nine months, and fine shall not be less than one thousand rupees;

(*iii*) for a third or subsequent offences, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.]

Penalty for illegal import, etc., of mhowra flowers.

69. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or licence, permit or pass granted thereunder, imports, exports, [2][collects], transports, sells, [3][buys] or has in his possession mhowra flowers shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees:

Provided further that no person shall be punished in respect of any mhowra flowers which are either growing on a tree or are lying uncollected on the ground as they have fallen from a tree.

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[1] This portion was substituted for the original by Bom. 22 of 1960, s. 57.

[2] This word was inserted by Bom. 26 of 1952, s. 32.

Penalty for illegal import of molasses.

**70.** Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or of any licence or permit granted thereunder, exports, imports, transports, sells or has in his possession molasses shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

**71.** [*Penalty for selling molasses at price exceeding fixed price.*] *Deleted by Bom. 26 of 1952, s. 33.*

Penalty for removal of intoxicant, etc.

[1][72. Whoever, in contravention of the provisions of this Act or of any rule, regulation or order made, or pass granted, thereunder, removes any intoxicant, hemp, mhowra flowers or molasses from any distillery, warehouse, godown or other place of storage established or licensed under this Act shall, on conviction be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.]

Penalty for printing or publishing advertisement in contravention of provisions of Act, etc.

**73.** Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made thereunder, prints, or publishes in any newspapers, news-sheet, book, leaflet, booklet or any single or periodical publication or otherwise displays or distributes any advertisement or other matter—

(*a*) which [2]*solicits the use of or officers any intoxicant or hemp, 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, regulation or order made thereunder or of the conditions of a licence, permit, pass or authorization granted thereunder—

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty for circulating, etc., newspapers etc. containing advertisements regarding intoxicants, etc.

**74.** Whoever, in contravention of a notification issued under sub-section (*3*) of section 24, circulates, distributes or sells any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the [3][State] which contains any advertisement or matter,—

(*a*) which [4]*solicits the use of or offers any intoxicant or hemp, [5][or]

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

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for inciting or encouraging certain acts

**75.** Whoever, in contravention of the provisions of this Act or any rule, regulation or order made thereunder,—

(*a*) [6]*solicits the use of or offers any intoxicant or hemp, or

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[1] This section was substituted for the original by Bom. 22 of 1960, s. 58.

[2] The word "commends" was deleted by Bom. 26 of 1952, s. 34.

[3] This word was substituted for the words "pre-Reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s. 3.

[4] The word "commends" was d leted by Bom. 26 of 1952, s. 35 (*1*).

[5] This word was inserted, *ibid.*, s. 35 (*2*).

[6] The word "commends" was deleted, *ibid.*, s. 36 (*1*).

[7] The words "frustrating provisions of this Act" were deleted, *ibid.*, s. 36 (*3*).

[1]* * * * * * * *

(*c*) does any act which is calculated to incite or encourage any individual or a class of individuals or the public generally to commit an offence under this Act or to commit a breach of any rule, regulation or order made or of conditions of a licence, permit, pass or authorization granted thereunder,

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for contravention of provisions of section 43.

[2][75A. Whoever in contravention of the provisions of section 43,—

(*a*) drinks in a public place or in the rooms of a hotel or institution to which the public may have access,

(*b*) allows the use or consumption of any quantity of foreign liquor possessed by him to any other person,

(*c*) serves liquor at any ceremonial or other function or any assembly of persons where persons (not being members of his family or his employees) not holding permits under section 40, 41, 46, 46A or 47 are present,

shall, on conviction, be punished for every such offence with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

Penalty for neglect to keep measures, etc.

**76.** Whoever in contravention of the provisions of this Act, rule or regulation or order or condition of any licence, permit or pass granted under this Act,—

(*a*) neglects to supply himself with measures and weights for measuring and weighing any intoxicant or hemp or with instruments for testing the strength of liquor or keep the same in good condition, or

(*b*) refuses to measure, weigh, or test any intoxicant or hemp in his possession [3][or to have it weighed, measured or tested],

shall, on conviction, be punished for each such offence with fine which may extend to two hundred rupees.

Penalty for misconduct by licensee etc.

**77.** Whoever, being the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(*a*) fails to produce licence, permit, pass or authorization on demand by a Prohibition Officer or any other officer duly empowered if such licence, permit, pass or authorization is in his possession or control, or

(*b*) wilfully does or omits to do anything in contravention of any rule, regulation or order made under this Act, or

[4]* * * * * * * *

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[1] Clause (*b*) was deleted by Bom. 26 of 1952, s. 36 (2).
[2] This section was inserted by Bom. 22 of 1960, s. 59.
[3] Those words were added, *ibid*, s. 60.
[4] Clause (*c*) was deleted, *ibid.*, s. 61 (*a*).

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to [1][six] months, or with fine which may extend to [2][five hundred] rupees or with both.

**Penalty for misconduct by licensed vendor or manufacturer.**

78. Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(*a*) mixes or permits to be mixed with the said intoxicant any noxious drug or any foreign ingredient likely to add to the actual or apparent intoxicating quality or strength or any article prohibited by any rule made under this Act or water except for the purpose of reducing liquor to the strength prescribed in the licence, or any diluting or colouring substance or any ingredient whatsoever likely to render the intoxicant inferior in quality whether such ingredient is or is not prohibited as aforesaid, when such admixture shall not amount to the offence of adulteration under section 272, of the Indian Penal Code, or XLV of 1860.

(*b*) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor, or

(*c*) marks the cork of any bottle, or any bottle case, package or other receptacle containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to an offence of using a false trade mark with intent to deceive or injure any person under section 482 of the Indian Penal Code, or XLV of 1860.

(*d*) sells or exposes for sale, any country liquor in a bottle, case or package or other receptacle, with any mark thereon, or on the cork thereof with the intention of causing it to be believed, that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the Indian Penal Code, or XLV of 1860.

(*e*) sells any intoxicant which is not of the nature, substance and quality demanded by the purchaser or keeps or exposes for sale any intoxicant which is not of the nature, substance and quality authorised by the terms of the licence to be kept for sale by the holder of the licence,

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees.

**Liability of licensee for acts of servants.**

79. The holder of a licence, permit, pass or authorisation granted under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting with his express or implied permission on his behalf under the provisions of this Act as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

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[1] This word was substituted for the word "three" by Bom. 22 of 1960, s. 61 (*b*).
[2] These words were substituted for the words "two hundred", *ibid.*

Import, export, etc., of intoxicant by any person on account of another.

**80.** (*1*) Whenever any intoxicant, hemp, mhowra flowers or molasses are manufactured, imported, exported, transported, sold, or are possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture, import, export, transport, sale or possession is, on his account, the intoxicant, hemp, mhowra flowers or molasses, as the case may be, shall, for the purposes of this Act, be deemed to have been manufactured, imported, exported, transported or sold by or to be in possession of, such other person.

(*2*) Nothing in sub-section (*1*) shall absolve any person from liability to any punishment under this Act for the unlawful manufacture, import, export, transport, sale or possession of such articles.

Penalty for attempts or abetment.

**81.** Whoever attempts to commit or abets the commission of an offence under this Act shall, on conviction, be punished for such attempt or abetment with the same punishment as is provided for the principal offence.

Breach of licence, permit, etc. to be an offence.

**82.** (*1*) In the event of any breach by the holder of any licence, permit, pass or authorisation granted under this Act or by his servants or by any person acting with his express or implied permission on his behalf of any of the terms or conditions of such licence, permit, pass or authorisation such holder shall, in addition to the cancellation or suspension of the licence, permit, pass or authorisation granted to him be punished, on conviction, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, unless it is proved that all due and reasonable precautions were exercised by him to prevent any such breach.

(*2*) Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, permit, pass or authorisation be liable to the same punishment.

Penalty for conspiracy.

**83.** When two or more persons agree—

(*a*) to commit or cause to be committed any offence under this Act, or

(*b*) [1]* * * to commit a breach of a condition of a licence, permit, pass or authorization,

each of such persons shall, on conviction, be punished with imprisonment for a period which may extend to two years or with fine which may extend to one thousand rupees or with both.

Penalty for being found drunk in any drinking house.

**84.** Whoever is found drunk or drinking in a common drinking house or is found there present for the purpose of drinking shall, on conviction, be punished with fine which may extend to five hundred rupees. Any person found in a common drinking house during any drinking therein shall be presumed, until the contrary is proved, to have been there for the purpose of drinking.

Penalty for being drunk and for disorderly behaviour.

**85.** [2][(*1*) Whoever in any street or thoroughfare or public place or in any place to which the public have or are permitted to have access, behaves in a disorderly manner under the influence of drink, shall, on conviction, be punished,—

(*a*) for a first offence, with rigorous imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees; and

[1] The words " to defeat or frustrate the provisions of this Act, rules, regulation or order, or " were deleted by Bom. 26 of 1952, s. 27.

[2] Sub-section (*1*) was substituted by Mah. 33 of 1972, s. 2.

(*b*) for a subsequent offence, with rigorous imprisonment for a term which may extend to one year and also with a fine of one thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees.]

[1][(*2*) In prosecution for an offence under sub-section (*1*), it shall be presumed until the contrary is proved that the person accused of the said offence has drunk liquor or consumed any other intoxicant for the purpose of being intoxicated and not for a medicinal purpose.]

Penalty for allowing any premises to be used for purpose of committing an offence under Act.

**86.** (*1*) Whoever, being the owner or occupier, or having the use or care or management or control of any place, knowingly permits it to be used for the purpose of the commission by any other person of any offence punishable under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

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[1] Sub-section (*2*) was added by Bom. 26 of 1952, s. 88.

(2) ... shall be presumed until the contrary is proved, that a person accused of an offence under sub-section (1) has committed such offence if the offence committed by that other person is proved to have been committed in the premises in his immediate possession.

Penalty for chemist, druggist or apothecary for allowing his premises to be used for purpose of consumption ofliquor.

87. A chemist, druggist, apothecary or keeper of a dispensary who allows any liquor, which has not been *bona fide* medicated for medicinal purposes according to the prescription of a [1][registered medical practitioner] or any intoxicating drug to be consumed on his business premises by any person, shall on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for issuing false prescriptions.

88. If a [1][registered medical practitioner] issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the purpose of consuming liquor, intoxicating drug or opium in contravention of the provisions of this Act, or rule, regulation or order made thereunder or any licence, permit, pass or authorization granted under this Act, he, shall on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for maliciously giving false information.

89. Any person who maliciously and falsely gives information to any person exercising powers under this Act leading to a search, seizure, detention or arrest shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for offences not otherwise provided for.

90. Whoever is guilty of any wilful act or intentional omission in contravention of the provisions of this Act, or any rule, regulation, or order thereunder or of any licence, permit, pass or authorization granted under this Act, and if such act or omission is not otherwise made an offence under this Act shall, on conviction, be punished with the imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Demand for security for abstaining from commission of certain offences.

91. (1) Whenever any person is convicted of an offence punishable under this Act, the court convicting such person, may, at the time of passing the sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties to abstain from the commission of offences punishable under the provisions of this Act during such period not exeeding three years as it may direct.

V of 1898.

(2) The bond shall be in such form as may be provided under the provisions of the Code of Criminal Procedure, 1898, and the provisions of the said Code shall in so far as they are applicable apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

(3) If the conviction is set aside in appeal the bond so executed shall become void.

92. [*Release of offenders on bond.*] *Deleted by Bom. 67 of 1953, s. 2.*

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[1] These words were substituted for the words " medical practitioner " by Bom. 12 of 1959, s. 10.

Demand of security for good behaviour.

**93.** (*1*) Whenever a [1][Presidency Magistrate specially empowered by the State Government in this behalf in Greater Bombay, and elsewhere, a District Magistrate or Sub-Divisional Magistrate] receive information that any person within the local limits of his jurisdiction habitually commits or attempts to commit or abets the commission of an offence punishable under this Act such magistrate may require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the Magistrate may direct.

(*2*) The provisions of the Code of Criminal Procedure, 1898, shall in so far as they are applicable apply to any proceedings under sub-section (*1*) as if the bond referred to therein were a bond required to be executed under section 110 of the said Code. V of 1898.

Execution of bonds in respect of minors.

**94.** If any person in respect of whom a bond is ordered to be executed under [2][sections 91 and 93] is a minor, the bond shall be executed by his guardian.

Punishment for vexatious search, seizure or arrest.

**95.** Any officer or person exercising powers under this Act who—

(*a*) maliciously enters or searches or causes to be entered or searched, any building or house or similar dwelling place ; or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ; or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person ; or

(*d*) in any other way maliciously exceeds or abuses his lawful powers,

shall on conviction be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Punishment for vexatious delay.

[3][**96.** Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to a Magistrate or to the officer-in-charge of the nearest police station as required by the provisions of this Act any person arrested or article seized under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.]

Punishment for abetment for escape of persons arrested.

**97.** Any officer or person exercising power under this Act, who—

(*a*) unlawfully releases any person arrested under this Act, or

(*b*) abets the escape of any person arrested under this Act, or

(*c*) abets the commission of any offence against this Act, and

any other officer of the [4][Government] or of a local authority who abets the commission of any offence against this Act,

shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

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[1] These words were substituted for the original by Bom. 21 of 1954, s. 3, Second Schedule.

[2] These words were substituted for the words "the last three preceding sections" by Bom. 67 of 1953, s. 3.

[3] This section was substituted for the original by Bom. 22 of 1960, s. 62.

[4] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

Things liable to confiscation.

**98.** (*1*) Whenever any offence punishable under this Act has been committed,

(*a*) any intoxicant, hemp, mhowra flowers, molasses, materials, still, utensil, implement or apparatus in respect of which the offence has been committed,

(*b*) where in the case of an offence involving illegal possession, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses other than those in respect of which an offence under this Act has been committed, the entire stock of such intoxicant, hemp, mhowra flowers or molasses,

(*c*) where, in the case of an offence of illegal import, export or transport, the offender has attempted to import, export or transport any intoxicant, hemp, mhowra flowers or molasses, in contravention of the provisions of this Act, rule, regulation or order or in breach of a condition of a licence, permit, pass or authorization, the whole quantity of such intoxicant, hemp, mhowra flowers or molasses which he has attempted to import, export or transport,

(*d*) where in the case of an offence of illegal sale, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses other than that in respect of which an offence has been committed, the whole of such other intoxicant, hemp, mhowra flowers or molasses,

shall be confiscated by the order of the Court.

(*2*) Any receptacle, package or covering in which any of the articles liable to confiscation under sub-section (*1*) is found and the other contents of such receptacle, package or covering and the animals, carts, vessels or other conveyances used in carrying any such article shall like-wise be liable to confiscation by the order of the Court.

Return of things liable to confiscation to *bona fide* owners.

**99.** When during the trial of a case for an offence under this Act the court decides that anything is liable to confiscation under the foregoing section, the court may, after hearing the person, if any, claiming any right thereto and the evidence if any, which he produces in support of his claim, order confiscation, or in the case of any article other than an intoxicant, hemp, mhowra flowers or molasses give the owner an option to pay fine as the court deems fit in lieu of confiscation :

Provided that no animals, cart, vessel, vehicle or other conveyance shall be confiscated if the owner thereof satisfies the court that he had exercised due care in preventing the commission of the offence.

Procedure in confiscation.

**100.** When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act is found or seized, the [1][Commissioner], Collector or any other officer authorised by the [2][State] Government in this behalf may make an inquiry and if after such inquiry is satisfied that an offence has been committed, may order the thing found to be confiscated :

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[1] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Provided that no such order shall be made before the expiry of one month from the date of seizure, or without hearing [1][the person, if any, claiming any right thereto] and the evidence, if any, which he produces in support of his claim.

Power of Collector, etc. to order sale or destruction of articles liable to confiscation.

**101.** If the thing in question is liable to speedy and natural decay, or if the [2][Commissioner], Collector, [3][Court] or the officer authorized by the [4][State] Government in this behalf is of opinion that the sale would be for the benefit of the owner, the [2][Commissioner], Collector, [3][Court] or the officer may at any time direct it to be sold and the provisions of section 99 or 100 shall apply so far as may be to the net proceeds of the sale:

[5][Provided that, where anything is liable to speedy and natural decay, or is of trifling value, the Court or the officer concerned may order such thing to be destroyed, if in its or his opinion such order is expedient in the circumstances of the case.]

Forfeiture of any publication containing advertisement or matter [soliciting] use of intoxicants.

**102.** (*1*) Where any newspaper, news-sheet, book, leaflet, booklet or other publication wherever printed or published appears to the [4][State] Government to contain any advertisement or matter [6] * soliciting the use of, or offering any intoxicant or hemp, the [4][State] Government may, by notification in the *Official Gazette*, declare every copy of such newspaper, news-sheet, book, leaflet, booklet or other publication whether printed or published in the [7][State] or outside to be forfeited to [8][the State Government], and thereupon any Police Officer may seize the same wherever found in the [State]. Any Magistrate may by warrant authorize 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 newspaper, news-sheet, 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.

(*2*) The declaration of the [4][State] Government under this section shall be final and shall not be questioned in any Civil or Criminal Court.

Presumption as to commission of offences in certain cases.

**103.** (*1*) In prosecutions under any of the provisions of this Act, it shall be presumed without further evidence, until the contrary is proved, that the accused person has committed an offence under this Act in respect of any intoxicant, hemp, mhowra flowers or molasses or any still, utensil, implement or apparatus, whatsoever for the manufacturer of any intoxicant [10]* * * * * [11][or any materials which have undergone any process towards the manufacture of any intoxicant or from which an intoxicant has been manufactured,] for the possession of which he is unable to account satisfactorily.

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[1] These words were substituted for the words " any person who can claim any right thereto " by Bom. 22 of 1960, s. 63.

[2] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.

[3] This word was substituted for the word " Magistrate " by Bom. 21 of 1954, s. 3, Second Schedule.

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] This proviso was substituted for the original by Bom. 22 of 1960, s. 64.

[6] The word " commending" was deleted by Bom. 26 of 1952, s. 39.

[7] This word was substituted for the words " pre-Reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s. 3.

[8] These words were substituted for the words " His Majesty" by the Adaptation of Laws Order, 1950.

[9] This word was substituted for the word " commending " by Bom. 26 of 1952, s. 39.

[10] The words " as are ordinarily used in the manufacture of such intoxicant " were deleted by Bom. 22 of 1960, s 65 (*a*).

[11] These words were inserted by Bom. 20 of 1955, s. 8.

[1]* * * * * * * *

**103A.** [*Report of certain registered medical officers as evidence.*] *Deleted by Bom. 12 of 1959, s. 12.*

Compounding of offences.

**104.** (*1*) The [2][State] Government may sanction the acceptance from any person whose licence, permit, pass or authorization is liable to be cancelled or suspended under the provisions of this Act or who is reasonably suspected of having committed an offence under section [3][69, 70, 77, 82 or] 108, of a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be ; and in all cases in which any property other than the intoxicant, hemp, mhowra flowers or molasses has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by the [2][State] Government or such officer as the [2][State] Government may authorize in this behalf :

Provided that where a person who is reasonably suspected of having committed an offence under section [3][69, 70 or] 108 is not the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or a person acting with his express or implied permission on his behalf, the sum of money which may be accepted from such person by way of composition shall not exceed five hundred rupees.

[4][Provided further that, in the case of a person who is reasonably suspected of having committed an offence under section 108, the sum of money which may be accepted from him by way of composition for the offence shall be in addition to the duty or fee required to be paid by him under this Act.]

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

Bombay Probation of Offenders Act, 1938, and section 562 Code of Criminal Procedure, 1898, not to apply to persons convicted of offence under this Act.

Bom. XIX of 1938, XX of 1958. V of 1898.

[5][104A. Nothing in the Bombay Probation of Offenders Act, 1938, or [6][in any law corresponding to that Act in force in any part of the State or in the Probation of Offenders Act, 1958, where that Act is brought into force in any part of the State or in] section 562 of the Code of Criminal Procedure, 1898, shall apply to any person convicted of any offence under this Act.]

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[1] Sub-section (2) was deleted by Bom. 22 of 1960, s. 65 (*b*).
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] These figures and word were inserted by Bom. 26 of 1952, s. 40.
[4] This proviso was added by Bom. 22 of 1960, s. 66.
[5] Section 104A was inserted by Bom. 67 of 1953, s. 4.
[6] These words and figures were inserted by Bom. 12 of 1959, s. 13.

## CHAPTER VIII.

### EXCISE DUTIES.

Excise duties.

**105.** [1][(*1*)] An excise duty or countervailing duty, as the case may be, at such rate or rates as the [2][State] Government shall direct may be imposed either generally or for any specified local area on—

(*a*) any alcoholic liquor for human consumption,

(*b*) any intoxicating drug [3][or hemp],

[4][(*c*) opium,]

(*d*) any other excisable article,

when imported, exported, transported, possessed, manufactured or sold [5][in or from the [6][State], as the case may be]:

Provided that duty shall not be so imposed on any article which has been imported into [7][the territory of India] and was liable on such importation to duty under the Indian Tariff Act, 1934, or the Sea Customs Act, 1878 [8][or on any medicinal or toilet preparation containing alcohol, opium, hemp or other narcotic drugs or narcotics.] XXXII of 1934. VIII of 1878.

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[1] Section 105 was renumbered as sub-section (*1*) by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Provincial", *ibid.*
[3] These words were added by Bom 22 of 1960, s. 67(*a*).
[4] This clause was substituted for the original *ibid.*, s. 67(*b*).
[5] These words were substituted for the words and figures "in accordance with the provisions contained in Chapter IV of this Act" by Bom 26 of 1952, s. 41.
[6] This word was substituted for the words "pre-Reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s. 3.
[7] These words were substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.
[8] These words were added by Bom. 22 of 1960, s. 67(*c*).

*Explanation.*—Duty may be imposed under this section at different rates according to the places to which an excisable article is to be removed for consumption or according to varying strengths or quality of such article.

[1]* * * * * *

Manners of levying excise duties.

106. Subject to any regulations to regulate the time, place and manner of payment made by the [2][Commissioner] in this behalf, the duties referred to in section 105 may be levied in one or more of the following ways :—

(*a*) in the case of an excisable article imported—

(*i*) by payment either in the [3][State] at the time of its import or in the [4][State] or territory of export at the time of its export, or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(*b*) in the case of an excisable article exported by payment in the [3][State] at the time of its export, or in the [4][State] or territory of import ;

(*c*) in the case of excisable articles transported—

(*i*) by payment in the district from which they are transported, or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(*d*) in the case of spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Act—

(*i*) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued from a warehouse established or licensed under this Act, or

(*ii*) by a rate charged in accordance with such [5][scale of equivalents] calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the [6][State] Government may prescribe ;

(*e*) in the case of intoxicating drugs manufactured [7][in the [3][State]] by payment upon the quantity produced or manufactured or issued from a warehouse established or licensed under this Act :

Provided that where payment is made upon issue for sale from a warehouse established or licensed under this Act, such payment shall be at the rate of the duty in force at the date of issue from the warehouse :

Provided further that where one and the same person is permitted—

(*i*) to manufacture or import and to sell, or

(*ii*) to manufacture and export,

country liquor or any intoxicant, such duty may be levied in consideration of the joint privileges granted, as the Collector deems fit.

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[1] Sub-section (2) was deleted by Bom. 12 of 1959 ,. s. 14.
[2] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3 Sch.
[3] This word was substituted for the words " pre-Reorganisation State of Bombay, excluding the transferred territories " by Bom. 12 of 1959, s. 15.
[4] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[5] These words were substituted for the words " sale of equivalents " by Bom. 22 of 1960. s. 68.
[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[7] These words were substituted for the words " in pursuance of a licence granted under this Act " by Bom. 26 of 1952, s. 42.

107. [*Power to exempt, remit or refund excise duty.*] *Deleted by Bom. 22 of 1960, s. 69.*

Declaration of stock of articles mentioned in section 24A; maintenance of accounts and submission of returns.

[1][107A. Every person who imports or manufactures any of the articles mentioned in section 24A shall—

(*a*) submit to the Collector within such period and in such form, as may be prescribed, a declaration of the quantity of such article in his possession on the importation or manufacture of the said article, as the case may be ;

(*b*) maintain accounts of the articles in such form and submit such returns as may be prescribed.

Power to obtain information and to search and seize excisable articles.

107B. (*1*) The Collector or any officer empowered by the State Government in this behalf may, subject to such conditions as may be prescribed,—

(*a*) by order require any person liable to pay any excise duty or fee under this Chapter to furnish him with any information or to produce before him any accounts or other documents concerning any excisable article as may be necessary, for the purposes of this Chapter ;

(*b*) inspect at all reasonable hours the accounts or other documents relating to the stocks of any excisable article imported or manufactured or stored in respect of which such duty or fee has been paid or is payable and any place where such article is manufactured or stored ;

(*c*) for reasons to be recorded in writing, enter any such place where he knows or has reason to believe that any excisable article in respect of which such duty or fee has not been paid is being imported or manufactured or stored and search for the same and seize any stocks of such article found therein and detain the same until such time as proof of payment of such duty or fee is produced or such further time as may be necessary for taking action under section 98, 99 or 100 or for prosecuting for an offence under section 108.

(*2*) Whoever—

(*a*) fails to furnish any information or produce any accounts or other documents in compliance with an order made under clause (*a*) of sub-section (*1*), or [2][furnishes false information or produces false accounts or documents, or]

(*b*) obstructs any officer making an inspection, entry, a search or a seizure under clause (*b*) or clause (*c*) of sub-section (*1*),

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

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[1] Sections 107A and 107B were inserted by Bom. 26 of 1952, s. 44.

[2] These words were added by Bom. 22 of 1960, s. 70.

**108.** Whoever imports, exports, transports, possesses, [1][sells] or manufactures any intoxicant or hemp without the payment of duty or fee provided for under this Act shall, on conviction, [2][in addition to being required to pay such duty or fee be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or the amount of such duty or fee, whichever is greater, or with both.] Penalty for import of intoxicant, etc., without payment of duty.

**109.** (*1*) For every toddy producing tree [3][which is tapped or licensed to be tapped or in respect of which a licence for drawing toddy therefrom is granted] there shall, if the [4][State] Government so directs, be levied for any period during which such tree is tapped or licensed to be tapped, such duty as the [4][State] Government may from time to time direct. Duty on tapping of toddy trees.

(*2*) Every licence [5][for the tapping of, and drawing toddy from, toddy producing trees] granted under this Act shall specify in addition to any other particulars prescribed under the provisions of this Act or rules or regulations—

(*a*) the number, description and situation of the trees to be tapped.

(*b*) the amount of duty to be levied in respect of each tree,

(*c*) the instalments, if any, in which and the period at which the said duty shall be leviable.

**110.** The duty on toddy producing trees shall be leviable primarily from the person holding the licence [6][to tap them and to draw toddy therefrom] and in default by him or if the trees are tapped without licence, from the owner of the trees. Duty by whom payable.

**111.** When the duty on toddy producing trees is levied from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the licence under the provisions of the law for the time being in force relating to the recovery by superior holders of their dues from their tenants. Owner of trees entitled to assistance for duty paid.

**112.** The privilege of drawing toddy from trees the right to which vests in the [4][State] Government may be disposed of [7]* by auction or otherwise on such terms as the Collector deems fit. Privilege of drawing toddy from trees belonging to Government.

**113.** [*Rules for levy of duty on opium, etc.*] *Deleted by Bom. 22 of 1960, s. 74.*

[8][**114.** (*1*) All duties, taxes, fines (except fines imposed by a Court) and fees leviable under any of the provisions of this Act or in respect of any licence, permit, pass or authorisation granted under it, and the cost of the supervising staff appointed under section 58A, may be recovered from any person liable to pay the same or from his surety, if any, as if they were arrears of land revenue. Recovery of duties, etc.

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[1] This word was inserted by Bom. 26 of 1952, s. 45(*1*).
[2] This portion was substituted for the words beginning with the words "be liable to the same punishments" and ending with the words "of this Act" *ibid.*, s. 45(*2*).
[3] These words were substituted for the words "from which toddy is drawn" by Bom. 22 of 1960, s. 71(*a*).
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] These words were substituted for the words "for drawing toddy", by Bom. 22 of 1960, s. 71(*b*).
[6] These words were substituted for the words "to draw toddy" *ibid*, s. 72.
[7] The word "annually" was deleted, *ibid.*, s. 73.
[8] This section was substituted for the original, *ibid.*, s. 75.

(*2*) When any person, in compliance with any rule, regulation or order made under this Act, gives a bond (other than a bond under section 91 or 93) for the performance of an act, or for his abstention from any act, such performance or abstention shall be deemed to be a public duty within the meaning of section 74 of the Indian Contract Act, 1872 ; and upon breach of the conditions of such bond by him, the whole sum named therein as the amount to be paid in case of such breach may be recovered from him or from his surety (if any) as if it were an arrear of land revenue.] XI of 1872.

## CHAPTER IX.

### POWERS AND DUTIES OF OFFICERS AND PROCEDURE

Magistrate's power to impose enhanced penalties.

[1][115. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate or any Magistrate of the First Class to pass any sentence authorized by this Act in excess of his powers under section 32 of the said Code, provided that the fine shall not exceed three thousand rupees.] V of 1898.

Procedure to be followed by Magistrates.

**116.** In all trials for offences under this Act, the Magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1898, for the trial of summary cases in which an appeal lies. V of 1898.

Tender of pardon to accomplice.

[2][116A. (*1*) Whenever two or more persons are prosecuted for an offence under this Act, a Presidency Magistrate or any Magistrate of the First Class may, at any stage of the investigation or inquiry into or the trial of offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of all facts within his knowledge relative to the offence.

(*2*) Every Magistrate, who tenders a pardon under sub section (*1*), shall record his reasons for so doing.

(*3*) Every person, accepting a tender under this section, shall be examined as a witness in the Court of the Magistrate taking cognisance of the offence, and in the subsequent trial, if any.

(*4*) The provisions of sections 339 and 339-A of the Code of Criminal Procedure, 1898, shall apply to the trial of a person to whom pardon has been tendered under this section as they apply to a person to whom pardon has been tendered under section 337 or section 338 of that Code. V of 1898.

*Explanation.*—For the purposes of sub-section (*4*), the reference to the Public Prosecutor in section 339 of the said Code shall include a reference to any officer conducting a prosecution under this Act.]

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[1] This section was substituted for the original by Bom. 22 of 1960, s. 76.

[2] This section was inserted, *ibid.*, s. 77.

**117.** Save as otherwise expressly provided in this Act, all investigations, arrests, detentions in custody and searches shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898 : V of 1898. Investigations, arrests, searches, etc. how to be made.

Provided that [1]* * * * * no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the place searched is situated.

[2][**118.** In the absence of any provision to the contrary in this Act, the provisions of the Code of Criminal Procedure, 1898, with respect to cognizable offences shall apply to offences under this Act. V of 1898. Procedure of Code of Criminal Pocedure relating to cognizable offences to apply.

**119.** Offences under sections 65, 67, 67-1A and 68 shall be non-bailable.] Certain offences to be non-bailable.

[2][**120.** The [4][Commissioner], Collector or any Prohibition Officer duly empowered in this behalf by the State Government, or any Police Officer may— Power of entry and inspection.

(*a*) enter at any time by day or by night, any warehouse, godown, shop, premises, house, building, vessel, vehicle or enclosed place in which he has reason to believe that any intoxicant, hemp, mhowra flowers, molasses, material or article liable to confiscation under this Act is manufactured, kept or concealed or that any still, utensil, implement or apparatus is used, kept, or concealed for the purpose of manufacturing any intoxicant contrary to the provisions of this Act ;

(*b*) in case of resistance break open any door and remove any other obstacle to his entry into any such warehouse, godown, shop, premises, house, building, vessel, vehicle or enclosed place ;

(*c*) seize any intoxicant, hemp, mhowra flowers, or molasses and any material used in the manufacture of any intoxicant and any still, utensil, implement, or apparatus and any other thing which he has reason to believe to be liable to confication under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence under this Act ; and

(*d*) detain and search and if he thinks proper arrest any person whom he has reason to believe to be guilty of any offence under this Act.]

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[1] The words beginning with the words " in any local area " and ending with the words " State Government " were deleted by Bom. 26 of 1952, s. 46.

[2] These sections were substituted for the original by Bom. 22 of 1960, s. 78.

[3] This section was substituted for the original, *ibid.*, s. 79.

[4] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3. Sch.

Power to open packages, etc.

**121.** (*1*) Any Prohibition Officer duly empowered in this behalf by the [1][State] Government or any Police Officer may open any package and examine any goods and may [2][stop and search] for any intoxicant, hemp, mhowra flowers, or molasses any vessel, vehicle or other means of conveyance [3][and may seize any intoxicant, hemp, mhowra flowers, molasses or any other thing liable to confiscation or forfeiture under this Act or any other law for the time being in force relating to excise revenue found while making such search.]

(*2*) The unloading and carrying of goods, the bringing of them to the place appointed under sub-section (*3*) for examination, the opening and repacking of them, where such operations [4][are necessary for searches made] under this section and the removing of goods to and placing of them in the place appointed under sub-section (*3*) [5][for examination or deposit], shall be performed by or at the expense of the owner of such goods.

(*3*) The owner of goods or the persons in charge of the goods shall, if so required by any officer conducting the search, take the goods [6][to a place appointed in Greater Bombay by the Commissioner of Police, Bombay and elsewhere, by the District Magistrate] for the purpose of examination or deposit.

[7][(*4*) The expenses incurred by the State Government for any of the purposes mentioned in sub-section (*2*) may be recovered from the owner, or as the case may be, the person in-charge, of the goods as arrears of land revenue.]

Power to require production of licences.

[8][**122.** (*1*) The [9][Commissioner] or Collector or any Prohibition Officer duly empowered in this behalf by the State Government or any Police Officer may—

(*a*) require a licensed manufacturer or vendor or tapper or drawer of toddy or a person in the employ of such manufacturer or vendor or tapper or drawer of toddy or acting with his express or implied permission on his behalf to produce the licence, permit, pass or authorisation issued under this Act under which he carries on the manufacture, storage or sale of any intoxicant, hemp, mhowra flowers or molasses or taps toddy-producing trees or draws toddy therefrom ;

(*b*) enter and inspect, at any time by day or by night, any land on which toddy-producing trees are growing, whether such trees are licensed for tapping or not, and any warehouse, godown, shop or premises in which any licensed manufacturer or vendor manufactures, stores or sells any intoxicant, hemp, mhowra flowers or molasses and examine, test, measure or weigh any stock of any such articles or cause any such stock to be examined, tested, measured or weighed.

(*2*) If any officer mentioned in sub-section (*1*) finds that the holder of a licence, permit, pass or authorization issued under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf wilfully does or omits to do anything, which is an offence under this Act, such officer may seize any intoxicant, hemp, mhowra flowers or molasses or any material or article in respect of which the offence is committed and any document or other article which he has reason to believe may furnish evidence of the commission of an offence under this Act and send a report to his official superior for such action as he deems fit.]

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words "stop or search" by Bom. 22 of 1960, s. 80(*a*).
[3] These words were added by Bom. 26 of 1952, s. 47.
[4] These words were substituted for words "are necessary to be made" by Bom. 22 of 1960, s. 80(*b*)(*i*).
[5] These words were substituted for the words "for deposit" *ibid.*, s. 80 (*b*) (*ii*).
[6] These words were substituted for the words "to a place appointed by the District Magistrate, or the Commissioner of Police, Bombay," *ibid.*, s. 80(*c*).
[7] This sub-section was substituted for the original, *ibid.*, s. 80(*d*).
[8] This section was substituted for the original, *ibid.*, s. 81.
[9] This word was substituted for the word "Director" by Mah. 52 of 1973, s. 3, Sch.

Arrest of offenders and seizure of contraband articles.

**123.** (*1*) Any Prohibition Officer authorized by the [1][State] Government in his behalf or any Police Officer may—

(*a*) arrest without warrant any person whom he has reason to believe to be guilty of an offence under this Act;

(*b*) seize and detain any intoxicant, hemp, mhowra flowers or molasses or other articles which he has reason to believe to be liable to confiscation or forfeiture under this Act [2][and seize any document or other article which he has reason to believe may furnish evidence of the commission of an offence under this Act].

(*2*) Any Prohibition Officer authorized by the [1][State] Government under this section who arrests any person under sub-clause (*a*), or seizes and detains any article under sub-clause (*b*), of sub-section (*1*) shall forward such person or article, as the case may be, without unnecessary delay to the officer in charge of the nearest Police Station.

Power to obtain information.

**124.** (1) The [3][Commissioner] or Collector or any Prohibition Officer specially empowered in this behalf by the [1][State] Government or a Police Officer may, by order, require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp, mhowra flowers or molasses as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Power to seize intoxicants, etc.

**125.** The [3][Commissioner], Collector or any Prohibition Officer duly empowered in this behalf or any Police Officer may—

(*a*) seize in any open place, or in transit any intoxicant, hemp, mhowra flowers or molasses or any other thing which he has reason to believe to be liable to [4][confiscation or forfeiture] under this Act or any other law for the time being in force relating to excise revenue [5][and any document or other article which he has reason to believe may furnish evidence of the commission of an offence under this Act];

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this Act or any other law for the time being in force relating to excise revenue, and if such person has any intoxicant, hemp, mhowra flowers, molasses or [6][other thing] in his possession, arrest him.

Arrest without warrant.

**126.** The [3][Commissioner], Collector or any Prohibition Officer duly empowered in his behalf by the [1][State] Government or any Police Officer may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duties under this Act or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were added by Bom. 22 of 1960, s. 82.
[3] This word was substituted for the word "Director" by Mah. 52 of 1973, s. 3, Sch.
[4] These words were substituted for the word "confiscation" by Bom. 22 of 1960, s. 83(*a*).
[5] These words were added, *ibid.*, s. 83(*a*).
[6] These words were substituted for the words "any other thing", *ibid.*, s. 83(*b*).

Arrest of offenders failing to give names.

**127.** (*1*) When any person who in the presence of the [1][Commissioner], Collector or any Prohibition Officer not below such rank as the [2][State] Government may determine, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer, in order that his name or residence may be ascertained.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties, to appear before [3][a Magistrate having jurisdiction] when so required:

Provided that if such person is not resident in [4][India], the bond shall be secured, by a surety or sureties residing in [4][India].

(*3*) If the true name and residence of such person is not ascertained within twenty-four hours from the time of the arrest, or if he fails to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Issue of warrants.

**128.** (*1*) The [1][Commissioner], Collector or any Prohibition Officer duly empowered in this behalf [5][or in Greater Bombay, a Deputy Commissioner of Police or [6][an Assistant Commissioner of Police]] in charge of a Division or a Magistrate or [7][a Superintendent of Police] or an Assistant or Deputy Superintendent of Police specially empowered by the [2][State] Government in this behalf may issue a warrant—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence under this Act or any other law relating to the excise revenue for the time being in force;

(*b*) for the search whether by day or by night of any building, vehicle or place in which he has reason to believe that any intoxicant, hemp, [8]* mhowra flowers or molasses are manufactured or sold or stored or that any toddy is drawn contrary to the provisions of this Act or that any intoxicant, hemp, [9][mhowra flowers, molasses] or other thing liable to confiscation or forfeiture under this Act or any other law for the time being in force relating to the excise revenue is kept or concealed [10][and for the seizure of such intoxicant, hemp, [8]* mhowra flowers, molasses or such other thing found in such building, vehicle or place].

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[1] This word was substituted for the word "Director" by Mah. 52 of 1973, s. 3, Sch.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words "a Magistrate" by Bom. 21 of 1954, s. 3, Second Schedule.

[4] This word was substituted for the words "the Dominion of India" by the Adaptation of Laws Order, 1950.

[5] These words were inserted by Bom. 26 of 1952, s. 48(*1*).

[6] These words were substituted for the words "a Superintendent of Police" by Mah. 46 of 1962, s. 3, Sch.

[7] These words were substituted for the words "a District Superintendent of Police", *ibid.*

[8] The word "opium" was deleted by Bom. 22 of 1960, s. 84.

[9] These words were substituted for the words "or opium", *ibid.*, s. 84.

[10] These words were inserted by Bom. 26 of 1952, s. 48(*2*).

(*2*) All warrants issued under sub-section (*1*) shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a Police Officer or a Prohibition Officer duly empowered in this behalf or if the officer issuing the warrant deems fit, by any other person. V of 1898.

Certain provisions to apply to denatured spirituous preparations.

[1][128A. The provisions of sections 80, 98, 99, 103(*1*), 104, 120, 121, 122, 123, 124, 125, 128, 135 and 139 shall apply to denatured spirituous preparations as they apply to any intoxicant under this Act.]

Prohibition Officers may be empowered to investigate offences.

**129.** (*1*) The [2][State] Government may empower any Prohibition Officer to investigate offences under this Act.

(*2*) An officer empowered under sub-section (*1*) 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 cognizable offences. V of 1898.

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[1] Section 123A was substituted for the original by Bom. 22 of 1960, s. 85.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(3) Any Prohibition Officer, to whom such officer is subordinate may, during the course of the investigation, take over the investigation himself or direct any other Prohibition Officer duly empowered to conduct the same. The officer in conducting the investigation shall have the same powers under sub-sections (1) and (2) as if he were the Prohibition Officer appointed for the area or for the purpose of investigating the said offence.

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

(5) The powers of any officer empowered under this section shall be subject to such other modification or restrictions as the [1][State] Government may deem fit.

[2][129A. (1) Where in the investigation of any offence under this Act, any Prohibition Officer duly empowered in this behalf by the State Government or any Police Officer, has reasonable ground for believing that a person has consumed an intoxicant and that for the purpose of establishing that he has consumed an intoxicant or for the procuring of evidence thereof it is necessary that his body be medically examined, or that his blood be collected for being tested for determining the percentage of alcohol therein, such Prohibition Officer or Police Officer may produce such person before a registered medical practitioner (authorised by general or special order by the State Government in this behalf) for the purpose of such medical examination or collection of blood, and request such registered medical practitioner to furnish a certificate on his finding whether such person has consumed any intoxicant and to forward the blood collected by him for test to the Chemical Examiner or Assistant Chemical Examiner to Government, or to such other Officer as the State Government may appoint in this behalf.

Power to require persons to submit to medical examination etc.

(2) The registered medical practitioner before whom such person has been produced shall examine such person and collect and forward in the manner prescribed the blood of such person, and furnish to the Officer by whom such person has been produced, a certificate in the prescribed form containing the result of his examination. The Chemical Examiner or Assistant Chemical Examiner to Government, or other Officer appointed under sub-section (1) shall certify the result of the test of the blood, forwarded to him, stating therein, in the prescribed form, the percentage of alcohol, and such other particulars as may be necessary or relevant.

(3) If any person offers resistance to his production before a registered medical practitioner under sub-section (1) or on his production before such practitioner to the examination of his body or to the collection of his blood, it shall be lawful to use all means reasonably necessary to secure the production of such person or the examination of his body or the collection of blood necessary for the test.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Sections 129A and 129B were inserted by Bom. 12 of 1959, s. 16.

(*4*) If the person produced is a female, such examination shall be carried out by, and the blood shall be collected by or under the supervision of, a female registered medical practitioner authorised by general or special order, by the State Government in this behalf, and any examination of the body, or collection of blood, of such female shall be carried out or made with strict regard to decency.

(*5*) Resistance to production before a registered medical practioner as aforesaid, or to the examination of the body under this section, or to the collection of blood as aforesaid, shall be deemed to be an offence under section 186 of the Indian Penal Code. XLV of 1869.

(*6*) Any expenditure incurred for the purpose of enforcing the provisions of this section including any fees payable to a registered medical practitioner or the Officer appointed under sub-section (*1*) shall be defrayed out of moneys provided by the State Legislature.

(*7*) If any Prohibition Officer or Police Officer vexatiously and unreasonably proceeds under sub-section (*1*), he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(*8*) Nothing in this section shall preclude the fact that the person accused of an offence has consumed an intoxicant from being proved otherwise than in accordance with the provisions of this section.

Documents or reports of registered medical practitioner, etc. as evidence.

**129B.** Any document purporting to be—

(*a*) a certificate under the hand of a registered medical practitioner, or the Chemical Examiner or Assistant Chemical Examiner to Government, under section 129A or of an officer appointed under sub-section (*1*) of that section, or

(*b*) a report under the hand of any registered medical practitioner in any hospital or dispensary maintained by the State Government or a local authority or any other registered medical practitioner authorised by the State Government in this behalf, in respect of any person examined by him or upon any matter or thing duly submitted to him for examination or analysis and report,

may be used as evidence of the facts stated in such certificate, or as the case may be, report, in any proceedings under this Act ; but the court may if it thinks fit, and shall, on the application of the prosecution or the accused person, summon and examine any such person as to the subject matter of his certificate or as the case may be, report.]

Arrested persons and things seized to be sent to officer-in-charge of Police Station.

**130.** Every person arrested and thing seized by a Prohibition Officer under this Act, shall be sent to the officer-in-charge of the nearest Police Station [1][or to any other officer duly empowered under section 129 if the [2][Commissioner] in any particular case has directed such officer to conduct the investigation of the offence.]

Bail by Prohibition Officer.

**131.** (*1*) Any Prohibition Officer empowered to investigate an offence under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without a warrant for an offence under this Act. V of 1898.

(*2*) When any person has been arrested under section 126, a Prohibition Officer empowered to investigate offence under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

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[1] This portion was added by Bom. 22 of 1960, s. 86.

[2] This word was substituted for the word "Director" by Mah. 52 of 1973, s. 3, Sch.

[When anything has been seized under the provisions of this Act by a Prohibition Officer exercising powers under section 129 or by an Officer-in-charge of a Police Station], or has been sent to him in accordance with the provisions of this Act, such officer, after such inquiry as may be deemed necessary,— Articles seized.

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

(*b*) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send it with a full report of the particulars of seizure to the Collector,

(*c*) if no offence appears to have been committed shall return it to the person from whose possession it was taken.

133. Every officer of the [2][Government] and every officer or servant of a local authority, shall be [3][legally bound to assist any Prohibition Officer or] police officer or person authorized in this behalf in carrying out the provisions of this Act. Duty of [4][officers of Government] and local authorities to assist.

[5][134. Every village officer or servant useful to Government, every officer of the State Government, and (with the consent of the Central Government) every officer of the Customs and Central Excise Departments, and every officer or servant of a local authority, and the *Sarpanch* of a village *Panchayat* constituted under the Bombay Village Panchayats Act, 1958, shall be bound— Offences to be reported.

Bom. III of 1959.

(*a*) to give immediate information at the nearest Police Station or to any officer or person authorised in this behalf of the commission of any offence and of the intention or preparation to commit any offence under this Act which may come to their knowledge ;

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

135. Every person who owns or occupies any land or building, or who is a landlord of an estate residing in the village, and the agent of such owner, occupier or landlord of the land, building or estate, as the case may be, on or in which there has been any unlawful tapping of toddy-producing trees or unlawful manufacture of any liquor or intoxicating drug or unlawful cultivation or collection of hemp, and every owner of a vessel or vehicle in which liquor or intoxicating drug is manufactured contrary to the provisions of this Act, shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to a Police Officer immediately the same shall have come to his knowledge.] Landlords and others to give information.

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[1] These words were substituted for the words "When anything has been seized by a Prohibition Officer other than the Collector or Director under the provisions of this Act" by Bom. 22 of 1960, s. 87.

[2] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words "legally bound to assist any" by Bom. 22 of 1960, s. 88(*a*).

[4] These words were substituted for the words "officials of all departments" *ibid.*, s. 88(*b*).

[5] Sections 134 and 135 were substituted for the original, *ibid.*, s. 89.

136. [*Power to arrest and make orders detaining or restricting actions of persons.*] *Deleted by Bom. 26 of 1952, s. 50.* Bom. XXV

## CHAPTER X.

### APPEALS AND REVISION

Appeals. 137. (*1*) All orders passed by any Prohibition Officer other than the Collector or [1][Director] under this Act, shall be appealable to the Collector at any time within sixty days from the date of the order complained of.

(*2*) All orders passed by the Collector and [1][Commissioner] shall be appealable to the [1][Commissioner] and the [2][State] Government respectively at any time within ninety days from the date of the order complained of :

Provided that no appeal shall lie against an order passed by the [1][Commissioner] on appeal.

(*3*) Subject to the foregoing provisions, the rules which the [2][State] Government may make in this behalf shall apply to appeals under this section.

Revision. [3][138. The State Government may call for and examine the record of any proceeding before any Prohibition Officer, including that relating to the grant or refusal of a licence, permit, pass or authorization under this Act, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of, any such proceeding and may, when calling for such record, direct that the order be not given effect to pending the examination of the record. On examining the record, it may either annul, reverse, modify or confirm such order, or pass such other order as it may deem fit.]

## CHAPTER XI.

### MISCELLANEOUS

General powers of [2][State] Government in respect of licences, etc. 139. [4][(*1*)] Notwithstanding anything contained in this Act or the rules made thereunder, the [2][State] Government may, by general or special order,—

(*a*) prohibit the grant of any kind of licences, permits, passes or authorizations throughout the [5][State] or in any area ;

(*b*) regulate the import, export, transport, possession, sale, purchase, consumption or use of any intoxicant, hemp, mhowra flowers, molasses or any article which is likely to be used for the manufacture of an intoxicant with or without licence, permit, pass or authorization throughout the [5][State] or within the limits of any local area subject to such conditions [6][as it may impose]

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[1] This word was substituted for the word "Director" by Mah. 52 of 1973, s. 3, Sch.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This section was substituted for the original by Bom. 22 of 1960, s. 90.
[4] Section 139 was renumbered as sub-section (*1*), *ibid.*, s. 91(*1*).
[5] This word was substituted for the words "pre-Reorganisation State of Bombay, excluding the transferred territories" by Bom. 12 of 1959, s. 3.
[6] These words were substituted for the words "and for such periods as it deems fit" by Bom. 22 of 1960, s. 91(*1*)(*a*).

[1][(*c*) exempt any person or institution or any class of persons or institutions from all or any of the provisions of this Act or from all or any of the rules, regulations or orders made thereunder or from all or any of the conditions of any licence, permit, pass or authorization granted thereunder, subject to such conditions as it may impose ;

(*d*) exempt any intoxicant or class of intoxicants, denatured spirituous preparation, hemp, mhowra flowers or molasses from all or any of the provisions of this Act or from all or any of the rules, regulations or orders made thereunder, subject to such conditions as it may impose ;

(*d1*) remit or refund wholly or partially any fee in respect of any privilege, licence, permit, pass or authorization granted under this Act or any duty on toddy producing trees or any excise or countervailing duty or fee leviable under this Act on any intoxicant, hemp, mhowra flowers or molasses from any person or institution or from a class of persons or institutions or exempt any person or institution or class of persons or institutions from the payment of such duty or fee, subject to such conditions as it may impose.]

(*e*) prescribe the maximum number of licences, permits, passes or authorizations of any kind which may be granted in any area or to any class of persons ;

(*f*) prescribe the number of places at which any intoxicant specified in such order [2][denatured spirituous preparation,] hemp, mhowra flowers or molasses may be sold in any area, the location of such places in any area, the days and hours during which such places may or may not be kept open, the number of such places in respect of which licences for sale may be granted and the number of such places which may be [3][managed by the State Government departmentally] ;

(*g*) direct that no licence, permit, pass or authorization of the kind specified in such order shall be granted without the previous approval of the [1][State] Government or also direct any additions or alterations to be made to or in the conditions subject to which under any other provisions of this Act, such licence, permit, pass or autorization can be granted ;

(*h*) prescribe the maximum quantity of any intoxicant, [4][denatured spirituous preparation,] hemp, mhowra flowers or molasses which may be sold in any area or at any place ;

[5][(*i*) prescribe in respect of any place or area, the maximum number of toddy producing trees for tapping which or for drawing toddy from which licence or licences may be granted ; ]

[6][(*j*) prescribe the procedure for the disposal of any shop or shops authorised to sell any intoxicant, denatured spirituous preparation, hemp, mhowra flowers or molasses under this Act and the procedure to be followed before granting any licence or licences ; ]

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[1] Clauses (*c*), (*d*) and (*d1*) were substituted for the original clauses (*c*) and (*d*) by Bom. 22 of 1960, s. 91(*1*)(*b*).
[2] These words were inserted, *ibid.*, s. 91(*1*)(*e*)(*i*).
[3] These words were substituted for the words "managed by the Excise Department" *ibid.*, s. 91(*1*)(*e*)(*ii*).
[4] These words were inserted *ibid.* s. 91(*1*)(*d*).
[5] Clause (*i*) was substituted for the original *ibid.*, s. 91(*1*)(*e*).
[6] This clause was substituted for the original *ibid.*, s. 91(*1*)(*f*).

(*k*) direct that before granting licences, auctions may be held, tenders called for or offers received and that licences shall be granted [1][subject to such conditions as may be prescribed] to persons whose bids, tenders or offers are accepted by the Collector ;

(*l*) specify the persons or class of persons [2][to whom licences may or may not be granted] and in cases in which auctions are held, the person or classes of persons who may or may not be permitted to offer bids at such auctions ;

(*m*) direct that licences of the kind specified in such order shall be granted to persons specified in such order ; and

(*n*) issue such other instructions in any matter pertaining to the grant or otherwise of licences, permits, passes or authorizations under this Act, as the [3][State] Government may deem proper.

[4][(*2*) An order made under sub-section (*1*) shall, if it is of a general nature or affecting a class of persons, be notified in the *Official Gazette*.]

**Power of [3][State] Government to prohibit, regulate or control consumption or use of intoxicants, etc., in public place.**

**140.** The [3][State] Government may, by general or special order, prohibit, regulate, or control, subject to such conditions as may be specified in the order, the consumption or use of any intoxicant or hemp, in any public place.

**Employment of additional Police.**

**141.** (*1*) If the [3][State] Government is satisfied that the inhabitants of any area are concerned in the commission or abetment of any of the offences punishable under sections [5][65, 66, 66A, 67, 67-1A, 67C, 68 , 69 and 70] the [3][State] Government may, by notification in the *Official Gazette*, direct the employment of additional police [6][in that area] for such period as it thinks fit.

(*2*) The cost of such additional police shall, if the [3][State] Government so directs, be either in whole or in part defrayed by a tax imposed on the persons hereinbelow mentioned, or by a rate assessed on the property of such persons, or both by a tax and by a rate so imposed and assessed, and charged—

(*a*) either generally on all persons who are inhabitants of the local area to which such notification applies ; or

(*b*) specially on any particular section or sections or class or classes of such persons, and the [3][State] Government may direct the proportions in which such tax or rate shall be charged.

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[1] These words were inserted by Bom. 22 of 1960, s. 91(*f*)(*g*).
[2] These words were substituted for the words "to whom licences may not be granted" *ibid.*, s 91(*f*)(*h*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] This sub-section was added by Bom. 22 of 1960 s. 91(*2*).
[5] These figures, letters and word were substituted for the figures and word "65 to 69" s. 92 (*a*), *ibid.*
[6] These words were inserted *ibid.*, s. 92 (*b*).

*Explanation.*—For the purposes of this section "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents or revenue direct from rayats or occupiers in such area, notwithstanding that they do not actually reside therein.

(*3*) It shall be lawful for the [1][State] Government to extend, for a term not exceeding in any case five years, the period for the payment of such tax or rate beyond the period for which such additional police are actually employed.

Bom. XXII of 1951.

[2][(*4*) The provisions of sub-sections (*4*) to (*7*) of section 50 of the Bombay Police Act, 1951, shall apply *mutadis mutandis* to the recovery of such tax or rate.]

Power of Collector to close places where intoxicant or hemp is sold in certain cases.

[3][**142.** (*1*) If the Collector is of opinion that it is in the interest of public peace to close any place in which any intoxicant or hemp is sold, it shall be lawful for the Collector by an order in writing to the person holding a licence for the sale of such intoxicant or hemp to require him to close such place at such time or for such period as may be specified in the order.

(*2*) If a riot or unlawful assembly is imminent, or takes place, it shall be lawful for any Executive Magistrate or Police Officer who is present to direct that such place shall be closed and kept closed for such period as he thinks fit, and in the absence of any Executive Magistrate or Police Officer the person referred to in sub-section (*1*) shall himself close such place.

(*3*) Any order given under this section shall be final.]

Power of [1][State] Government to make rules.

**143.** (*1*) The [1][State] Government may make rules for the purpose of carrying out the provisions of this Act or any other law for the time being in force relating to excise revenues.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, the [1][State] Government may make rules,—

(*a*) regulating the delegation of any powers by the [4][Commissioner], by Collector or by any other Prohibition Officer ;

(*b*) regulating the import, export, transport, [5][collection], sale, purchase, [6][bottling], consumption, use or possession of any intoxicant, [7][denatured spirituous preparation] or hemp, mhowra flowers or molasses ;

(*c*) regulating the manufacture of any intoxicant [8][or denatured spirituous preparation] ;

(*d*) regulating the cultivation and collection of hemp ;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This sub-section was substituted for sub-sections (*4*) and (*5*) by Bom. 64 of 1954, s. 3.
[3] This section was substituted for the original by Bom. 22 of 1960, s. 93.
[4] This word was substituted for the word "Director" by Mah. 52 of 1973, s. 3, Sch.
[5] This word was inserted by Bom. 26 of 1952, s. 51(*1*).
[6] This word was inserted by Bom. 22 of 1960, s. 94(*1*)(*a*).
[7] These words were inserted, *ibid.*
[8] These words were added, *ibid.*, s. 94(*1*)(*b*).

(*e*) regulating the tapping of toddy-producing trees and drawing of toddy therefrom ;

(*f*) regulating the grant, suspension or cancellation of licences, permits, passes or authorizations for the import, export, transport, [1][collection, sale, purchase], possession, manufacture, [2][bottling,] consumption, use or cultivation of any of the above articles mentioned in [3][clause (*b*) and for the matters specified in clause (*e*)] ;

(*g*) regulating the periods and localities for which the licences may be granted for the wholesale or retail vend of any of the above articles mentioned in clause (*b*) ;

(*h*) providing for the consulting of public opinion and prescribing the procedure to be followed and the matters to be ascertained before any licence, permit, pass or authorization for the vend, consumption or use of any of the above articles mentioned in clause (*b*) is granted to any person or in any locality ;

[4][(*h1*) prescribing the restrictions under which and the conditions on which any licence, permit, pass or authorization may be granted including—

(*i*) the prohibition of the admixture with any intoxicant of any substance deemed to be noxious or objectionable ;

(*ii*) the fixing of the strength, price or quantity in excess of or below which any intoxicant or mhowra flowers shall not be sold or supplied, and the quantity in excess of which denatured spirit, denatured spirituous preparation or molasses shall not be possessed or sold and the prescription of a standard or quality for any intoxicant denatured spirituous preparation, mhowra flowers or molasses ;

(*iii*) the prohibition of sale of any intoxicant, denatured spirituous preparation or hemp except for cash ;

(*iv*) the prescription of the days and hours during which any licensed premises may or may not be kept open and provisions for the closure of such premises on special occasions ;

(*v*) the prescription of the nature of the premises on which any intoxicant may be sold and the notices to be exposed at such premises ;

(*vi*) the prescription of the accounts to be maintained and the returns to be submitted by licence-holders or permit-holders ;

(*vii*) the regulation or prohibition of the transfer of licences ;

(*viii*) the writing of the names and addresses and the taking of signatures of purchasers in the register of sale of any intoxicant, hemp, mhowra flowers or molasses or any article the sale or purchases of which is regulated by clause (*b*) of sub-section (*1*) of section 139 ;

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[1] These words were inserted by Bom. 26 of 1952, s. 51(*2*)(*a*).

[2] This word was inserted by Bom. 22 of 1960, s. 94(*1*)(*c*).

[3] These words, brackets and letters were substituted for the words, brackets and letters " clauses (*b*) and (*e*) " by Bom. 26 of 1952, s. 51(*2*)(*b*).

[4] Clauses (*h1*) and (*h2*) were inserted by Bom. 22 of 1960, s. 94(*1*)(*d*).

Provided that any such rules may be made without previous publication if the [1][State] Government considers that they should be brought into force at once.

[2][(*4*) All rules made under this Act shall be laid for not less than thirty days before each House of the State Legislature as soon as may be after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.]

**144.** (*1*) The [3][Commissioner] may make regulations, not inconsistent with the provisions of this Act, or rules,— [3][Commissioner's] powers to make regulations.

(*a*) regulating, as the case may be, the [4]* supply or storage of any intoxicant [5][, denatured spirituous preparation] or hemp, mhowra flowers or molasses including—

(*i*) the erection, inspection, supervision, management and control of any place for the manufacture, supply or storage of such article, and the fittings, implements and apparatus to be maintained therein ;

[6]* * * * * * *

(*b*) regulating the deposit of any intoxicant, hemp, [7]* mhowra flowers or molasses in a warehouse and the removal of such articles from any such warehouse or from any distillery or brewery ;

[8]* * * * * * *

(*d*) prescribing the scale of fees or the manner of fixing the fees payable in respect [9]* * * * of any storage of any intoxicant, hemp, [7]* mhowra flowers or molasses ;

(*e*) regulating the time, place and manner of payment of any duty or fees ;

[8]* * * * * * *

(*h*) providing for the destruction or other disposal of any intoxicant declared to be unfit for use ;

(*i*) regulating the disposal of confiscated or forfeited articles ;

[8]* * * * * * *

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950
[2] This sub-section was inserted by Bom. 22 of 1960, s. 94(*2*).
[3] This word was substituted for the word " Director " by Mah. 52 of 1973, s. 3, Sch.
[4] The word " manufacture " was deleted by Bom. 22 of 1960, s. 95(*a*)(*i*).
[5] These words were inserted, *ibid.*, s. 95(*a*)(*ii*).
[6] Sub-clauses (*ii*) to (*v*) were deleted *ibid.*, s. 95(*a*)(*iii*).
[7] The word " opium, " was deleted by Bom. 22 of 1960, s. 95(*b*).
[8] Clauses (*c*), (*f*), (*g*), (*j*), (*k*) and (*l*) were deleted, *ibid.*, s. 95(*c*).
[9] The words beginning with the words " of any privilege " and ending with the words " authorization or " were deleted by Bom. 26 of 1952, s. 52(*1*).

(*m*) regarding any other matter which the [1][State] Government may, by notification in the *Official Gazette*, direct him to prescribe for the purposes of carrying out the provisions of this Act.

(*2*) The regulations made under this section shall be published in the *Official Gazette.*

Officers and persons acting under this Act to be public servants.

**145.** All officers and persons empowered to exercise any powers or to perform any functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Bar of Proceedings.

**146.** No suit or proceeding shall lie against the [2][Government] or against any Prohibition, Police, or other officers or against any person empowered to exercise powers or to perform functions under this Act, for anything in good faith done or purporting to be done under this Act.

Limitation of prosecutions or suits against officers.

[3][**146A.** (*1*) All prosecutions of any Prohibition, Police or other officers, or of any persons empowered to exercise powers or to perform functions under this Act, and all actions which may be lawfully brought against the Government or any of the aforesaid officers or persons, in respect of anything done or alleged to have been done in pursuance of this Act, shall be instituted within four months from the date of the act complained of, and not afterwards ; and any such action shall be dismissed—

(*a*) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or by any other law for the time being in force, as within the aforesaid period of four months it was possible to present ; or

(*b*) in the case of an action for damages, if tender of sufficient amends shall have been made before the action was brought, or if after the institution of the action a sufficient sum of money is paid into Court with costs, by or on behalf of the defendant.

(*2*) Subject to the provisions of section 197 of the Code of Criminal Procedure, 1898, no Court shall take cognizance of an offence committed or alleged to have been committed by any Prohibition, Police or other officer or any person empowered to exercise powers or to perform functions under this Act, in regard to anything done under this Act, until the sanction of the Collector having jurisdiction has been obtained. V of 1898.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Crown", *ibid.*
[3] Sections 146A and 146B were inserted by Bom. 22 of 1960, s. 96.

**146B.** Save in so far as may be expressly provided in any rule, regulation or order made under this Act, nothing in this Act shall apply in respect of any intoxicant, denatured spirituous preparations, hemp, mhowra flowers or molasses which are the property and in the possession of the Government.] Provisions of Act not to apply to Government.

**147.** For removal of doubts it is hereby declared that nothing in this Act shall be deemed to apply to any intoxicant or other article in respect of its import or export across the customs frontiers. [1]* * * Provisions of this Act not to apply to import or export across customs frontier.

**148.** (*1*) The enactments specified in Schedule I are hereby repealed to the extent specified in the fourth column thereor and those specified in Schedule II are hereby amended to the extent specified in the fourth column thereof. Repeal and amendments.

(*2*) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect—

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act ;

(*ii*) any legal proceeding or remedy in respect of any right, title, interest, obligation or liability or anything done or suffered before the commencement of this Act and any such proceeding shall be continued and disposed of, as if this Act was not passed ;

Bom. V of 1878. (*iii*) the levy of any duties under section 29-A of the Bombay Abkari Act, 1878, and the recovery of any duties or fees leviable under any other provisions of the Acts hereby repealed, and all such duties or fees shall be levied or recovered, as the case may be, as if this Act was not passed.

(*3*) Any appointment, notification, notice, order, rule or form, made, or issued under any of the enactments repealed by this Act shall continue to be in force and deemed to have been made, granted or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule, or from is not inconsistent with the provisions of this Act, unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act, notwithstanding the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorized in the enactments repealed and notwithstanding also that such notification, notice, order, rule or form was made or issued in a different form or name.

(*4*) Any licence, permit, pass, authorization or permission granted or issued under any of the enactments repealed by this Act shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act.

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[1] The words " as defined by the Dominion Government " were deleted by Bom. 26 of 1952, s. 53.

Further repeals and savings consequent on commencement of Bom. XXV of 1949 in other areas of State.

[1][**149.** [2]* On the commencement of this Act in any area of the State to which it is extended by the Bombay Prohibition (Extension and Amendment) Act, 1959, the Acts mentioned in Schedule III and in force in that area, shall, to the extent specified in the fourth column thereof, stand repealed : Bom. XII of 1959.

Provided that such repeal shall not affect—

(*a*) the previous operation of any Acts so repealed or anything duly done or suffered thereunder, or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under any Acts so repealed, or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Acts so repealed,

(*d*) any investigation legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if those Acts had not been repealed :

Provided further that,

(*a*) any licence, permit, pass, authorisation or permission granted or issued under any of the Acts so repealed shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act ; and

(*b*) notwithstanding the repeal of any of the Acts aforesaid, for all purposes in connection with the liability for, and the levy assessment and collection or refund of, any tax, duty or fee (including any penalty) leviable,—

(*i*) under the provisions of section 27A of the Central Provinces and Berar Excise Act, 1915, or C. P. and Berar II of 1915.

(*ii*) under section 112A of the Bombay Prohibition Act, 1949 as in force in the Saurashtra area, or Bom. XXV of 1949.

(*iii*) before the commencement of this Act in any area under any provisions of any of the Acts repealed by this section,

the relevant Acts repealed (including all rules, regulations, notifications, and orders made or issued thereunder) shall nevertheless continue in force for all such purposes ; and all such taxes, duties and fees shall be levied, assessed, collected, refunded and penalty imposed and paid, as the case may be, as if those relevant Acts had not been repealed.]

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[1] This section was inserted by Bom. 12 of 1959, s. 18.

[2] The brackets and figure "(*1*)" were deleted by Bom. 22 of 1960, s. 97.

[1][SCHEDULE I-A.

[*See* section 1(*3*).]

*Outstill area of the Chanda District.*

(1) The whole of the Sironcha Tahsil;

(2) The following villages of the Gadchiroli Tahsil, namely :—

(*a*) (1) Chargaon, (2) Gonjali, (3) Palasgaon, (4) Chimgaon, (5) Mendha, (6) Wadegaon, (7) Singapur, (8) Kodalwahi, (9) Chatgaon, (10) Pander, (11) Mohandala, (12) Palakheda, (13) Suna Katizari, (14) Khutgaon, (15) Gatepalli, (16) Mendha, (17) Harikata, (18) Tohakapur, (19) Haldi, (20) Gadhewahi, (21) Sakora, (22) Talodhi, (23) Karwafa, (24) Nawegaon, (25) Ghotevihir, (26) Ranbhumi, (27) Jambli, (28) Ranmul, (29) Darsani, (30) Kusumghat, (31) Gattaguda, (32) Maroda, (33) Bandhona, (34) Nawragaon, (35) Gilgaon, (36) Bhandikanhar, (37) Gajanguda, (38) Sakhera, (39) Kanhargaon, (40) Karkapalli, (41) Raven-Jhola, (42) Saimara, (43) Pekinkasa, (44) Saterli, (45) Sowita, (46) Benoti (47) Filekanar, (48) Fatri, (49) Ditantola, (50) Dewapur, (51) Dewada, (52) Gawama, (53) Rampur, (54) Potehaon, (55) Surgadevi, (56) Rajoli, (57) Tohgaon, (58) Ramada, (59) Kotergaon, (60) Tulsi, (61) Tumrikasa, (62) Nagoli, (63) Karkusi, (64) Maler, (65) Kudegaon (66) Rawanpalli, (67) Murmari, (68) Jogna, (69) Bhagbhir, (70) Jamar, (71) Pawlisan, (72) Pendri, (73) Budapur, (74) Ahapur, (75) Muranda, (76) Dhehni, (77) Chichali, (78) Banarcha, (79) Lengada, (80) Jamgaon, (81) Judegaon, (82) Tadgela, and (83) Kodsi;

(*b*) all the villages of the Purada Police Station area except the following 24 villages, namely :—

(1) Chawada, (2) Ramtola, (3) Dhuldongri, (4) Naicharpalli, (5) Nawejhari, (6) Sattitola, (7) Khambada, (8) Sajena, (9) Kannichak, (10) Talegaon, (11) Muska, (12) Angara, (13) Palasgaon, (14) Saotala, (15) Khodki, (16) Solan, (17) Salebhatti, (18) Nimgaon, (19) Mendha, (20) Bhausi, (21) Bhakrundi, (22) Kulkuli, (23) Nawegaon, and (24) Tultuli;

(*c*) all the villages of Ahiri Police Station area, except the following 33 villages, namely :—

(1) Laggam, (2) Laggam-Chak, (3) Rampur, (4) Bori, (5) Kultha, (6) Rajur-Chak, (7) Tikepalli, (8) Chatuguntapatch, (9) Tumargunda, (10) Dampur, (11) Baudukpalli, (12) Kothari, (13) Marpalli, (14) Morarli, (15) Chichela, (16) Gomhi, (17) Albatpalli, (18) Fuski, (19) Mukdi. (20) Fuski-chak, (21) Dhanu, (22) Yella, (23) Machhligatta, (24) Nagalwahi, (25) Singanpalli, (26) Chaulampalli, (27) Champrala, (28) Laggam Hatti, (29) Koperalli, (30) Singanpeth, (31) Macbli, (32) Gomni-Chak, and (33) Kondegaon.]

SCHEDULE I.

(*See* section 148.)

| Year. | No. | Short title. | Extent of repeal. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| [2]* | * | * | * * |
| 1878 .. | V | The Bombay Abkari Act, 1878 | .. All the provisions except section 29-A. |
| 1947 .. | XXX | The Bombay Molasses Act, 1947 | .. The whole. |

[1] Schedule I-A was inserted by Bom. 12 of 1959, s. 19 (*1*).
[2] This item was deleted, *ibid*, s. 19 (*2*).

## SCHEDULE II.

(*See* section 148.)

| Year. | No. | Short title. | Extent of Amendments. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 1890 | IV | The Bombay District Police Act, 1890 | 1. Section 46—<br>(*a*) in sub-section (*4*), for clauses (*ii*) and (*iii*), the following clauses shall be substituted, namely :—<br>"(*ii*) section 65 or 68 of the Bombay Prohibition Act, 1949"; Bom. XXV of 1949.<br>(*b*) in sub-section (*6*) for the words and figures "under the Bombay Abkari Act, 1878, or the Opium Act, 1878" the words and figures "under the Bombay Prohibition Act, 1949" shall be substituted Bom. XXV of 1949<br>2. Section 61AA shall be deleted. |
| 1902 | IV | The City of Bombay Police Act, 1902 | 1. In section 27—<br>(*a*) in sub-section (*2*), for the words and figures "under the Bombay Abkari Act, 1878, or the Opium Act, 1878" the words and figures "under the Bombay Prohibition Act, 1949" shall be substituted; Bom. XXV of 1949.<br>(*b*) in sub-section (*2-A*) for clauses (*ii*) and (*iii*), the following clause shall be substituted, namely :—<br>"(*ii*) section 65 or 68 of the Bombay Prohibition Act, 1949". Bom. XXV of 1949.<br>2. Section 122A shall be deleted. |
| [1]1951 | XXII | The Bombay Police Act, 1951 | In section 57—<br>(*a*) in clause (*b*), in sub-clause (*ii*), the portion beginning with the words and figures "or under section 65 or 68 of that Act" and ending with the figures "1938" shall be deleted;<br>(*b*) in clause (*c*), for the words "aforesaid Prohibition Acts" the words and figures "Bombay Prohibition Act, 1949" shall be substituted.] Bom. XXV of 1949. |

[1] This entry was added by Bom. 22 of 1960, s. 98.

[1][SCHEDULE III.

[*See* section 149.]

| Year. | No. | Short title. | Extent of repeal. |
|---|---|---|---|
| 1 | 2. | 3 | 4 |
| 1878 | I | The Opium Act, 1878, in its application to the State of Bombay. | The whole. |
| 1915 | II | The Central Provinces and Berar Excise Act, 1915. | All the provisions except section 27A.] |
| 1938 | VII | The Central Provinces and Berar Prohibition Act, 1908. | The whole. |
| 1316F | I | The Abkari Act ... | The whole. |
| 1333F | IV | The Hyderabad Intoxicating Drugs Act ... | The whole. |
| 1949 | XXV | The Bombay Prohibition Act, 1949, as in force in the Saurashtra area of the State of Bombay. | All the provisions except section 112A. |
| 1949 | XXV | The Bombay Prohibition Act, 1949, as in force in the Kutch area of the State of Bombay. | The whole.] |

[1] Schedule III was added by Bom. 12 of 1959, s. 19 (3).

3015-3020

*The Bombay Repatriated Prisoners Act, 1949 (Bom. XXVII of 1949), at pages 3015-3020 has been repealed by the Maharashtra Repealing and Amending Act, 1963 (Mah. XXVI of 1962), section 2, First Schedule.*

# THE BOMBAY MERGED AREAS (AMENDMENT OF LAWS) ACT, 1949.

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THE SCHEDULE.

# BOMBAY ACT No. XXX OF 1949.[1]

[THE BOMBAY MERGED AREAS (AMENDMENT OF LAWS) ACT 1949.]

[*7th June 1949*]

Amended by Bom. 22 of 1950.

Adapted and modified by the Adaptation of Laws Order, 1950.

**An Act to amend certain laws in their application to the areas merged in the Province of Bombay.**

WHEREAS it is expedient to amend certain laws in their application to the areas merged in the Province of Bombay; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Merged Areas (Amendment of Laws) Act, 1949.

Definitions.

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

(*1*) "Merged areas" means the areas specified in [2][Parts I, II and III] of the Schedule which are included in the [3][State] of Bombay by the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, or the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, [4][or the Bombay (Enlargement of Area and Alteration of Boundries) (Amendment) Order, 1948] as the case may be;

(*2*) "Schedule" means the Schedule appended to this Act.

Amendment of Bombay Agricultural Debtors Relief Act, 1947, in its application to certain merged areas.

3. Notwithstanding anything contained in the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, the Bombay Agricultural Debtors Relief Act, 1947, shall, in its application to the merged areas specified in Part I of the Schedule, be subject to the following modifications, namely:—

Bom. XXVIII of 1947.

In the said Act,—

(*1*) in section 2,—

(*a*) in clause (2), "co-operative society" shall mean a society registered under any of the provisions corresponding to those contained in the Bombay Co-operative Societies Act, 1925, in force in any of the merged areas or a society registered under the said Act;

Bom. VII of 1925.

(*b*) in clause (5),—

(*i*) for the figures, letters and word "30th January 1940", wherever they occur, the figures, letters and word "1st January 1948" shall be substituted;

(*ii*) for the words "the date of the coming into operation of this Act or of the establishment of the Board concerned under the repealed Act" wherever they occur, the words, figures and letters "the 15th day of September 1948" shall be substituted;

(*2*) in section 4, for sub-section (*1*) the following sub-section shall be substituted, namely:—

"(*1*) Any debtor ordinarily residing in any local area or his creditor may make an application before the 30th September 1949 to the Court for the adjustment of his debts";

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Pt. V, page 57.

[2] The words and figures "Parts I, II and III" were substituted for the words and figures "Parts I and II" by Bom. 22 of 1950, s. 4 (*1*) (*a*).

[3] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[4] This portion was inserted by Bom. 22 of 1950, s. 4 (*1*)(*b*).

(*3*) in section 7, for the figures, letters and word "1st January 1938" the figures, letters and word "1st January 1948" shall be substituted;

(*4*) in section 22, the following proviso shall be added at the end, namely:—

"Provided further that where any amount due to a creditor is determined by a competent tribunal or authority under any law in force in a merged area relating to the conciliation or adjustment of the debts of agriculturists corresponding to this Act, the amount so determined shall be binding on the parties;

(*5*) in section 23, in the proviso, after the figures "1879" the words "or any enactment corresponding thereto" shall be inserted;

(*6*) in section 24, in sub-section (*2*), for the figures, letters and word "1st August 1947" the figures, letters and word "30th September 1949" shall be substituted;

(*7*) in section 25,—

(*a*) in clause (*i*), the words and figure "or by a Board established under section 4 of the repealed Act" shall be deleted;

(*b*) in clause (*ii*) for the figures, letters and words "15th day of February 1939" the figures, letters and word "1st January 1948" shall be substituted;

(*8*) in section 32, in sub-section (*2*),—

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

"(*c*) loans given by resource societies or by persons authorised to advance loans under section 54 for the financing of crops or for seasonal finance,";

(*b*) in the Explanation the words "under the repealed Act" and the words "under this Act" shall be deleted;

(*9*) in section 56, in sub-section (*1*),—

(*a*) for the words and figures "the Dekkhan Agriculturists' Relief Act, 1879, by the Bombay Agricultural Debtors Relief Act, 1939, the first mentioned Act" the words and figures "any enactment corresponding to the Dekkhan Agriculturists' Relief Act, 1879, in force in any of the merged areas, such enactment" shall be substituted; XVII of 1879. Bom. XXVIII of 1939. XVII of 1879.

(*b*) the words and brackets "with effect from the date of the coming into operation of this Act (hereafter in this section referred to as the said date)" shall be deleted;

(*c*) for the words "for a period of three years from the said date" the words, figures and letters "up to the 26th day of May 1950" shall be substituted;

(*d*) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that any proceeding in or out of any suit instituted on or before the 26th May 1950 shall be continued and disposed of after the said date, as

XVII of 1879. if the enactment corresponding to the Dekkhan Agriculturists' Relief Act, 1879, had continued in force after the said date ".

Bom. XXVIII of 1947. [1][3A. In the Bombay Agricultural Debtors Relief Act, 1947, as modified in its application to the merged areas specified in Parts II and III of the Schedule by Government Order in the Revenue Department No. 5771/45 (*a*), dated the 9th December 1948, the following amendments shall be made namely :— Further amendments of Bombay Agricultural Debtors Relief Act, 1947, in its application to merged areas.

(*i*) In sub-section (*1*) of section 4, for the words, letters and figures " before the 15th June 1949 ", the words, letters and figures " on or before the 15th June 1949 " shall be substituted.

(*ii*) in sub-section (*2*) of section 24, for the figures, letters and word " 15th June 1949 ", the figures, letters and word " 16th June 1949 " shall be substituted.]

Bom. XXVIII of 1947. 4. The Bombay Agricultural Debtors Relief Act, 1947, shall, in its application to the merged areas specified in Part II of the Schedule, be subject to the following modifications, namely :— Amendment of Bombay Agricultural Debtors Relief Act, 1947, in its application to other merged areas.

In section 56 of the said Act, in sub-section (*1*),—

(*1*) for the words beginning with the words " On the expiry" and ending with the words " to have force ", the following shall be substituted, namely :—

" Notwithstanding the repeal of any enactment corresponding to the Dekkhan Agriculturists' Relief Act, 1879, in force in any of the merged areas, such enactment shall, in so far as it applies to transactions and proceedings to which this Act does not apply, be deemed to have been re-enacted and shall continue in force up to the 26th day of May 1950 :

XVII of 1879.

Provided that any proceeding in or out of any suit instituted on or before the 26th May 1950 shall be continued and disposed of after the said date, as if the enactment corresponding to the Dekkhan Agriculturists' Relief Act, 1879, had continued in force after the said date ";

XVII of 1879.

(*2*) for the words " Provided that " the words " Provided also that " shall be substituted.

5. Notwithstanding anything contained in the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, the Bombay Tenancy and Agricultural Lands Act, 1948, shall, in its application to the merged areas specified in Part I of the Schedule, be subject to the following modifications, namely :— Amendment of Bombay Tenancy and Agricultural Lands Act, 1948, in its application to certain merged areas.

Bom. LXVII of 1948.

In the said Act,—

(*1*) in section 2, in clause (*3*), " co-operative society " shall mean a society registered under any of the provisions corresponding to those contained in the Bombay Co-operative Societies Act, 1925, in force in any of the merged areas or a society registered under the said Act ;

Bom. VII of 1925.

(*2*) in column 4 of the Schedule appended to the said Act,—

(*a*) in section 3A of the Bombay Tenancy Act, 1939, referred to therein, for the words and figures " the eighth day of November 1947 " the words and figures " the nineteenth day of January 1949 " shall be substituted ;

(*b*) in the proviso to sub-section (*1*) of section 4 of the Bombay Tenancy Act, 1939, referred to therein,—

(*i*) reference to " section 9 of the Bombay Small Holders Relief Act, 1938 " shall be read as reference to " any enactment corresponding to section 9 of the Bombay Small Holders Relief Act, 1938, if any, in force in any of the merged areas ; "

Bom. VIII of 38.

[1] Section 3A was inserted by Bom. 22 of 1950, s. 4 (2).

(*ii*) for the words and figures "the eighth day of November 1946" the words and figures "the nineteenth day of January 1948" shall be substituted;

(*c*) in sub-section (*2*) of section 4 of the Bombay Tenancy Act, 1939, referred to therein,—

(*i*) for the words and figures "the eighth day of November 1946" the words and figures "the nineteenth day of January 1948" shall be substituted;

(*ii*) in clause (*b*) (*i*) for the figures, letters and words "31st day of May 1947" the figures, letters and words "31st day of May 1949" shall be substituted;

(*iii*) in clause (*b*) (*ii*), for the figures, letters and words "1st day of June 1947" the figures, letters and words "1st day of June 1948" shall be substituted.

**Amendment of Bombay Tenancy and Agricultural Lands Act, 1948, in its application to other merged areas.**

6. Notwithstanding anything contained in the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, the Bombay Tenancy and Agricultural Lands Act, 1948, shall, in its application to the merged areas specified in Part II of the Schedule, be subject to the following modifications, namely :— Bom. LXVII of 1948.

In the said Act,—

(*1*) in section 2, in clause (*3*), "co-operative society" shall mean a society registered under any of the provisions corresponding to those contained in the Bombay Co-operative Societies Act, 1925, in force in any of the merged areas or a society registered under the said Act; Bom. VII of 1925.

(*2*) in column 4 of the Schedule appended to the said Act,—

(*a*) in section 3A of the Bombay Tenancy Act, 1939, referred to therein, for the words and figures "the eighth day of November 1947" the words and figures "the tenth day of June 1949" shall be substituted;

(*b*) in the proviso to sub-section (*1*) of section 4 of the Bombay Tenancy Act, 1939, referred to therein,—

(*i*) reference to "section 9 of the Bombay Small Holders Relief Act, 1938", shall be read as reference to "any enactment corresponding to section 9 of the Bombay Small Holders Relief Act, 1938, if any, in force in any of the merged areas;" Bom. VIII of 1938.

(*ii*) for the words and figures "the eighth day of November 1946" the words and figures "the tenth day of June 1948" shall be substituted;

(*c*) in sub-section (*2*) of section 4 of the Bombay Tenancy Act, 1939, referred to therein,—

(*i*) for the words and figures "the eighth day of November 1946" the words and figures "the tenth day of June 1948" shall be substituted;

(*ii*) in clause (*b*) (*i*) for the figures, letters and words "31st day of May 1947" the figures, letters and words "31st day of May 1949" shall be substituted;

(*iii*) in clause (*b*) (*ii*). for the figures, letters and words "1st day of June 1947" the figures, letters and words "1st day of June 1949" shall be substituted.

## THE SCHEDULE.

### PART I.

1. The areas comprised in the Estates which on the first day of July 1947 were included in the Vatrak Kantha thana of the Baroda, Western India and Gujarat States Agency and were known by the following names:—

(*i*) Ged, (*ii*) Polajpur, (*iii*) Morvad, (*iv*) Koprupur, (*v*) Mahisa, (*vi*) Porda and (*vii*) Dana.

2. The area known as Dangs.

### PART II.

The areas comprised in the following Estates and Talukas of the Western India and Gujarat States region:—

*Rewa Kantha Region.*

1. Agar.
2. Chhaliar.
3. Gad-Boriad.
4. Mandwa.
5. Naswadi.
6. Palasni.
7. Shanor.
8. Sihora.
9. Uchad.
10. Umeta.
11. Vajiria.

*Sankheda Mewas.*

12. Vora.
13. Alwa.
14. Wasan Wirpur.
15. Wasen Sewada.
16. Chorangla.
17. Vanmala.
18. Bhilodia.
19. Sindhiapura.
20. Jiral.
21. Kamsoli.
22. Rampura.
23. Pantalavdi.
24. Nangam.
25. Chudeswar.
26. Bihora.
27. Bengan.
28. Nalia.
29. Vadia-Virampura.
30. Dudhpur.

*Pandu Mewas.*

31. Anghad.
32. Pandu.
33. Mevli.
34. Dhari.
35. Raika.
36. Dodka.
37. Gothda.
38. Kanoda.
39. Poicha.
40. Itwad.
41. Vakhtapur.
42. Varnol Mal.
43. Gotardi.
44. Moka-Paginu-Mauda.
45. Moti Varnoli.
46. Rajpur.
47. Jesar.
48. Amrapur.
49. Jumkha.
50. Kasla-Paginu-Mauda.
51. Nani Varnoli.
52. Nahara.

*Banas Kantha Region.*

53. Adesar.
54. Deodar (Waghela Himatsinhji).
55. Deodar (Waghela Viramsinhji Khanji).
56. Terwada.
57. Thara.
58. Varahi (Malek Shri Hussinyavar-Khanji).
59. Varahi (Malek Shri Muridkhanji).

*Kankrej Thana.*

60. Sihori.
61. Un.
62. Kevalpuri Thali.
63. Arnivada.
64. Ranekpur.
65. Indermana.
66. Manpur.
67. Thara Saduji Vas.
68. Bhalgam.
69. Khengarpur.
70. Runi.
71. Shirwada.
72. Kharia.
73. Madkol.
74. Khimana.
75. Bhadramali.
76. Dasana Vas.
77. Lunpur.
78. Zabadia.
79. Sadarpur.
80. Samau Nana Vas.
81. Samau Mota Vas.
82. Bukoli.
83. Raner.
84. Kamboi.
85. Ranawada.
86. Anganwada.
87. Akoli.
88. Dugrasan.
89. Ruppura.
90. Umri.
91. Balochpur.
92. Kakar.
93. Vada.
94. Chemla.
95. Dev Darbar.

*Suigam Sub-Thana.*

96. Suigam.
97. Radosan.
98. Nalodar.
99. Jalana.
100. Kanothi.
101. Asara.
102. Nesda.
103. Golap.
104. Mamna.
105. Koreti.

*Deodar Thana.*

106. Bhabhar Nava Vas.
107. Bhabhar Juna Vas.
108. Ujjanwada.
109. Panvi.
110. Ganjesar.
111. Chatar.
112. Kaprupur.
113. Karela.
114. Oghadpura.
115. Gagun.
116. Mojru.
117. Surana.
118. Delvada.
119. Sanadar.
120. Malukpur.
121. Kapdi Dev.
122. Vatam Juna Vas.
123. Vatam Nava Vas.
124. Jalodha.
125. Dhankwada.
126. Duchakwada.
127. Niladar.
128. Golvi.
129. Chibdha.
130. Mithi Paldi.
131. Chalwa.
132. Makdala.
133. Porna.
134. Vesarda.
135. Dhunsol.
136. Vajapur.
137. Bhatvar.

*Santhalpur Thana.*

138. Dhokwada.
139. Rajusara.
140. Par.
141. Bakutra.
142. Mora Pati.
143. Nanda Pati.
144. Pipralia.
145. Sanva.
146. Barala.
147. Vahuva.
148. Dhadalia Padar.
149. Eval.
150. Jakhotra.
151. Charanka.
152. Chhanasara.
153. Madhutra.
154. Anternes (Jadeja).
155. Anternes (Rahumas).
156. Garmdi.
157. Adesar.
158. Varnosari.
159. Zazam.
160. Boru.
161. Kilana.
162. Dhrechana.
163. Chalanda.
164. Soneth.
165. Masali.
166. Limbuni.
167. Babra.

*Varahi Thana.*

168. Varahi.
169. Korda.
170. Gadha.
171. Unrot.
172. Zundada.
173. Jhekda.
174. Koliwada.
175. Daisar.
176. Daldi.
177. Bamroli.
178. Gokhantar.
179. Inderva Juna Vas.
180. Inderva Nava Vas.
181. Sadev.
182. Sidhada.
183. Chichodral.
184. Thanvad.
185. Lodra and Unnadi.
186. Saiyadpur.
187. Daigamda.
188. Uchosan.

*Mahi Kantha Region.*

189. Bhalusna.
190. Bolundra.
191. Dabha.
192. Dadhalia.
193. Dadhrota.
194. Derol.
195. Gabad.
196. Hadol.
197. Hapa.
198. Kadoli.
199. Khedwada.
200. Likhi.
201. Magodi.
202. Palaj.
203. Prempur.
204. Ramas.
205. Rupal.
206. Sathamba.
207. Satlasna.
208. Tajpuri.
209. Vadagam.
210. Vakhtapur.

*Gadhwada Thana.*

211. Mota Kothasna.
212. Umbri.
213. Nana Kothasna.
214. Timba.
215. Dedasan.
216. The Thakor of Undnils estate in the Hadol Taluka.
217. Nedardi.
218. Ambavada.
219. Vinchhi.
220. Chandap.
221. Gazipur.
222. Mohor.

*Katosan Thana.*

223. Maguna.
224. Deololi.
225. Rampura.
226. Tejpura.
227. Virsoda.
228. Kasalpura.
229. Ranipura.
230. Memadpura.
231. Ijpura (Jethajina).
232. Ijpura (Barotna).

[1][PART III.

BAWISHI THANA.

1. Amraji-na-Muada.
2. Harkhji-na-Muada.
3. Vatva.
4. Bardoli.
5. Harsoli.
6. Lawad.
7. Palundra.
8. Dabhoda.
9. Vedodra.
10. Siawada.
11. Salki.
12. Anguthla.
13. Rakhial.
14. Khanpur.
15. Lihoda.
16. Kalyanji-na-Muada.
17. Sahebji-na-Muada.
18. Kadjodra.
19. Sametri.
20. Barmuada.

VATRAK KANTHA THANA.

21. Nirmali.
22. Jehar.]

[1] Part III was added by Bom. 22 of 1950, s. 4 (3).

# THE BOMBAY BHAGDARI AND NARWADARI TENURES ABOLITION ACT, 1949.

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PREAMBLE

SECTIONS.

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8. Method of compensation for the extinguishment or modification of any rights in land.
9. Repeal.
10. Rules.
11. Interpretation.

# BOMBAY ACT No. XXXII OF 1949.[1]

[THE BOMBAY BHAGDARI AND NARWADARI TENURES ABOLITION ACT, 1949.]

[*23rd June 1949.*]

**An Act to abolish the Bhagdari and Narwadari tenures in the Province of Bombay.**

WHEREAS it is expedient to abolish the Bhagdari and Narwadari tenures which prevail in certain parts of the Province of Bombay and to provide for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Bhagdari and Narwadari Tenures Abolition Act, 1949.

(*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* specify.

Abolition of Bhagdari and Narwadari tenures.

2. With effect from and on the date on which this Act comes into force,—

(*1*) the Bhagdari and Narwadari tenures shall, wherever they prevail, be deemed to have been abolished;

(*2*) all the incidents of the said tenures attaching to any land held on such tenures shall be deemed to have been extinguished;

(*3*) any declaration made by the Provincial Government under section 6 of the Bhagdari and Narwadari Act, 1862, shall be deemed to have been cancelled.

Bom. V of 1862.

Holder of land forming part of bhag, narwa or recognised sub-division and persons in lawful possession of majmun to be deemed to be occupants.

3. (*i*) Every holder of any land forming part of a bhag, narwa or share in a bhagdari or narwadari village or any homestead, building site (gabhan) or premises appurtenant or appendant to any such bhag, narwa or share or a recognised sub-division of a bhag, narwa or share, and

(*ii*) every person lawfully in possession of any land forming part of a gam or pati majmun in a bhagdari or narwadari village,

immediately before the coming into force of this Act, shall be deemed to be an occupant within the meaning of the Bombay Land Revenue Code, 1879, in respect of such land in his possession and shall be primarily liable to the Provincial Government for the payment of land revenue due in respect of such land and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the said Code or any other law for the time being in force.

Bom. V of 1879.

All other majmun land and other property to be property of the Crown.

4. For the removal of doubt, it is hereby declared that all land forming part of a gam or pati majmun in a bhagdari or narwadari village other than the land referred to in clause (*ii*) of section 3, all waste and uncultivated land and all other kinds of property referred to in section 37 of the Bombay Land Revenue Code, 1879, situated in a bhagdari or narwadari village, which are not the property of

Bom. V of 1879.

[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1949, Part V, page 139.

any individual or of any aggregate of persons capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are together with all rights in or over the same or appertaining thereto, the property of the Crown, and it shall be lawful to dispose of or set apart the same for the authority in the manner and for ths purpose provided in section 37 or 38 of the Bombay Land Revenue Code, 1879, as the case may be. Bom. V of 1879.

Alienation so far made not to be invalid.

**5.** Any alienation, assignment, mortgage of, or any charge or incumbrance on, any bhag, narwa or share in any bhagdari or narwadari village other than a recognised sub-division of such bhag, narwa or share or any homestead, building site (gabhan) or premises appurtenant or appendant to any such bhag, narwa or share made or created before the coming into force of this Act in contravention of the provisions of section 3 of the Bhagdari and Narwadari Act, 1862, shall not be or ever to have been deemed to be invalid merely on the ground that it was made or created in contravention of the said section: Bom. V of 1862.

Provided that the Collector or the other revenue officer has not made an order removing the person in whose favour such alienation, assignment, mortgage, charge or incumbrance was made or created from the possession of such land, and such order has not been set aside by a competent court before the coming into force of this Act.

Custom of female heirs excluded by male heirs void.

**6.** Any custom, usage or practice relating to the succession to any bhag, narwa or a bhagdari or narwadari village or any homestead, building site (gabhan) or premises appurtenant or appendant to such bhag, narwa or village whereby contrary to the personal law governing the parties, the female heirs were excluded absolutely or in favour of more distant male heirs, shall, to the extent of repugnancy, be deemed to be void and of no effect from and after the date on which this Act comes into force.

Saving of recognised alienation.

**7.** Nothing in section 3 of the Exemptions from the Land Revenue(No.2)Act,1863, shall affect the rights of any person in respect of any land in a Bhagdari or Narwadari village, the alienation of which land in favour of such person may have been recognised under the provisions of a special contract with the Crown or any law for the time being in force. Bom. VII of 1863.

Method of compensation for the extinguishment or modification of any rights in land.

**8.** (*1*) If any person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in land and if such person proves that such extinguishment or modification amounts to the transference to public ownership of land or any right in or over such land, such person may apply to the Collector for compensation.

(*2*) Such application shall be made in a prescribed form and shall be made within six months from the date on which this Act comes into force.

(*3*) The Collector shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, award such compensation as he deems reasonable, and adequate. In deciding the amount of the compensation the Collector shall be guided by the provisions of sub-section (*1*) of sections 23 and 24 of the Land Acquisition Act, 1894. Subject to the provisions of sub-section (*4*), the award of the Collector shall be final. Bom. V of 1879. I of 1894.

(*4*) Any person aggrieved by the award of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

Bom. XII of 1939.

(*5*) In deciding appeals under sub-section (*4*) the Bombay Revenue Tribunal shall exercise all the powers which a Court has and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

V of 1908.

**9.** The Bhagdari and Narwadari Act, 1862, and section 117 of the Bombay Land Revenue Code, 1879, are hereby repealed. The repeal of the said enactments and the provision declaring any incident of the Bhagdari and Narwadari tenures to have been extinguished shall not affect,— Repeal.

Bom. V of 1862. Bom. V of 1879.

(*a*) any right, title, interest, obligation or liability already acquired, accrued, or incurred before the date on which this Act comes into force ;

(*b*) any legal proceeding, or remedy in respect of any such right, title, interest, obligation or liability or anything done or suffered to be done before such date.

**10.** The Provincial Government may make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication and shall when finally made be published in the *Official Gazette*. Rules.

**11.** The words and expressions used in this Act shall have the meanings assigned to them in the Bombay Land Revenue Code, 1879. Interpretation.

Bom. V of 1879.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

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