

BOMBAY LAND IMPROVEMENT SCHEMES ACT, 1942

28 of 1942

[25th January 1943]

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An act to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenues of the Province. WHEREAS it is expedient to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of

water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenue of the Province : AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935. all powers vested by or under the said Act in the Provincial Legislature: Now, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:-

CHAPTER 1
PRELIMINARY

1. Short title, extent and commencement. :-

(1) This Act may be called the Bombay Land Improvement Scheme Act, 1942.

¹[(2) It shall extend to the whole of the ²[State of Gujarat.]

(3) It shall come into force in such area and on such date as the State Government may, by notification in Official Gazette, direct:

³[Provided that on the commencement of the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958, it shall come into force at once in those areas in which ⁴ [x x x] the Saurashtra Land Improvement Schemes Act, 1954 was in force immediately before such commencement.]

1. This sub-section was substituted by Bombay 30 of 1958.

2. These words were substituted for the words "State of Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3. This Proviso was added by Bombay 30 of 1958. s. 3(2).

4. The words the Hyderabad Land Improvement Act, 1953 or as the case may be" were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

(1) "Board" means a Board constituted under section 3;

¹[(1A) "Collector" includes a Deputy Commissioner;]

²[(1B) "Company" means the Gujarat State Land Development Corporation Limited, and any other company owned or controlled

by the State, the purpose of which is execution or financing or both execution and financing of the schemes under this Act;]

(1C) "Company Officer" means any officer of the Company duly appointed by it for all or any of the purposes of this Act;]

3[(2) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture and includes any officer appointed by the State Government to perform the duties of the Director of Agriculture under this Act.]

(2A) "Divisional Soil Conservation Officer" means the officer appointed for the time being to be the Divisional Soil Conservation Officer **4**[and includes any other officer authorised by the State Government to exercise the powers and perform the duties of a Divisional Soil Conservation Officer under this Act]:

(2B) "District Agricultural Officer" means the officer appointed for the time being to be the District Agricultural Officer;]

5[(2C) "Executing Officer" means an officer appointed by the Board or the Company under sub-section (1) of section 11 and shall be construed according as the schemes are executed at the expense of the State Government or the Company:]

(3) "Inquiry Officer" means an officer appointed as such by the Board;

6[(4) 'Owner' includes an owner in severality, in common or joint, as occupant, a tenure holder, pattadar, tenant, and a mortgagee in possession and the expression 'owning' and 'own' shall be construed accordingly;]

(5) "prescribed" means prescribed by rules made under this Act:

7**8**[(5A) "Code" means the Bombay Land Revenue Code, 1879 :1)

(5B) "relevant tenancy law" means :- (i) in the pre-re-organisation State of Bombay, excluding the transferred territories, the Bombay Tenancy and Agricultural Lands Act, 1948 :

9[xxx]

(iv) in the Saurashtra Area of the State of Bombay, the Saurashtra Prohibition of Leases of Agricultural Lands Act, 1953 and the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949: and

(v) in the Kutch Area of the State of Bombay, the Bombay Tenancy and Agricultural Lands Act, 1948 as extended to the area;]

10[xxx]

(7) "Scheme" means a land improvement scheme prepared under this Act;

11[(7A) "Soil Conservation Officer" means the officer appointed for the time being to be the Soil Conservation Officer;] **12**[(7B) 'tenant' means a tenant within the meaning of the relevant tenancy law;]

(8) the words and expressions used in this Act, but not defined, shall have the meaning assigned to them in **13** [the code.]

1. This clause was inserted by Bombay 30 of 1958, s.4(I).
2. Clause (IB) and (1C) were inserted by Gujarat 26 of 1981. s.2(I).
3. Clauses. (2). (2A) and (2B) were substituted for a Clause (2) by Bombay 73 of 1948.
4. These words were inserted by Gujarat 25 of 1963.
5. Clause (2C) was substituted by Gujarat 26 of 1981.
6. This clause was substituted for the original by Bombay 30 of 1958.
7. Clauses (5A) and (5B) were inserted by Bombay 30 of 1958.
8. Clause (5A) was substituted by Gujarat 26 of 1981.
9. Sub-clauses (ii) and (ii) of clause 5(B) were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
10. Clause (6) was deleted by Bombay 53 of 1949, s.2. First Schedule.
11. Clause (7A) was inserted by Bombay 73 of 1948. s. 2(d).
12. This clause was substituted by Bombay 30 of 1958.
13. These words were substituted for the words "the relevant Land Revenue Act" by Gujarat 26 of 1981.

CHAPTER 2

CONSTITUTION OF BOARDS AND PREPARATION OF LAND IMPROVEMENT SCHEMES.

3. Constitution of Boards. :-

1 [(1) The State Government shall constitute in each district a Board consisting of the Collector, the District Agricultural Officer, the Divisional Soil Conservation Officer and such non-official persons not exceeding two as may be appointed by the State Government.

(1A) The Divisional Soil Conservation Officer shall be the Secretary

of the Board.]

(2) If there is a difference of opinion among the members of the Board regarding any question under the provisions of this Act, the decision of the majority of the members shall prevail.

1. Sub-sec. (1) and (1A) subs, for sub-sec. (1). by Bombay 30 of 1958.

4. Power of Board to direct preparation of land improvement scheme and matters for which scheme may be prepared. :-

(1) The Board ¹[or the company] may direct the preparation of a land improvement scheme for any area within its jurisdiction. A scheme may make provision for any of the following matters, namely :- (i) preservation and improvement of soil : (ii) Prevention of erosion of soil : (iii) improvement of water supply ²[including the construction , or improvement of wells and other undergrounds water resources and exploitation of those resources:] ³[(iiia) development of land for better utilisation of the irrigation potential to be specified in the scheme;] (iv) introduction of dry framing methods; (v) improvement in the methods of cultivation : (vi) reclamation of water-logged land or of land from the sea: (vii) prohibition or control of grazing; (viii) control and maintenance of tree growth ; ⁴[(viiia) regulation or prohibition of firing of vegetation ;] ⁵[(viiib) cultivation of waste or fallow land:] ⁶[(viiic) eradication of hariyali or any other kind of weed or vegetation which is likely injuriously to affect, or interfere with cultivation:]

⁷[(2) On such direction being ⁸ [issued by the Board or the Company, the Board or the Company] shall appoint an officer to prepare, in accordance with such instructions as it may issue, a draft scheme containing the following particulars, namely :- (i) the objects of the scheme; (ii) the approximate area of the land to be included in the scheme: (iii) the work or kind of work to be carried out under the scheme: (iv) the agency or agencies through which the work shall be carried out; (v) such other particulars as may be prescribed.]

1. These words were inserted by Gujarat 26 of 1981.

2. These words were inserted, *ibid*.

3. Item (iiia) was inserted, *ibid*.

4. Clause (viii-a) was inserted by Bombay 7 of 1945.

5. This clause was inserted by Bombay 73 of 1948.

6. This clause was inserted by Bombay 38 of 1949.
7. Sub-section (2) was substituted by Bombay 7 of 1945.
8. These words were substituted for the words "issued by the Board, the Board" by Gujarat 26 of 1981. s. 3(2).

5. Publication of scheme and inviting objections. :-

1[²(1) The draft scheme prepared under section 4 shall be submitted by the officer appointed by the Board or the officer appointed by the Company to the Board or, as the case may be, to the Company, and the Board or, as the case may be, the Company shall either approve the scheme with or without modifications or reject it and where the Board approves the scheme it shall appoint an Inquiry Officer.]

(2) The scheme approved by the Board ³[or the Company] under sub-section (1) shall be published in the Official Gazette and in the village and at the headquarters of the ⁴[taluka, tahsil] or mahal and of the district in which the lands proposed to be included in the scheme are situate.

(3) The Board ⁵[or the Company] shall ⁶[simultaneously with the publication of the scheme in the ⁷[village] under sub-section (2)] require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit objections in writing to the Inquiry Officer ⁸[or as the case may be, the Company Officer] or appear before him, within ⁹[seven days] of ¹⁰[such publication.]

1. Section 5 and 6 were substituted for the original sections by Bombay 7 of 1945.
2. Sub-section (1) was substituted by Gujarat 26 of 1981.
3. These words were inserted, *ibid*.
4. These words were substituted for the word "taluka" by Bombay 30 of 1958.
5. These words were inserted, by Gujarat 26 of 1981, s. 4(3)(i).
6. These words, brackets and figure were substituted for the words "on publication of the Scheme" by Bombay 73-of 1948. s. 5(a).
7. This words was substituted for the words "Official Gazette" by Gujarat 25 of 1963, s.3.
8. These words were inserted, by Gujarat 26 of 1981. s. 4(3)(ii).
9. These words were substituted for the words "twenty-one days" by Gujarat 25 of 1963.
10. These words were substituted for the words "the publication of the scheme in the Official Gazette under sub-section (2)" by Bombay 73 of 1948.

6. Report of Inquiry Officer. :-

(1) The Inquiry Officer¹[or, the Company Officer] shall hear such objections as are made to him in person, consider all objections duly submitted under section 5 and submit his report together with the objections to the Board¹[or, as the case may be, to the Company.]

(2) The Inquiry Officer¹[or, the Company Officer] 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 approved by the Board¹ [or the Company] under sub-section (1) of section 5.]

1. These words were inserted by Gujarat. 26 of 1981.

7. [Decision of disputed claims.] :-

Repealed by Bombay 7 of 1945, s. 6, read with Bombay 29 of 1948, s. 2.

8. [Report of Inquiry Officer] :-

Repealed by Bombay 7 of 1945, s. 6 read with Bombay 29 of 1948, s. 2.

9. Power of Board to sanction scheme with or without modifications. :-

1

(1) After consideration of the objections and the report submitted under sub-section (1) of section 6 and of any further report²[which the Board or the Company may require the Inquiry Officer or Company Officer to submit to, the Board or, as the case may be, the Company] may sanction the scheme with or without modifications or reject it :

Provided that if not less than³[49 per cent] of the total number of the owners of the land included in the scheme other than the Government or owners other than the Government owning in the aggregate not less than⁴[49 per cent] of the land included in the scheme have made objections to the scheme or part thereof, the Board⁵[or, as the case may be the company] shall submit the scheme to the State Government for its orders. The State Government may thereupon sanction the scheme with or without modifications or reject it.

(2) The scheme as sanctioned under sub-section (1) shall be published in the Official Gazette, and in the village and at the head- ⁶ [taluka, tahsil] or mahal and of the district in which the lands included in the scheme are situate and shall on such publication be final.]

1. This section was substituted for the original by Bombay 7 of 1945. read with Bombay 29 of 1948.

2. These words were substituted for the words "which the Board may require the Inquiry Officer to .submit, the Board" by Gujarat 26 of 1981..

3. These figures and words were substituted fort the figures and words "33 per cent." by Gujarat 25 of 1963.

4. These figures and words were substituted fort the figures and words "33 per cent." by Gujarat 25 of 1963.

5. These words were inserted by Gujarat 26 of 1981.

6. These words were substituted for the word "taluka" by Bombay 30 of 1958.

10. Effect of scheme. :-

On the date on which the scheme is published in the ¹[village] under sub-section ² [(2)] of section 9, it shall come into force and shall have effect as if it were enacted in this Act.

1. The word was substituted for the word "Official Gazette", by Bombay 30 of 1958.

2. Subs, by Gujarat 25 of 1963.

10A. Power of State Government or of Board to make regulations :-

¹²³[For the purpose of carrying out the objects of a scheme which has come into force under section 10-

(a) the State Government, or

(b) the Board or the Company, in consultation with the State Government, may make,]

regulations requiring any person or ⁴ [xxx] persons 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.]

1. This section was inserted by Bombay 3 of 1944 read with Bombay 29 of 1948.

2. These words were inserted by Gujarat 26 of 1981.

3. This portion was substituted for the portion beginning with the words "for the purpose of and ending with the words "the Board made" by'Gujarat 26 of 1981.

4. The words "class or weir deleted by Bombay 73 of 1948.

11. Power to enforce scheme. :-

1

(1) After a scheme has come into force under section 10, the Board²[or, as the case may be, the Company] shall appoint an officer to execute it.

(2) Every owner of land included in the scheme shall pay the costs or part costs, as the case may be of the works which under the scheme are carried out by the Government³[or, as the case may be, the Company] in his land at the cost or part cost of the owner.

(3) If any owner of the land included in the scheme desires to carry out himself any works which under the scheme are to be carried out in his land by the Government⁴or, as the case may be, the Company] at the cost or part cost of the owner, he shall give notice in writing to that effect to the Executing Officer within⁵[seven days] of the publication of the scheme in the⁶[village] under section 9.

(4) On receipt of such notice, the Executing Officer shall inform the owner of the works which are to be carried out in his land, and shall fix the date before which the owner shall carry out the works.

(5) If such owner fails to carry out any work to the satisfaction of the Executing Officer before the date fixed by him or at any time expresses in writing to the Executing Officer his inability to do so, the Executing Officer may himself get the work carried out and the expenses incurred by the Executing Officer for the purpose shall be recovered from the owner.

(6) Where the owner of any land included in the scheme is the Government, the Department of Government which has the control or management of such land, or the Executing Officer directed in this behalf by⁷ [the Board, the State Government or the Company,] as the case may be, shall carry out the works which the Government is liable to carry out under the Scheme.]

1. This section was substituted for the original by Bombay 7 of 1945 read with Bombay 29 of 1948.

2. These words were inserted by Gujarat 26 of 1981.

3. These words were inserted by Gujarat 26 of 1981.

4. These words were inserted by Gujarat 26 of 1981.

5. These words were inserted by Gujarat 26 of 1981.
6. This word was substituted for the words "Official Gazette", by Gujarat 25 of 1963.
7. These words were substituted for the words "the Board or the State Government" by Gujarat 26 of 1981.

12. Liability of persons whose lands are not included in scheme to contribution. :-

(1) If, in consequence of any work carried out ¹[xxx] under the Scheme ²[any person, including the Government other than the owner of the land in which the work is done,] likely to be benefited, he shall pay such amount ³[⁴as the State Government or the Company] may determine as contribution to the owner of the land, if the work has been carried out by the owner, or ⁵[to the State Government or the Company], if the work has been carried out by the Executing Officer:] Provided that the State Government may excuse payment of such contribution in whole or in part in respect of any work carried out by it ⁶[in land belonging to the Government:

⁷[Provided further that where the work is carried out at the expense of the Company and the State Government excuses payment of the contribution, the State Government shall pay to the Company an amount equal to the amount of the contribution so excused.

8

1. The words "by the owner of any land" were deleted by Bombay 7 of 1945 read with Bom. 29 of 1948.
2. These words were substituted for the words "any other person, including the Crown." Bombay 7 of 1945 read with Bombay 29 of 1948.
3. These words were substituted for the words "to the owner of the land as contribution as the Board may determine" by Bombay 73 of 1948.
4. These words were substituted for the words "as the State Government" by Gujarat 26 of 1981.
5. These words were substituted for the words "to the State Government" by the Gujarat 16 of 1981.
6. These words were inserted by Bombay 7 of 1945 read with Bombay 29 of 1948.
7. This proviso was added by Gujarat 26 of 1981.
8. This section was inserted by Bombay 3 of 1944 read with Bombay 29 of 1948.

12A. Penalty. :-

Any person who contravenes or causes any contravention of any of the provisions of a Scheme which has come into force under section 10, or any of the regulations made under section 10A, or does any act which causes damage to any of the works carried out under the Scheme, or fails to fulfill any liability imposed upon him under section 13 ¹[or 13A] or sub-section ²[(4)] of section 25 ³ [or of section 25A] shall on conviction, be punishable with fine which may extend to fifty rupees or with simple imprisonment for a period which may extend to one month, or with both.]

1. The word, figures and letter "or 13 A" were inserted by Bombay 30 of 1958.

2. These brackets and figure were substituted for the brackets and figure ~ (5) ~ by Bom. 7 of 1945 read with Bombay 29 of 1948.

3. The words, figures and letter were inserted by Bombay 51 of 1954.

CHAPTER 4

MAINTENANCE, REPAIR AND USE OF WORKS CARRIED OUT UNDER THE SCHEME

13. Statement :-

1

(1) ²[In the case of any work under a scheme, wholly carried out before the commencement of the Bombay Land Improvement Scheme (Extension and Amendment) Act, 1958, the Executing Officer] shall prepare a statement giving for any specified area the following particulars :-

(a) (i) the work done; (ii) the cost thereof; (iii) the total amount to be recovered from the owners; (iv) the general rate per acre or per rupee of assessment per annum at which such amount is to be recovered from the owners: (v) the period within which such amount is to be recovered: ³[(vi) the work which, in his opinion, shall be maintained and repaired individually or jointly and the names of such person or persons;]

(b) if in the case of any survey number or sub-division of a survey number the owner is not liable to maintain or repair

(c) a map showing the work carried out in the village;

(d) such other matters as may be prescribed.

(2) When the statement is prepared under this section any rights and liabilities shown therein shall be entered in the Record of Rights ⁴[or where there is no Record of Rights, in the prescribed

village record] and in the village accounts in such manner as the State Government may prescribe and shall thereupon form part of such Record of Rights⁵ [or as the case may be, of such village record and of the village accounts.]

1. This section was substituted for the original by Bombay 7 of 1945.
2. This portion was substituted for the words "The Executive Officer" by Bombay 30 of 1958.
3. This clause was substituted for the original by Bombay 73 of 1948.
4. These words were substituted for the words, figures and letter "maintained under Chapter X-A of the Bombay Land Revenue Code, 1879" by Bombay 30 of 1958.
5. These words were substituted for the words "and of the village accounts" by Bom. 30 of 1958.

13A. Executing Officer to prepare recovery statements and entries to be made in Record of Rights, etc. :-

1

(1) Save as otherwise provided in section 13, the Executing Officer shall, on the completion of part of any work to be carried out, under a scheme prepare an interim statement specifying therein-

(i) the part of the work carried out;

(ii) the cost of such part calculated on the basis of the works cost as recorded in the works register maintained by the Executing Officer:

(iii) the interim amount to be recovered from the owner in respect of the work so carried out:

(iv) the period within which such amount is to be recovered:

(v) the general rate per acre or per rupee of assessment, per annum at which such amount is to be recovered from the owners:

(vi) if in the case of any survey numbers or sub-divisions of survey numbers, the amount to be recovered under clause

(iii) is to be recovered at a rate other than the general rate, such rate:

(vii) the names of the persons from whom such amount is recoverable:

(viii) such other particulars as may be prescribed.

(2) After the whole of the work under such scheme is carried out the Executing Officer shall prepare-

(a) the final statement specifying therein- ² [including the rate of interest and the amount to be recovered at such rate and any matter incidental thereto:] (iv) in relation to such balance, the balance amount to be recovered from the owners as cost or part cost: (v) the period within which such amount is to be recovered: (vi) the names of persons from whom such amount is recoverable; (vii) the general rate per acre or per rupee of assessment, per annum at which the amount specified under clause (iv) should be recovered; (viii) if in the case of any survey number or sub-division of a survey number the amount recoverable from the owner thereof is to be recovered at a rate other than the general rate, such rate and a list of all such survey numbers or sub-divisions; (ix) the work which, in his opinion, shall be maintained and repaired individually or jointly and the names of such persons: (x) such other particulars as may be prescribed:

(b) a map showing the work carried out in the village.

(3) The rights and liabilities shown in the interim statement and the final statement shall be entered in the Record of Rights or where there is no Record of Rights in the prescribed village record and in the village accounts in such manner as the State Government may prescribe and shall thereupon form part of such record of rights or as the case may be, the village record and of the village accounts.]

1. This section was inserted by Bombay 30 of 1958.

2. These words were inserted by Gujarat 26 of 1981.

14. Obligation of persons to maintain and repair works. :-

1

(1) Every person shown in the statement prepared under section 13 ²[or 13A] as liable to maintain and repair work shall, to the satisfaction of ³[the Divisional Soil Conservation Officer] ⁴[or the Company Officer] and within such time as the said officer may fix, maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the said statement.

(2) If such person fails to maintain or repair the work within the time fixed by ⁵[the Divisional Soil Conservation Officer] ⁶[or the Company Officer] under sub-section (1). ⁷[the Divisional Soil

Conservation Officer] ⁸[or the Company Officer] shall himself get the work maintained or repaired and the cost of so doing shall be recovered from the person.]

(3) If ⁹[the Divisional Soil Conservation Officer] ¹⁰[or the Company Officer] is of opinion that an emergency has arisen and that the immediate repair of any work referred to in sub-section (1) is necessary in the general interest, he shall carry out such repair and the cost of such repair shall be paid by the owner of the land on which the repair has been carried out.

(4) ¹¹[The Divisional Soil Conservation Officer] ¹²[or the Company Officer] shall, as soon as possible, make report to the State Government ¹³ [or the Company] regarding such repair.]

1. This section was substituted for the original by Bombay 7 of 1945 read with Bombay 29 of 1948.

2. The word, figures and letter "or 13-A" were inserted by Bombay 30 of 1958.

3. These words were substituted for the words "the Land Improvement Officer" by Bom. 53 of 1949.

4. These words "or the Company Officer" were inserted after the words "Divisional Soil Conservation Officer" wherever they occur in section 14 by Gujarat 26 of 1981.

5. These words were substituted for the words "the Land Improvement Officer" by Bom. 53 of 1949.

6. These words "or the Company Officer" were inserted after the words "Divisional Soil Conservation Officer" wherever they occur in section 14 by Gujarat 26 of 1981.

7. These words were substituted for the words "the Land Improvement Officer" by Bom. 53 of 1949.

8. These words "or the Company Officer" were inserted after the words "Divisional Soil Conservation Officer" wherever they occur in section 14 by Gujarat 26 of 1981.

9. These words were substituted for the words "the Land Improvement Officer" by Bom. 53 of 1949.

10. These words "or the Company Officer" were inserted after the words "Divisional Soil Conservation Officer" wherever they occur in section 14 by Gujarat 26 of 1981.

11. These words were substituted for the words "the Land Improvement Officer" by Bom. 53 of 1949.

12. These words "or the Company Officer" were inserted after the words "Divisional Soil Conservation Officer" wherever they occur in section 14 by Gujarat 26 of 1981.

13. These words "or the Company" were inserted by Gujarat 26 of 1981.

CHAPTER 5

MISCELLANEOUS

15. Payment and recovery of amount. :-

¹Any amount or installment thereof payable under sections 11, 12
²[or 14] which is not paid on the date when it becomes due under
this Act shall be deemed to be an arrear of land revenue due on
account of the land for the benefit of which the Scheme has been
sanctioned under this Act or the work is or repairs are carried out
and shall be recoverable as such arrear by any of the methods ³
[provided in the Code]]

1. This section was substituted for the original by Bombay 73 of 1948.

2. These word and figures were substituted for the figures, word and letter " 14 or 25A" by Bombay 8 of 1953.

3. The words "provided in the relevant land Revenue Act" were substituted for the words and figures" specified in section 150 of the Bombay Land Revenue Code. 1879" by Bombay 30 of 1958.

15A. Amount due to Company to be first charge on land of defaulters. :-

¹ The amount or installment thereof due from any owner in respect of land payable under Section 11 , Section 12 or Section 14 to the Company shall, subject to the prior payment of land revenue (if any) due to the State Government thereon and subject to the provisions of Section 7 of the Gujarat Agricultural Credit (Provision of Facilities) Act, 1979 be a first charge upon that land to which every other charge created in respect of that land shall be postponed, and such amount or installment may be recovered according to the provisions of section 15B.

1. These words were inserted by Bombay 7 of 1945 read with Bombay 29 of 1948.

15B. Recovery of money due to Company as arrears of land revenue. :-

Where any amount or any installment thereof payable to the Company by or under this Act is not paid on the date when it becomes due -

(a) and the claim is not disputed, the Company Officer may send to the Collector a certificate under his hand indicating therein the sum which is due to Company or is claimed by the Company, as the case may be, and thereupon, the Collector shall recover the sum due or claimed as arrear of land revenue:

(b) and the claim is disputed, it shall be referred to an officer authorised in this behalf by the State Government for the purpose:

and such officer shall after making such inquiry as he deems fit, and after giving to the person by whom the amount is alleged to be payable an opportunity of being heard, decide the question: and the decision of such Officer shall be final: and thereupon the amount, if any, determined to be due to the Company may be recovered in the manner provided under clause (a) as if the claim is not disputed.

15C. Where loan is given by scheduled bank, transfer of rights of Company to the bank for speedy recovery of its dues from owners of land benefited. :-

(1) Notwithstanding anything contained in this Act, where any work under any scheme is to be carried out or is completed by the Company, by use of the funds borrowed by it from any scheduled bank and in consequence thereof a charge is created upon any land in favour of the Company under section 15A all the rights and liabilities of the Company for recovery of cost (including interest) of the said work or of any part thereof, with the priority therefor under section 15A, shall stand transferred to and vest in the scheduled bank

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(a) upon the Company preparing an interim or final statement under section 13A and notifying the same to the scheduled bank from which the funds are borrowed by the Company: or

(b) upon such scheduled bank notifying to the Company its acceptance of all owners or any of the owners named in the statement as its debtors, instead of being debtors of the Company:

Provided that, where the scheduled bank does not accept all the owners but accepts only some of the owners, named in the statement as its debtors, then the rights and liabilities of the Company, with the priority therefor, in respect of lands of only those owners who are accepted as its debtors, by the scheduled bank shall stand transferred to and vest in the scheduled bank.

(2) On such transfer, the Company shall inform the owners concerned of the same, and then the amount shown in the interim or final statement, as the case may be, as recoverable against each owner, who is accepted as its debtor by the scheduled bank, shall be paid by the respective owner to the scheduled bank on due dates in such installments, and with interest at such rate, as may

be specified in the statement.

(3) Where the rights and liabilities of the Company, in respect of any owners are transferred to and vest in a scheduled bank, the bank shall give an intimation to the talati. or such revenue officer as may be designated by the State Government in this behalf, of the particulars of the lands and the names of such owners and of the charges or mortgage created thereon in its favour. The talati or designated officer shall show in the record of rights or, where there is no record of rights, in the prescribed village record and in the village accounts the name of the bank as the mortgagee of the lands and make a note of other particulars of the charge created or mortgage given. The bank shall likewise give an intimation to the talati or designated officer as soon as the whole amount due from any owner ceases to be outstanding, and thereupon the talati or the designated officer shall make a suitable note in the record of rights or the village record and accounts about release of the land from the charges or mortgage, as the case may be.

(4) The provisions of sections 15A and 15B shall apply mutatis mutandis to any amount or installment thereof payable by any owner of land to any scheduled bank under this section, as if references in those sections to the Company and the Company Officer were references to the scheduled bank and the bank officer, respectively. Explanation.-For the purposes of this section "scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 and "bank officer", in relation to such bank means any officer of such bank duly appointed by it for the purposes of this Act]

16. Right of entry. :-

For the purpose of preparing, sanctioning or executing any scheme ¹[for repairing or maintaining any works under any scheme], any person authorised by ²[the Board, ³ [the Collector, the Divisional Soil Conservation Officer or the Company] may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land, and do all acts necessary for such purpose.

1. These words were inserted by Bombay 7 of 1945 read with Bombay 29 of 1948.

2. These words were substituted for the words "the Board or the Collector" by Bombay 7 of 1945 read with Bombay 29 of 1948.

3. These words were substituted for the words "the Collector or the

Divisional Soil Conservation Officer" by Gujarat 26 of 1981.

17. Inquiries to be held, summarily. :-

(1) Any authority other than a Board empowered under this Act to make an inquiry shall make the inquiry in the manner provided for holding a summary inquiry under ¹²[the Code]] and all the provisions contained in ³[such Act] relating to the holding of a summary inquiry shall, so far as may be, apply.

(2) Such authority as well as a 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 ⁴⁵[the code]].

1. The word "the relevant land revenue Act" were substituted for the words and figures the Bombay Land Revenue Code. 1879" by Bombay 30 of 1958.

2. These words were substituted for the words "the relevant Land Revenue Act" by Gujarat 26 of 1981.

3. These words were substituted for the words "the said Code" by Bombay 80 of 1958.

4. These words were substituted for the words "the relevant Land Revenue Act" by Gujarat 26 of 1981.

5. These words were substituted for the words "the said Code" by Bombay 80 of 1958.

18. Permission to owners to increase rent on account of improvements effected :-

Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the owner of any land included in a scheme to enhance the rent payable by a tenant of the land by such amount and subject to such conditions as may be prescribed.

19. Registration of document plan or map in connection with land improvement scheme not required. :-

(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.

(2) All such documents, plans, and maps shall, for the purpose of S.48 of the Gujarat Agricultural Credit (Provision of Facilities) Act, 1979 and S.49 of the Bombay Khar Lands Act, 1948 of the Registration Act, 1908, be deemed to be registered in accordance

with the provisions of that Act : Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

20. [Delegation of powers by Provincial Government.] :-

Rep. by Bom. 7 of 1945 read with Bombay 29 of 1948.

21. Delegation :-

¹The State Government and subject to the control of the State Government the Collector or ² [the Divisional Soil Conservation Officer] may delegate to any officer any of the powers conferred on it or him or any of the functions to be performed by it or him by or under this Act.]

1. Subs, by Bombay 73 of 1948.

2. These words were substituted for the words "Land Improvement Officer" by Bom. 53 of 1949.

22. Certain officers to be public servants. :-

The members and secretary of a Board, the Inquiry Officer and any officer or person authorised or appointed by the Board, ¹[the Company] the Collector, ²[the Divisional Soil Conservation Officer] or the State Government under sub-section (2) of section 4, sub-section (1) of section 11, ³[xxx] section 16, ⁴ [section 21] or sub-section (2) of section 25, as the case may be, shall be deemed to be public servants within the meaning of the Indian Penal Code.

1. These words were inserted by Gujarat 26 of 1981.

2. These words were substituted for the words "Land Improvement Officer" by Bom 53 of 1949.

3. The words, brackets and figures "sub-section (2) of section 12" were deleted by Bom. 53 of 1949.

4. These word and figures were inserted by Bombay 73 of 1948.

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

(1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done under this Act, unless the suit or

24. Power to make rules :-

(1) The State Government may, by notification published in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may be made to determine the following matters, namely :- ¹[(i) the matters to be prescribed under clause (ix) of sub- section (1) and clause (v) of sub-section (2) of section 4: (ii) the matters to be prescribed under clause (d) of sub-section (1) of section 13; ²[(iii) other particulars to be prescribed under sub-sections (1) and (2) of section 13A: (iiia) the manner in which the rights and liabilities shown in the statements prepared under section 13 and 13-A shall be entered in the Record of Rights or village record and in the village accounts:] (iv) the manner of giving notice under section 16: ³[xxx] ⁴ [xxx]

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

1. Clauses (i) to (vi) were substituted by Bombay 7 of 1945.

2. Clause (iii) and (iiia) substituted for the original by Bombay 30 of 1958.

3. Clause (v) was deleted by Bombay 8 of 1953.

4. Clause (vii) inserted by Bombay 4 of 1944, repealed by Bombay 7 1945 read with Bombay 29 of 1948.

25. Powers of State Government to direct preparation of scheme in certain circumstances. :-

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(1) Notwithstanding anything contained in this Act, the State Government may direct the preparation of a scheme providing for any of the matters specified in sub-section (1) of section 4 in any area in the following cases, namely :- (i) where ²[the State Government, the Company or any trust] contributes not less than 25 per cent, of the cost of the scheme: (ii) if any person or authority is willing to contribute not less than 25 per cent of the estimated cost of the scheme: ³[xxx] (iv) if in the opinion of the State Government land improvement is necessary in the interest of any persons who are members of the armed forces of the Union or who were such members and have retired or the dependents of such persons: or (v) if in the opinion of the State Government the scheme is necessary in the interest of the public.

(2) Alongwith such direction or any time thereafter, the State Government may authorize the Board to appoint an officer to prepare, in accordance with such instructions as the Board may issue, a draft scheme containing the particulars specified in sub-section (2) of section 4. The officer so appointed shall prepare a draft scheme accordingly and submit it to the Board for approval.

(3) After the scheme is submitted to the Board for approval under sub-section (2), the provisions of section 5 and the sections following the said action and the rules made under section 24 shall, so far as they can be made applicable, apply in respect of such scheme.

(4) Notwithstanding anything contained in sub-section (3), the owner of the land in which any work has been carried out for the purposes of a scheme under this section be liable, pending the ⁴[or 13A] to maintain the work to the satisfaction of the Divisional Soil conservation Officer ⁵[or the Company Officer] and repair it to his satisfaction within such time as he may fix.

The provisions of subjection (2) of section 14 shall apply in respect of the owner's liability under this sub-section].

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1. Subs, for the original sections 25 and 25A by Bombay 8 of 1953.

2. Subs, for the words "the State Government or any trust" by Gujarat 26 of 1981.

3. Clause (iii) was deleted by Bombay 51 of 1954.

4. Inserted by Bombay 30 of 1958.

5. Inserted by Gujarat 26 of 1981.

6. Section 25A and 25B were inserted by Bombay 51 of 1954.

25A. 25a :-

Power of State Government to direct preparation and execution of scheme in area declared to be famine or scarcity area.-

(1) Notwithstanding anything contained in this Act, if the State Government is of opinion ¹[that a scheme is necessary in the interest of the public or] that a state of famine or scarcity prevails or is likely to prevail in any area ²[or that it is necessary to provide suitable work to relieve rural unemployment in any area] it may make a declaration to that effect. Such declaration shall be published in the Official Gazette. On the publication of such declaration, the State Government may direct the Collector ³[or the Company] to appoint an officer as the Executing Officer for the

purpose of immediately constructing embankments in such villages as may be specified. Such direction shall also require the Board ⁴[or, as the case may be, the company] to prepare a scheme providing for matters specified in clauses (i) and (ii) of sub-section (1) of section 4 or any other matters specified in sub-section (1) of that section in such village.

(2) On the issue of a direction under sub-section (1), the Board ⁵[or, as the case may be, the Company] shall ask the Executing Officer to prepare a draft scheme, including therein all the works undertaken by him under sub-section (1), and other works in accordance with such instructions as the Board ⁶[or, as the case may be, the Company] may issue, containing the particulars specified in sub-section (2) of section 4. Such Executing Officer shall prepare a draft scheme accordingly and submit it to the Board ⁷[or, as the case may be, the Company] for its approval.

(3) The draft scheme submitted to the Board ⁸[or, as the case may be, the Company] may be approved by it without modification or with such modification as shall not affect the work carried out by the Executing Officer under sub-section (1). The scheme so approved by ⁹[or. the Company] shall be published in the Official Gazette and in the village in which the lands included in the scheme are situate. On the date on which the scheme is published in the village it shall come into force and shall have effect as if it were enacted in this Act. The provisions of section 10 A and the sections following the said section and the rules made under section 24 shall, so far as they can be made applicable apply, in respect of such scheme as if it were a scheme which has come into force under section 10.

(4) Notwithstanding anything contained in sub-section (3) the owner of the land in which any work has been carried out for the purposes of a scheme under this section shall be liable, pending the preparation of the statement under section 13 ¹⁰[or 13 A] to maintain the work to the satisfaction of the Divisional Soil Conservation Officer ¹¹ [or. as the case may be, the Company Officer] and repair it to his satisfaction within such time as he may fix and the provisions of sub-section (2) of section 14 shall apply in respect of the owners liability under this section.

1. Inserted by Gujarat 25 of 1963.

2. Inserted by Bombay 30 of 1958.

3. Inserted by Gujarat 26 of 1981.
4. Inserted by Gujarat 26 of 1981.
5. Inserted by Gujarat 26 of 1981.
6. Inserted by Gujarat 26 of 1981.
7. Inserted by Gujarat 26 of 1981.
8. Inserted by Gujarat 26 of 1981.
9. Inserted by Gujarat 26 of 1981.
10. Inserted by Bombay 30 of 1958.
11. Inserted by Gujarat 26 of 1981.

25B. Power to revoke scheme. :-

If upon an application made by the Board ¹ [or, as the case may be, the Company] 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 any scheme after it has come into force and upon such revocation the provisions of this Act, except section 15, shall cease to apply to such scheme. Such notification shall also be published in the village and at the headquarters of the [taluka, tahsil] or mahal and of the district in which the lands included in such scheme are situate].

1. Inserted Gujarat 26 of 1981.

26. Expenditure incurred by State Government to be charged on 6[Consolidated Fund of State] :-

The expenditure incurred by the State Government in pursuance of anything done under this Act shall be charged on the ¹ [Consolidated Fund of the State].

1. Subs, for the work "revenues of the State" by Born. 30 of 1958.

26A. Effect of transfer of rights and liabilities of Government to State Land Development Bank. :-

¹ Where rights and liabilities of the State Government in relation to the recovery of cost or part cost of the works carried out under any scheme from any owners of lands included in such scheme stand transferred to the State Land Development Bank under section 143A of the Gujarat Co-operative Societies Act, 1961, the rights and liabilities transferred to such Bank shall be entered in the records referred to in sub- section (2) of section 13 or as the case may be, sub-section (3) of section 13A and notwithstanding anything contained in this Act, every such owner of land shall pay the amount recoverable from him under this Act to such Bank. The amount of such cost or part cost shall be paid to the State Land Development Bank by, and recovered by such Bank from, such owners of lands in accordance with the provisions of section 143A

of the Gujarat Co-operative Societies Act, 1961 and such payment to or recovery by, the Bank shall discharge the owners of lands of their liability to make payment to the State Government under this Act to the extent of their respective liability accepted by the Bank.]

1. Section 26A was inserted by Gujarat 21 of 1969.

26B. Power of Government to give directions to Board or Company. :-

¹ The State Government may, by order in writing, give to the Board or the Company such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act and the Board, or as the case may be, the Company shall comply with such directions.]

1. Section 26B was inserted by Gujarat 26 of 1981.

27. Savings. :-

¹ All Boards constituted for a division under section 3 shall be dissolved on the day on which the new Boards shall be constituted under section 3 as amended by the Bombay Land Improvement Schemes (Amendment) Act, 1948:

Provided that any direction issued, appointments made, scheme sanctioned, regulation made and all things done by the first mentioned Board shall be deemed to have been lawfully issued, made, sanctioned or done and any scheme so sanctioned shall be executed by the new Board constituted as aforesaid in the district in which such scheme is made is situate :

Provided further that if such land is situate within the limits of more than one district the State Government shall decide which of the Boards shall execute the scheme in respect thereof.

1. Section 27. 28 and 29 were added by Bombay 73 of 1948.

28. Validation of constitution and acts of Boards. :-

Notwithstanding anything contained in this Act, the Board constituted, any directions issued, appointments made, scheme approved, regulations made and all things done by or on behalf of the Board, before the date on which the Bombay Land Improvement Schemes (Amendment) Act, 1948 came into force shall be deemed to be and to have always been validly constituted, issued, made, approved, or done by reason only of the fact that the Agricultural Commissioner or the Director of Agricultural Engineering acted as a member of the Board before the said date.

28A. Repeal and Savings. :-

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(1) On and from the commencement of the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958, the Hyderabad Land Improvement Act, 1953, and the Saurashtra Land Improvement Schemes Act, 1954, shall, subject to the provisions of sub-sections (2) to (5), stand repealed.

(2) Every Board constituted for a district under any of the Acts so repealed shall be dissolved and the members thereof shall vacate office on the day on which a new Board is constituted for such district under section 3 of this Act:

Provided that anything done or action taken (including any direction given, any draft scheme approved or published, appointments made, any schemes submitted for sanction or regulations made) by the first mentioned Board shall be deemed to have been lawfully done, taken, made, issued, approved, published or submitted by such new Board under this Act and the provisions of this Act shall apply thereto and any scheme sanctioned under any of the Acts so repealed and to be executed by the first mentioned Board shall be executed by the new Board in accordance with the provisions of this Act:

(3) Any statement prepared and entries made in the Record of Rights and in the village accounts or other record under any of the Acts so repealed shall be deemed to have been prepared and made under the corresponding Provisions of this Act:

(4) Any right, privilege, obligation or liability or liability acquired, accrued or incurred under any such scheme or statement or under any other provisions of any of the Acts so repealed shall continue as if acquired, accrued or incurred under this Act and the same may be enforced in accordance with the provisions of this Act: Provided that where any act committed prior to the repeal of the Saurashtra Land Improvement Schemes Act, 1954 was an offence punishable under Section 13 of that Act, any proceeding in respect thereof may be instituted, continued, or disposed of as if the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958 had not been passed.

(5) Any appointment, notification, order, rule, notice, or delegation made or issued under any of the Acts so repealed shall continue in force in so far as such appointments, notification, order, rule,

notice, report, or delegation is not inconsistent with the provisions of this Act until it is superseded by an appointment, notification, order, rule, notice, report, or delegation made or issued under this Act.]

1. S.28A inserted by Bombay 30 of 1958.

29. Savings of Khar lands. :-

Nothing in this Act shall apply to Khar lands in respect of which a scheme is or has been sanctioned under the Bombay Khar Lands Act, 1948 .