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## **Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Rules, 1959**

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## **SCHEDULE 1 :- SCHEDULE**

**SCHEDULE 2 :- Modification subject to which these rules extend to the Kutch Area of the State of Bombay.**

### **Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Rules, 1959**

In exercise of the powers conferred by section 118 of the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (Bom. XCIX of 1958), the Government of Bombay hereby makes the following rules, namely:

#### **1. Short title and extent :-**

(1) These rules may be called the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Rules 1959.

(2)(a) These rules except Schedule II thereto extend to the Vidarbha Region of the State of Bombay,

(b) They also extend to the Kutch area of the State of Bombay subject to the modifications specified in Schedule II.

#### **2. Definitions :-**

In these rules, unless the context otherwise requires,

(a) "act" means the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958;

(b) "form" means a form appended to these rules;

(c) "new holder" means a person to whom any surplus land is leased under section 84 or is granted under section 92;

(d) "section" means a section of the Act;

(e) words and expressions used but not defined in these rules shall have the meanings assigned to them in the Act or the Code.

### **3. Other allied pursuits :-**

In additio to the pursuits specified in clause (4) of section 2, the following shall be the allied pursuits for the purposes of the Act:

(i) wool making; (ii) Oil pressing by ghanis by human or animal agency; (iii) Rope-making; (iv) Hand spinning of yarn or hand weaving of cloth or both; (v) Gur making.

### **4. Manner of publication of list under section 8 (2) and manner of making application to Tahsildar under section 8 (3) :-**

(1) The list of persons other than occupancy tenants and protected lessees, prepared under sub-section (1) of section 8 shall be published by affixing a copy thereof at the office of the Tahsildar, at the village chavdi and on the notice board of the Gram Panchayat and where there is no Gram Panchayat at any prominent place in the village. The fact that such list has been prepared shall also be announced in the village by beat of drum.

(2) An application to the Tahsildar under sub-section (3) of section 8 shall be made in the form of a petition addressed to the Tahsildar and shall be drawn up in concise, intelligible and respectful language and shall bear the signature or thumb mark of the applicant or of his duly authorised agent.

(3) Every such application shall specify the name and address of the applicant and shall clearly set out in brief and unexaggerated manner the grounds on which the correction or omission of any entry in the list published by the Tahsildar under sub-section (2) of section 8 is disputed.

(4) Every such application shall either be presented to the Tahsildar in person or be sent to him by post.

### **5. Manner of determination of reasonable rent :-**

(1) For the determination of the reasonable rent of any land under section 12 the tenant or his landlord may apply to the Tahsildar in Form I.

(2) On receipt of an application under sub-rule (1) the Tahsildar shall give notice to the landlord or the tenant, as the case may be, and after holding an enquiry, shall determine the reasonable rent of the land.

**6. Other factors to be taken into consideration for determination of reasonable rent :-**

For the purpose of determination of the reasonable rent under section 12 the Tahsildar shall, in addition to the factors mentioned in that section, have regard to the following factors, namely:

- (a) the fact whether or not the land is located in a Scheduled Area;
- (b) the standard of husbandry; (c) the value of service or contribution made
- (i) by the landlord towards the cultivation of the land held by the tenant, such as protection of crop and supply of seeds or manure, and

<sup>1</sup> ["(ii) by the tenant towards maintenance of, or repairs to bunds or towards any other improvement."]

1. Subs. by Notfn. dt. 10-11-1959.

**7. Application for commutation of crop-share rent into cash rent :-**

An application for commutation of rent in crop-share into cash rent under sub-section (1) of section 13 shall be made in Form II.

**8. Application for commutation of rent in terms of service or labour into cash :-**

An application for commutation of rent in terms of service or labour into cash under sub-section (1) of section 14 shall be made in Form III.

**9. Penalty for recovery of rent in cotravention of section 11, 12, 13 or 14 :-**

Where landlord or any person on his behalf recovers rent from any tenant in cotravention of the provisions of section 11, 12, 13 or 14, the landlord shall be liable to pay such penalty to the extent of ten times the excess amount of rent recovered from such tenant but not so as to be less than Rs. 50, as the Tahsildar may determine.

**10. Determination of value of produce of land :-**

For the purpose of sub-section (2) of section 17, the value of produce of land for the year shall be determined in the following manner, that is to say:

- (1) the total yield of the land shall be determined on the basis of the rates estimated on either of the following whichever may be

lower :

(a) The quantity of the average yield per acre of that crop as notified by the Tahsildar on the basis of actual crop cutting experiments undertaken by the Revenue or Agricultural department or by both in that year in or near the local area in which the land is situate,

(b) the actual yield per acre agreed to by the landlord and the tenant.

(2) The produce of the land shall be computed on the basis of the average yield per acre determined under clause (1) and the value of the produce or 1/6th of the produce, as the case may be, shall be calculated on the basis of the average market price for the months of January to March<sup>1</sup>[as recorded by the Revenue Department.]

<sup>2</sup> [[xxx]

1. Ins. by Notfn. dt. 22-2-1960.

2. Deleted by ibid.

### **11. Manner of verifying surrender of tenancy :-**

The Tahsildar, when verifying the surrender of a tenancy by a tenancy in favour of the landlod under section 20, shall in the absence of the landlord or his agent examine the tenant on oath after a period often days from the date of receipt of intimation of surrender by putting him questions to as certain

(i) the reasons for his surrendering the tenancy; (ii) whether the surrender is voluntary and has been made in good faith; (iii) the other source of livelihood the tenant has or wishes to have; (iv) whether the tenant is aware of the consequences of the surrender; and (v) any other matter which the Tahsildar deems it necessary to do :

Provided that where the Tahsildar is satisfied that the surender is not voluntary and has been made in good faith he shall not pass any order unless the landlord is given an opportunity to be heard.]

### **12. Form and manner of intimating surrender to Tahsildar under section 21 (3) :-**

(1) An intimation in respect of the surrender of tenancy by a tenant under sub-section (3) of section 21 shall be give to the Tahsildar in duplicate in Form IV by hand delivery or by registered post.

(2) On receipt of the intimation of surrender, the Tahsildar shall retain with him one copy of the intimation and return the duplicate copy to the landlord furnishing the intimation, after endorsing thereon his signature in token of having received the intimation and the date of receipt thereof <sup>1</sup> ["and entering the date of receipt of the intimation in the register maintained for the purpose.]

1. Added by Notfn. dt. 10-11-1959.

**13. Form of certificate under section 23 and fees therefor :-**

(1) The certificate to be granted by the Tribunal under sub-section (3) of section 23 shall be in Form V.

(2) A fee calculated at the rates specified in Schedule I appended to these rules shall be paid for such certificate.

<sup>1</sup> [

1. Ins. by Notfn. dt. 22-2-1960.

**13A. Period for deposit of value of site :-**

The period for depositing the amount of value of the site by a tenant under sub- section (4) of section 23 shall be one month from the date on which the tenant expresses his willingness to purchase the site before the Tahsildar under section 36.]

**14. Application for adjudication of dispute regarding the right to produce of trees :-**

An application under sub-section (2) of section 26 for an adjudication of a dispute regarding the right to the produce of trees naturally growing on the land or apportionment of such produce shall be made in Form VI.

**15. Form of receipt for rent :-**

(1) A receipt to be given under sub-section (2) of section 32 shall be in Form VII. The receipt shall be given in the regional language of the locality and the counterfoil of such receipt shall be signed by the

(2) Where a share of the produce is paid as rent, the kind and quantity of such produce shall be mentioned in the receipt.

**16. Form of application for possession of land or dwelling house or site :-**

An application for possession of land or dwelling house or site under

sub-section (1) or (2) of section 36 shall be made in Form VIII. <sup>1</sup> [

1. Ins. by Notfn. dt. 11-1-1967.

**16A. Manner of holding inquiry by Collector under section 36(3A) :-**

On receipt of a application under sub-section (3A) of section 36, the Collector shall issue a notice to the tenant and the landlord specifying therein the time, date and place at which he proposes to inquire into the application. On the day so appointed or any other day to which the inquiry may be adjourned by him, the Collector shall hear the parties, and take such further evidence as he may consider necessary].

**17. Last date for separation of share under sub-section (2) of section 38 and sub-section (2) of section 41 :-**

The 30th June 1959 shall be the prescribed date referred to in the first proviso to sub-section (2) of section 38 and in the second proviso to sub-section (2) of section 41.

**18. Manner of apportioning rent on termination of tenancy in respect of part of land leased :-**

(1) After the tenancy of a part of the land leased to a tenant is terminated by a landlord under section 38 and the possession of the said part is obtained by him under the order of a Tahsildar under sub-section (2) of section 36, the rent for the remaining part of the land left with the tenant shall be apportioned in the following manner:

(a) Where the landlord and the tenant do not agree as to the amount of the rent to be paid for the part of the land left with the tenant, the landlord shall make an application in Form IX to the Tahsildar for apportionment of the rent.

(b) On receipt of an application under clause (a), the Tahsildar shall issue a notice to the tenant and after holding an enquiry fix the rent of the part of the land left with the tenant after taking into consideration the following factors, namely:

(i) the total area and kind of the land held by the tenant before the termination of his tenancy or a part of such land and the rent paid by him therefor; and

(ii) the factors mentioned in section 12.



(2) Nothing contained in this rule shall at any time prevent the tenant from applying for fixation of reasonable rent under section 12.

**19. Manner in which tenant to exercise choice under section 43(1) :-**

A tenant, who is entitled under sub-section (1) of section 43 to choose the area and location of the land to be purchased by him from the landlord, shall choose such area and location in such a manner that the pieces of land chosen by him and the land, if any, held by him as Tenure-holder and cultivated by him personally:

(a) form one compact block, or

(b) if they cannot form a compact block, are so situated that none of them is separated from another by a distance of more than five miles.

**20. Issue of certificate of purchase by the Tribunal to tenant :-**

The certificate to be issued by the Tribunal to a tenant under sub-section (8) of section 43 shall be in Form X.

**21. Reference by Tribunal :-**

(1) The reference to be made by the Tribunal to a Civil Judge under sub-section (3) of section 44 shall contain the following particulars, namely:

(i) Survey number, Pot-Hissa number and other description of land; (ii) name of the tenants; (iii) name of the landlord, (iv) name of the holder of the encumbrance, (v) nature of the encumbrance, (vi) amount claimed by the holder of the encumbrance, (vii) brief description of the circumstances of the case, (viii) the question of law regarding the validity of the encumbrance or the claim of the holder of encumbrance or the question regarding the amount due in respect of the encumbrance which is required to be decided by the Judge.

(2) Such reference shall be signed by the Presiding Officer of the Tribunal.

**22. Application by occupancy tenant for purchase of right of tenure holder in land :-**

An application for purchasing the right of the tenure holder in any land under section 45 shall be made in Form XI.

**23. Public notice to be published by Tribunal under section 48 :-**

(1) The public notice to be published or caused to be published by the Tribunal under section 48 shall be in Form XII and shall be published i the village by beat of drum and by affixing a copy thereof in the chavdi and in the office of Gram Panchayat of the village <sup>1</sup> [and where a village has no panchayat at any prominent place in the village.]

1. Subs. by Notfn. dt. 10-11-1959.

**24. Manner of satisfying whether tenants consent to purchase price is voluntary :-**

In determining the purchase price under section 47 in accordance with the price mutually agreed upon by the landlord and the tenant, and examine him on oath when the landlord or his agent is not present, by putting to him question for ascertaining

(1) whether the tenant is under any pecuniary obligation of the landlord,

(2) whether the landlord has made any adjustment with the tenant outside the agreement of the purchase price,

(3) whether the tenant has any objection to the agreed price,

(4) the financial position of the tenant, (5) any other matter which the Tribunal thinks necessary to ascertain.

**25. Notice directing tenant to deposit amount of price and order authorizing payment of amount so deposited to landlord :-**

(1) After the purchase price is determined under sub-section (3) of section 43 of sub-section (2) of sec. 38 and in the case of tenants other than occupancy tenants claims in respect of encumbrances are decided under section 44, the Tribunal shall after ascertaining from the tenant whether he wishes to pay the price in lump sum or in instalments issue a notice in Form XIII directing the tenant to deposit the price so determined with the Tribunal in lump sum within one year from such date or as the case may be, in instalments on or before such date or dates as may be specified therein and issue an order in Form XIV authorising the payment of the price so deposited to the landlord and to the holders of encumbrances, if any, specified in the orders.

(2) A copy of every order issued under this rule shall be sent to the landlord and to the holders of encumbrances, if any.

**26. Maintenance of accounts of amounts deposited with Tribunal :-**

The Tribunal shall maintain accounts of the amount of price deposited with it by the tenants or recovered from them as arrears of land revenue. Such accounts shall be in Form XV where the amount of price is payable in lump sum and in Form XVI where the amount of price is payable in instalments.

**27. Application for, and certificate of exchange of tenancies :-**

An application for exchange of tenancies under sub-section (1) of section 51 shall be made in Form XVII and the certificate of such exchange shall be issued in Form XVIII.

**28. Terms and conditions for exchange of tenancies :-**

The terms and conditions for exchange of tenancies under section 51 shall be as follows, namely:-

- (a) the land once exchanged shall not be allowed to be re-exchanged with the same land,
- (b) the land to be exchanged shall, unless it is situate in the same village, be adjacent to, or within a radius of one mile or less from, the land or lands held by respective tenants or as owners,
- (c) the tenants shall not be in arrears of rent in respect of the lands to be exchanged,
- (d) no proceedings under section 19 or section 38 or section 39 shall have been started against the tenants by their landlord in respect of the lands to be exchanged, and
- (e) no amount on account of compensation shall be allowed by the Tahsildar in sanctioning the exchange of lands.

**29. Manner of verifying refusal of tenant :-**

The Tahsildar, while verifying the refusal of a tenant under sub-section (1) of section 52, shall satisfy himself that the refusal of the tenant is voluntary and is made in good faith by securing the presence of the tenant and examining him on oath <sup>1</sup>[in the absence of the landlord or his agent] by putting him questions to ascertain,

- (a) whether the tenant understands the nature and consequences

of his refusal to accept the restoration of possession of the land and the tenancy thereof,

(b) whether he has any valid reasons for his refusal, and

(c) any other matter, which the Tahsildar, thinks necessary to ascertain:

**2** [Provided that where after such verification the Tahsildar is satisfied that the refusal of the tenant is not voluntary and has not been made in good faith, he shall not pass any order unless the landlord is given an opportunity to be heard.]

1. Ins. by Notfn. dt. 10-11-1959.

2. Added by Notfn. dt. 10-11-1959.

**30. Tahsildar to record finding after verification :-**

After verifying under rule 29 the refusal of the tenant the Tahsildar shall record his finding as to whether the refusal has or has not been made in good faith and to his satisfaction.

**31. Application for determination of compensation for improvements made by tenants :-**

An application under sub-section (2) of section 55 for determination of the amount of compensation for improvement made on the land by a tenant shall be made in Form XIX. <sup>1</sup> [

1. Ins. by Notfn. dt. 22-2-1960.

**31A. The circumstances in which and the conditions subject to which sanction shall be given by the Collector under section 57 for transfer :-**

(1) Under section, the Collector may give sanction for transfer of land in any of the following circumstances, namely:

(a) that the land is required for an agricultural purpose by a industrial or commercial undertaking in connection with any industrial or commercial operations carried on by such undertaking.

(b) that the transfer is for the benefit of any educational or charitable institution,

(c) that the land is required by a co-operative farming society;

(d) that the land is being sold bonafide for any non-agricultural purpose;

(e) that the land is being sold in execution of a decree of a civil Court or for the recovery of arrears of land revenue under the provisions of the Code;

(f) that the land is being sold by a tenure-holder on the ground that

(i) he is permanently giving up the profession of an agriculturist, or

(ii) he is permanently rendered incapable of cultivating the land personally;

(g) that the land is being gifted in favour of

(ii) a member of the tenure-holder's family;

(h) that the land is being exchanged

(i) with land of equal or nearly equal value owned and cultivated personally by a member of the same family, or

(ii) with the land of equal or nearly equal value situate in the same village owned and cultivated personally by another tenure- holder with a view to forming a compact block of his holding or with a view to having better management of the land:

Provided that the total land held and cultivated personally by any of the parties to the exchange whether as tenure-holder or tenant or partly as tenure-holder and partly as tenant does not exceed three family holdings as a result of the exchange;

(i) that the land is being leased by a tenure holder who is minor, or a person subject to any physical or mental disability or a member of the armed forces or among the tenure holder holding the land jointly.

(j) that the land is being partitioned among the heirs or survivors of the deceased tenure-holder;

(k) that the land is being mortgaged for securing a loan from Government or a co-operative society.

(2)(i) Where the sanction for sale of land is given in the circumstances specified in clauses (a), (b), (c), (e) and (f) of sub-rule (1), it shall be subject to the condition of the tenure- holder paying to the State Government a Nazrana equal to 40 times the assessment of the land;

(ii) In the case of a partition sanctioned under clause (j) of sub-rule (1), it shall be subject to the condition that the area allotted to each sharer shall not be less than the unit specified by the State Government, under clause (c) of sub-section (1) of section 33".

<sup>1</sup> [

1. Ins. by Notfn. dt. 11-1-1967.

**31B. Procedure for transfer of pending proceedings under section 57C :-**

(1) A landlord within the meaning of section 57A whose application for recovery or restoration of possession of land filed under section 38 or 39 was pending immediately before the 1st day of February, 1966 before the Mamlatdar or in appeal before the Collector, or in revision before the Gujarat Revenue Tribunal, may make an application to the Mamlatdar, the Collector or, as the case may be, the Tribunal, for certifying that such proceedings stood transferred to the Collector or, as the case may be the State Government under section 57C.

(3) Where no such application has been made by the landlord before the date specified in sub-rule (1) and the Mamlatdar, the Collector or the Gujarat Revenue Tribunal suo motu or on an application made by any person has reason to believe that any proceedings pending before him or it stood transferred under, Section

(4) If the Mamlatdar, Collector or Tribunal decides under sub- rule (2) or (3) that the pending proceedings stood transferred under section 57C he or as the case may be, it shall forward the proceedings pending with him or it to the Collector or as the case may be, the State Government for disposal.

**31C. Manner of giving intimation under section 57(2) :-**

An intimation under sub-section (2) of section 57D shall be given in Form XIX A by hand delivery or by post.

**32. Approval of industrial or commercial undertakings :-**

(1) An industrial or commercial undertaking seeking approval under clause (a) of sub-section (1) of section 58 shall apply to the State Government through the Collector of the district in which the lands leased to it or for its benefit are situate. It shall state in its application the industrial or commercial operations carried on by it <sup>1</sup>[and give such particular as according to the undertaking qualifies

it for approval]. The Collector shall forward the application with his remarks to the State Government. If the State Government decides to grant the approval such approval shall be notified in the Official Gazette.

<sup>2</sup> [(2) The provisions of sub-rule (1) shall mutatis mutandis apply to the bodies or persons seeking approval under clause (b) of sub-section (1) of section 58 in respect of the lands leased to or held by them for coffee plantation.]

1. Subs. by Notfn. dt. 22-2-1960.

2. Ins. by Notfn. dt. 22-2-1960.

### **33. Approval of Co-operative Society by the State Government :-**

The Co-operative society seeking approval under clause (d) of sub-section (1) of section 58 shall apply to the State Government through the District Co-operative Officer. It shall state in its application the object for which the society is founded <sup>1</sup>[and give all such particulars as according to the co-operative society qualifies it for approval.] The District Co-operative Officer shall forward the application with his remarks to the Collector of the district in which the lands held or leased by the co-operative society are situate. <sup>2</sup> [The District Co-operative Officer shall also report whether any member of such Co-operative society holds land more than three family holdings either as a tenure holder or tenant.] The Collector shall forward the application with his remarks to the Registrar of Co-operative Societies, who shall forward it to the State Government after offering his remarks thereon. If the State Government decide to grant the approval such approval shall be notified in the Official Gazette.

Explanation. A Co-operative society any of whose members holds land exceeding three family holdings whether as a tenure holder or tenant shall not be eligible for the grant of approval under this rule.

1. Subs. by Notfn. dt. 22-2-1960.

2. Added by Notfn. dt. 10-11-1959.

### **34. Application for determination of reasonable rent :-**

An application to the Tahsildar for determination of reasonable rent under section 59 shall be made in Form XX.

### **35. Other factors to be taken into consideration for determining reasonable rent :-**

In determining the reasonable rent in respect of any land under

section 59 regard shall be had, in addition to the factors mentioned in sub-clauses (a) to (f) of clause (3) of the said section, to the factors mentioned in rule 6.

**36. Notice before the assumption of management of holding under section 62 :-**

(1) Before a notification announcing the intention of the State Government to assume the management of any holding is published under section 62, a notice shall be served on the landholder in the manner prescribed in the Code of Civil Procedure, 1908, for the service of summons and a substance thereof shall be published at convenient places in the locality where the holding is situate.

(2) On the date specified in the notice or on the date to which the inquiry may be postponed, an inquiry shall be held by the Collector who shall record the statement of the landholder or any person acting on his behalf as regards the intention of Government to assume the management of the holding.

(3) The Collector shall forward the record and proceedings of the inquiry with his opinion thereon to the State Government, which shall be taken into consideration before a notification is published in the manner laid down by section 62.

**37. Determination of debts and liabilities by Manager :-**

On the expiry of the period fixed under section 67 read with the proviso to section 69 for notifying the claims against the holding under management, the Manager shall appoint a day for holding an inquiry into the history and merits of every claim received by him. Notice of the date, time and place of the intended enquiry shall be given to every claimant and to the holder of the holding and shall also be published in the chavdi and in the Grampanchayat office of the village where in the holding is situate. The manager shall then ascertain the nature and extent of all the claims received by him. In case of any dispute as to the fact or extent of debts and liabilities, he shall hold such further enquiry as may be necessary to determine the correct amount of such debts and liabilities due to several claimants.

**38. Manner of notifying liquidation scheme sanctioned by Collector :-**

When the Collector sanctions the liquidation scheme under section 74, he shall notify such sanction in one of the newspapers, having



wide circulation in the area, selected by him and also by affixing a copy of the scheme in the regional language at the following places :

- (1) Office of the Collector;
- (2) Office of the Tahsildar;
- (3) Office of the Manager;
- (4) Village Chavdi where the holding is situate.
- (5) Office of the Gram Panchayat in the village.

**39. Permission to sell a holding or part thereof while under management :-**

When a Manager proposes to sell any holding or any part thereof under section 76, he shall give notice to the landholder or any part thereof under section 76, he shall give notice to the landholder to show cause why the holding or a part thereof should not be sold. After hearing the landholder or any person acting on his behalf, the Manager shall submit a report to the Collector for his permission for the sale. Before giving the permission for sale of the Collector shall also hear the landholder or any person acting on his behalf as to why the holding or part thereof should not be sold.

**40. Sale or lease of the holding under management or any part thereof :-**

The sale or lease of all or any part of the holding under section 76 shall be made by the Manager by public auction, unless such a course is in his opinion unnecessary or inexpedient in view of the size and location of the holding or part of the holding or unless the sale or lease by private negotiation is in his opinion likely to be more advantageous. Any such sale shall be made by the Manager only if it appears to him that it is not otherwise possible to meet the cost of the management of the holding or if no adequate balance is left for the liquidation of the debts and liabilities of the holding.

**41. Submission of annual reports regarding management of holding :-**

The Manager of a holding of which management has been assumed shall submit to Government annual reports regarding the management of the holding.

**42. Manner of giving publicity to the notification under**

**section 81 :-**

As soon as may be after the publication of a notification under sub-section (1) of section 81, the Collector shall cause wide publicity to be given to the said notification in the area specified therein by beat of drum. <sup>1</sup> [and by affixing a copy thereof at the following places, namely:

(i) Office of the Tahsildar; (ii) Village Chavdi; (iii) Office of the Village Panchayat; (iv) At any prominent place in the village if the village has no panchayat.

1. Added by Notfn. dt. 10-11-1959.

**43. Form of notice to be given under section 81(6), manner of serving it. etc :-**

(1) On receipt of the report of the inquiry and the list of surplus lands from the Tahsildar under sub-section (5) of section 81, the Collector shall cause a notice in Form XXI to be served on each of the holders of surplus lands through the village officers or in such other manner as he deems fit, calling upon him to file within three months from the date of receipt of the notice

(a) a statement furnishing full information regarding the entire land held by him and the members of his family jointly or severally together with full particulars of encumbrances subsisting thereon, if any;

(b) a statement specifying the lands which he wants to select for retaining for himself within the extent allowed by the Act; and

(c) objections, if any, to the intended assumption or management.

(2) The Collector shall consider the statement and objections, if any, received by him under sub-rule (1), and after making such other inquiries as he deems fit and subject to sub-rules (3) and (4) make an order under sub-section (7) of section 81, for the assumption of management of surplus land specifying therein

(i) the extent and location of the surplus lands; (ii) the date from which the assumption of management shall take effect and the period of such management; (iii) the lands to be retained by the holder of surplus land; (iv) the amount of compensation payable under sub-section (9) of section 81 for assumption of management.

(3) The lands selected and specified for retention by the holder of

surplus lands under sub-rule (1) shall, as far as possible, be allowed to be so retained unless the Collector, for reasons to be recorded in writing, decides that the selections has been made with a view to defeating any provisions of the Act or with a view to making the assumption, acquisition, lease, distribution or utilisation of the surplus land difficult.

(4) While making an order under sub-section (7) of section 81, the Collector shall, as far as possible, select for assumption of management such lands as have no encumbrances.

(5) The order passed by the Collector under sub-section (7) of section 81 shall be communicated in writing to the holder of surplus land and shall be published by affixing a copy thereof in the village chavdi and in the office of the Gram Panchayat or at any other conspicuous place in the village.

#### **44. Manner of leasing out surplus lands :-**

(1) As soon as may be after an order is made under sub-suction (7) of section 81 the Collector shall cause summary enquiry to be made in respect of persons who can be selected as new holders, the extent of land held and cultivated by them, their agricultural resources and number of their dependents.

(2) Subject to the provisions of section 84, the section of new holders for and surplus land shall be made on the following grounds of preference, namely :

(a) residence in the village;

(b) previous experience of work as agriculturist or an agriculture; labourer;

(c) number of dependents; and

(d) membership of a Scheduled Caste or Scheduled Tribe.

(3) On the basis of inquiries made under sub-rule (1) the Collector shall make an order granting lease of the land to the selected new holders.

(4) While leasing out land under sub-rule (3), the Collector shall ensure that as far as possible the total holding of the lessee including the surplus land lease out to him does not exceed one family holding for the local area concerned.

(5) The Collector shall, as soon as may be, after making an order under sub-rule (3) put the new holder in possession of the surplus land.

(6) The Tahsildar or the Manager appointed for the management of any land shall keep regular accounts of all expenses incurred, loans raised, proceeds received and payments made in respect of the said land. Such accounts shall be maintained in the manner required from time to time by the Commissioner.

**45. Circumstances in which permission for sale, etc. of land under section 89 may be granted :-**

The Collector or any other officer authorized under the proviso to sub-section (1) of section 89 may grant permission for sale, gift, exchange, lease or mortgage of any land in favour of a person who is not an agriculturist or who, being an agriculturist, cultivates personally land not less than three family holdings whether as tenure holder or tenant or partly as tenure holder and partly as tenant in any of the following circumstances :

(a) such a person bonafide requires the land for a non-agricultural purpose; or

(b) the land is required for the benefit of an industrial or commercial undertaking or an educational or charitable institution; or

(c) in the case of mortgage the mortgagee has obtained from the Collector a certificate that he intends to take up the profession of an agriculturist and agrees to cultivate the land personally; or

(d) the land is required by a co-operative society <sup>1</sup> [Which has its members persons who hold or who have leased lands not more than three family hondings.] or

(e) no agriculturist in the village in which the land is situated who holds lands less than three family hondings whether as tenure-holder or tenant or partly as tenure holder and partly as tenant or is prepared to take the land on lease from the tenure-holder; or

(f) the land is required for cultivating it personally by a person who, not being an agriculturist, intends to take up the profession of agriculturist and to whom the Collector after having regard to the order of priority menioned in section 84, has given a certificate that

such person intends to take up the profession of agriculturist and is capable of cultivating land personally; or

(g) the tenure-holder of the land has complied with the provisions of section 91; or

(h) such land is being sold

(i) in execution of a decree of a Civil Court, or (ii) for recovering arrears of land revenue or any sums recoverable as arrears of land revenue under the provisions of the Code, and no agriculturist holding land less than three family holdings whether as tenure-holder or tenant or partly as tenure-holder or partly as tenant is prepared to bid at such sale; or

(i) such land is being given in gift whether by way of trust or otherwise, and such gift is made bonafide by the tenure holder in favour of a member of his family.

1. Added by Notfn. dt. 10-11-1959.

**46. Other factors to be considered for determination of reasonable price of land :-**

For fixing the reasonable price of land under section 90, the Tahsildar or Tribunal or any other officer shall in addition to the factors mentioned in sub-section (2) of section 90 take into consideration the factors mentioned in rule 6.

**47. Tenant to be party to application under section 91 :-**

Where a landlord applies to the Tribunal under sub-section (1) of section 91 for determining the reasonable price of land which he intends to sell, the tenant in the actual possession of the land shall be joined as party to the application.

**48. Manner of making an offer for sale of land :-**

(1) The offer for sale of land under sub-section (2) of section 91 shall be made as follows, namely :

(a) the landlord shall make an offer for sale of land to the tenant in actual possession thereof in Form XXII.

(b) the landlord shall simultaneously send to the Tahsildar a public notice in the regional language signed by him in Form XXIII.

(c) on receipt of the public notice, the Tahsildar shall cause copies of the notice to be affixed to some conspicuous place on the land to

be sold and to be exhibited at the village chavdi on a date to be fixed by the Tahsildar and at other prominent places in the village in which the land is situate and intimate to the landlord the date on which the notice is exhibited at the village chavdi;

(d) the date so intimated by the Tahsildar shall be deemed to be the date on which the offer for sale is received by the persons and bodies mentioned in the notice.

(2) The notice to be given by the landlord under sub-section (4) of section 91 shall be in form XXIV.

**49. Manner of verifying refusal of the tenant to purchase land or dwelling house :-**

Tahsildar shall verify the refusal of the tenant under sub-section (9) of section 91, in the manner laid down in rule 29.

**50. Manner of enquiry for determination of value of holding, land or interest which has been acquired :-**

(1) After the publication of the notification under sub-section (1) of section 92 regarding the acquisition of any holding, land or interest therein, the Collector shall give notice to the holder of the holding, land or interest, as the case may be, and to all persons known or believed to be interested therein under sub-section (3) of section 92 and shall call upon all such persons to state the nature of their respective interests in the holding or land which has been acquired and the amount and particulars of their claims to compensation for such interest within two months from the date of the notice.

(2) All claims under sub-rule (1) shall be made to the Collector in writing with full particulars thereof and documents, if any, as also names addresses of witnesses to be summoned, if any, and shall be delivered within the period specified in sub-rule (1).

(3) The Collector shall then hold an inquiry after summoning the claimants and their witnesses, if any and such other persons known or believed to have interest in the holding, land or interest on a specified day.

(4) On receiving evidence and after taking into consideration the factors mentioned in sub-section (5) of section 92 and the provisions of section 23 of the Land Acquisition Act, 1894, the Collector shall pass an order determining the value of the holding, land or interest, which has been acquired.

**51. Application for construction of water course :-**

An application under section 93 for the construction of a water course through the land belonging to a neighbouring holder shall be made in Form XXV.

**52. Period for execution of agreement and the form of agreement :-**

(1) After the Tahsildar has passed an order under sub-section (2) of section 92 directing the neighbouring holder to permit the applicant to construct the water course, the applicant shall execute the agreement under clause (vi) of sub-section (2) of section 93 within three months from the date of such order.

(2) Such agreement shall be in Form XXVI.

**53. Manner of deciding questions arising in respect of purchase of land :-**

(1) If there is any dispute between the tenant and the landlord or if there is any dispute among tenants inter-se regarding the priority or any other right in relation to the purchase of land under section 41 the Tribunal shall decide such disputes after taking into consideration any of the following factors which may be relevant to the dispute, namely :

(i) the eligibility of the landlord to be subject to the provisions of sub-section (2) of section 41;

(ii) the location, extent and kind of land, if any, already held by the tenants as tenure holders;

(iii) the location, extent and kind of land, if any, already held by the tenants as tenant from other landlords;

(iv) such other factors as may be deemed relevant and necessary by the Tribunal.

(2) If there is any dispute regarding the kind, extent or location of any particular area of land to be purchased by a tenant, the Tribunal shall decide such disputes after taking into consideration the following factors, namely :

(i) location and kind of land, if any, already held by the tenant as tenure-holder;

(ii) location and kind of land, which the landlord desires to retain

with him under clause (c) of section 42;

(iii) improvements, if any, made by the tenant on the lands; and

(iv) such other factors as may be deemed relevant and necessary by the Tribunal.

(3) If there is any dispute regarding the amount of the purchase price or any instalment thereof to be deposited, the Tribunal shall, subject to the provisions of sub-section (4) of section 43 and section 90, decide such disputes after taking into consideration any of the following factors which may be relevant to the dispute:-

(i) the total extent of land purchased or to be purchased by the tenant from all landlords;

(ii) the financial resources of the tenant;

(iii) the number of dependents in his family;

(iv) such other factors as may be deemed relevant and necessary by the Tribunal.

**54. Applicant to supply more copies of application :-**

When an application under section 101 is made, the applicant shall forward along with the original application as many copies thereof as there are opponents to enable the Tahsildar or the Tribunal to furnish to each opponent a copy of such application. <sup>1</sup> [

1. Ins. by Notfn. dt. 22-2-1960.

**54A. Other procedure to be followed by Tahsildar or Tribunal :-**

In all matters not provided for in the Mamlatdars' Court Act, 1906, the Tahsildar or the Tribunal shall follow the procedure prescribed for Revenue Officers and Revenue Courts under Chapter IV of the Madhya Pradesh Land Revenue Code, 1954.]

**55. Form and manner of making appeal to the Collector :-**

(1) Every appeal to Collector made under section 107 shall be made in the form of the petition addressed to the Collector and shall be drawn up in concise, intelligible and respectful language, and shall bear the signature or thumb impression of the appellant or his duly authorised agent other than a pleader.

(2) Every such appeal shall specify the name and address of the appellant and shall clearly set out in brief and unexaggerated



manner the grounds on which the appeal is made.

(3) Every such appeal shall either be presented to the Collector in person or be forwarded to him by registered posts.

(4) Every such appeal shall be accompanied by the original or certified copy of the order of the Tahsildar or Tribunal, as the case may be, against which the appeal is made.

<sup>1</sup> [(5) After the appeal is admitted and a date is fixed for hearing, the Collector shall serve a notice thereof on the respondent by any of the following modes, namely:

(i) through Village Officers personally by delivering or tendering it, to the respondent or his agent, if any or;

(ii) by registered post;

Provided that where a notice is served in accordance with clause (iii) a written report thereof shall be prepared and witnessed by two persons living in the neighbourhood of the said premises.]

1. Ins. by Notfn. dt. 22-2-1960 and then subs. by Notfn. dt. 30-4-1962.

#### **56. Return of accompaniments to appeal to appellant :-**

(1) Where an appeal under section 107 has been disposed of, the original order of the Tahsildar or Tribunal or the certified copy thereof, as the case may be, accompanying such appeal shall be returned to the appellant, if the appellant applies to the Collector in that behalf, within a period of sixty days from the date of the order of the Collector in appeal.

(2) The appellant shall give a receipt in writing for the order or the certified copy, as the case may be returned to him under sub rule (1).

#### **57. Court fees :-**

(1) Every application made to a Tahsildar or Tribunal under the Act shall bear a court fee stamp of <sup>1</sup>[Gujarat Revenue Tribunal] under the Act shall bear a court fee stamp of Rs. 2.

(2) Every appeal or revision application made to <sup>1</sup>[Gujarat Revenue Tribunal] under the Act shall bear a court fee stamp of Rs. 5.

(3) Every application to the <sup>1</sup>[Gujarat Revenue Tribunal] under the

Act for the stay of the execution of any order against which an appeal or application is made shall bear a court fee stamp of <sup>1</sup>[Sixty two paise].

<sup>5</sup> [(4) Every appeal or application for revision made to the State Government under the Act shall bear a court fee stamp of Rs. 4.]

1. Subs. by Notfn. dt. 17-7-1970.

5. Ins. by Notfn. dt. 17-7-1970.

**58. Court fees to be paid by members Scheduled Castes or Scheduled Tribes :-**

Notwithstanding anything contained in rule 57 when an application or appeal is made by a member of a Scheduled Castes, specified in Part III of the Schedule to the Constitution (Scheduled Castes) Order, 1950, or of a Scheduled Tribe specified in Part III of the Schedule to the Constitution (Scheduled Tribes) Order, 1950, living in a Scheduled area in the Vidarbha Region of the State of Bombay, the value of the court fee stamp payable shall be as follows :

(a) every application made to the Tahsildar or the Tribunal under the Act shall bear a court fee stamp of two anas and every memorandum of appeal or an application made to the Collector shall bear a court fee stamp of eight annas;

(b) every appeal or revision, application made to the Bombay Revenue Tribunal under the Act shall bear a court fee stamp of one rupee and four annas,

(c) every application to the Bombay Revenue Tribunal under the Act for the stay of execution of the order against which an appeal or application is made shall bear a court fee stamp of two annas.

**59. Period for making an application or giving an intimation to the Collector under section 121 :-**

(1) An application to the Collector for obtaining his sanction under section 121 to the transfer or acquisition of any land shall be made on or before the 30th day of September 1959.

(2) An intimation in writing to the Collector under section 121 about the transfer or acquisition of any land shall be given on or before the 30th day of September 1959.

**60. Form of notice under section 122 :-**

A notice to be issued by the Tahsildar under sub-section (1) of section 122 shall be in Form XXVII.

## **61. Manner of disposal of land by the Tahsildar :-**

(1) For the disposal of land under sub-section (4) of section 122 the Tahsildar shall publish or cause to be published in the village in which the land is situated a public notice in Form XXVIII stating therein

(i) the survey number and other description of the land;

(ii) the price fixed for the land in accordance with section 90, and require the tenant in actual possession of the land and the persons and bodies mentioned in section 84 to intimate to him within one month from the date of the publication of the notice whether they are willing to purchase the land. The notice shall be published in the village by beat of drum and also by affixing a copy thereof in the village Chavdi and in the office of the Gram Panchayat.

(2)(a) If only one person who is the tenant in actual possession of the land or who is included in the order of priority mentioned in section 84 intimates to the Tahsildar his willingness to purchase the land for the price fixed, the Tahsildar shall, if he is satisfied that the person falls in the order of preference given in section 84, after due notice to such person fix, if necessary the number of instalments not exceeding twelve by which the price shall be payable with interest at 4 1/2 per cent per annum and shall call upto such person by a notice in writing to pay the price in lump sum or the first instalment of the price within one month or such further period as the Tahsildar may consider reasonable from the date of receipt of the notice by such person.

(b) If more than one person intimate to the Tahsildar their willingness to purchase the land and all of them fall in the order given in sec. 84, the Tahsildar shall after giving due notice to the tenant in actual possession of the land and failing such a tenant, to the person having the highest priority shall fix the instalments by which the occupancy price be payable price in lump sum or the first instalment thereof within one month or such further period as the Tahsildar considers reasonable from the date of receipt of notice by such person.

(c) Where more than one person having the highest priority in the order of priority given in section 84 are willing to purchase the land the Tahsildar shall give notice under clause (b) to such one of them as is in his opinion most suitable having regard to

(i) the agricultural implements in his possession; (ii) other land cultivated by him if any; (iii) his financial condition; and (iv) any other factor which may be relevant for ascertaining his capacity to cultivate the land.

**62. Procedure for grant of certificate by the Collector for the purpose of clause (d) of section 129 :-**

(1) A trustee in charge of the trust for an educational purpose, hospital, Panjrapol, Gaushala or an institution for public religious worship claiming exemption under clause (d) of section 129 may make an application in writing to the Collector within whose jurisdiction all or most of the pieces of land belonging to the trust are situated for the grant of a certificate for the purpose of the said clause (b).

(2) The trustee shall state in his application

(a) whether the trust is registered under the Madhya Pradesh Public Trust Act, 1951,

(b) the purpose for which the trust is created,

(c) the manner in which the income of the lands belonging to it is appropriated. He shall append to his application. (i) the balance sheet certified by a registered auditor, (ii) a list of the lands which are the property of the trust, (iii) certified copies of extracts of Record of Rights relating to the lands, and (vi) such other documents in support of his application.

(3) On receipt of such application, the Collector shall hold an inquiry and if he is satisfied that the trust satisfies the conditions laid down in clause (b) of section 129, he shall issue a certificate to that effect in Form XXIX.

**63. Manner of publication of an order under sub-section (1) of section 131 :-**

An order passed by the State Government under sub-section (1) of section 131 shall be published in the Official Gazette.

SCHEDULE 1

SCHEDULE

SCHEDULE I	
Value determined.	Scale of fees
1	2
When the value of the site does	2-1/2 per cent, of the value subject to a

not exceed Rs. 1,000	minimum of Rs. 2.
When the value of the site exceeds	For the first Rs. 1,000, 2 1/2 per cent. For
Rs. 1,000 but does not exceed Rs.	the amount in excess of Rs. 1,000 1 per
5,000	cent.
When the value of the site exceeds	For the first Rs. 1,000, 2 1/2 per cent. For
Rs. 5,000.	the amount in excess of Rs. 1,000 and up to
	Rs. 5,000, 1 per cent. For the amount in
	excess of Rs. 5,000, 1/2 per cent.

## SCHEDULE 2

Modification subject to which these rules extend to the Kutch Area of the State of Bombay.

### **SCHEDULE II**

#### **Modification subject to which these rules extend to the Kutch Area of the State of Bombay.**

1. Throughout these rules.

(a) for the words "Tahsildar" the word "Mamlatdar" shall be substituted;

(b) for the word "Tahsil" and "tahsil" the words "Taluka" and "taluka" shall, respectively, be substituted;

(c) for the word "tenure-holder" the word "owner" shall be substituted; and

(d) for the words "Gram Panchayat" the words 'Village Panchayat' shall be substituted.

2. In rule 4. in sub-rule (1) for the words "occupancy tenants and protected lessees" the word "permanent tenants" shall be substituted.

3. In the rule 21, for the words "Civil Judge" the words "Subordinate Judge" shall be substituted.

4. In rule 28, in clause (d), the words and figures "or section 39" shall be deleted.

5. Rule 22 shall be deleted.

[5A. In rule 54A for the words 'for Revenue Officers and Revenue Courts under Chapter IV of the Madhya Pradesh Land Revenue Code, 1954' substitute the words 'for holding formal inquiries under the Bombay Land Revenue Code, 1879, as extended to the Kutch area.']

6. In rule 58, for the words "Vidarbha Region" the words "Kutch area" shall be substituted.

7. For rule 59, the following rules shall be substituted; namely :—

**"59. Form of certificate under sub section (2) of section 121.—**

Certificate to be issued under sub-section (3) of section 121 shall be in Form "A".

**59A. Period for payment of penalty under sub-section (1) of section**

**121.—**The penalty referred to in sub-section (1) of section 121 shall for the purposes of sub-section (3) of that section be paid on or before the 31st day of December 1959."

8. After rule 63, the followig rule shall be inserted namely;—

**"64. Repeal.—**The Bombay Tenancy and, Agricultural Lands Rules, 1949, as extended to the Kutch Area of the State of Bombay are hereby repealed."

9. Form XI shall be deleted.

10. In Forms XVII and XVIII for the words "occupancy tenants/protected lessees" the word "permanent tenants" shall be substituted.

11. In Form XXIII, in that third paragraph, in clause (i) for words and figures "section 9 of the Berar Regulation of Agricultural Leases Act, 1951" the words and figures "section 34 of the Bombay Tenancy and Agricultural Lands Act, 1948 as extended to the Kutch area of the State of Bombay" shall be substituted.

12. In Form XXVIII, in the second paragraph in clause (ii) for words and figures "section 9 of the Berar Regulation of Agricultural Leases Act, 1951" the words and figures "section 34 of the Bombay Tenancy and Agricultural Lands Act, 1948 as extended to the Kutch area of the State of Bombay" shall be substituted.