

BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948

67 of 1948

[28th December, 1948]

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BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948

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WHEREAS it is necessary to amend the law which governs the relation of landlords and tenants and agricultural lands. AND WHEREAS on account of the neglect of a landholder or disputes between a landholder and his tenants, the cultivation of his state has seriously suffered, or for the purpose of improving the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture, it is expedient to assume

management of estate held by lendholders and to regulate and impose restrictions on the transfer of agricultural lands, dwelling houses, sites and lands appurtenant thereto belonging to or occupied by agriculturists, agricultural labourers and artisans in the Province of Bombay and to make provisions for certain other purposes hereinafter appearing. It is hereby enacted as follow :-

CHAPTER 1

Preliminary

1. Short title and extent :-

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

(2) It extends to the Bombay area of the State of Gujarat.

2. Definitions. :-

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

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

Provided that in the case of such tracts of land abounding in natural growth of grass as the State Government may, by notification, in the Official Gazette, specify "agriculture" shall include the cutting of grass for any purpose;

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

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

(2A) "allied pursuits" meas dairy farming, poultry farming, breeding of livestock, grazing (other than the pasturage of one's own agricultural cattle) and such other pursuits as may be prescribed;

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

(2C) "backward area" means any area declared by the State Government to be a backward area, being an area in which, in the opinion of the State Government, socially, economically and educationally backward classes of citizens predominate, and

includes an area declared to be Schedule area under paragraph 6 of the Fifth Schedule to the Constitution of India;

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

(2E) "Collector" includes an Assistant or Deputy Collector performing the duties and exercising the powers of the Collector under the Bombay Land Revenue Code, 1879, (Bom. V of 1879) or any other officer specially empowered by the State Government to perform the functions of the Collector under this Act;

(3) "Co-operative Society" means a society registered under the provisions of the Bombay Co-operative Societies Act, 1925, (Bom. VII of 1925) or a society deemed to have been registered under the said Act;

(4) "Co-operative Farming Society" means a society registered as such under the Bombay Co-operative Societies Act, 1925; (Bom. VII of 1925).

(5) "to cultivate" with its grammatical variations and cognate expressions means to till or husband the land for the purpose of raising or improving agricultural produce, whether by manual labour or by means of cattle or machinery, or to carry on any agricultural operation thereon; and the expression "uncultivated" shall be construed correspondingly;

Explanation A person who takes up a contract to cut grass or to gather the fruits or other produce of trees on any land, shall not on that account only be deemed to cultivate such land;

(6) "to cultivate personally" means to cultivate land on one's own account (i) by one's own labour, or (ii) by the labour of any member of one's family, or (iii) under the personal supervision of oneself any member of one's family by hired labour or by servants on wages payable in cash or kind but not in crop share,

being land, the entire area of which (a) is situate within the limits of a single village, or (b) is so situated that no piece of land is separated from another by a distance of more than five miles, or (c) forms one compact block;

Explanation I A widow or a minor, or a person who is subject to physical or mental disability, or a serving member of the armed

forces shall be deemed to cultivate the land personally if such land is cultivated by servants, or by hired labour, or through tenants.

Explanation II In the case of a joint family, the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family and in the case of a family other than a joint family, a person, other than the husband, or, as the case may be, wife of the person concerned or any of his lineal descendants dependant on him, shall not be deemed to be a member of the family.

Explanation III For the purpose of this clause, the expression "personal supervision" means giving from time to time instructions or directions to the labourers or servants in regard to the cultivation of land, and exercising control in respect thereof, during the entire process of cultivation, or according to the circumstances, during a substantial part of the entire process of cultivation by the person concerned residing during major part of the agricultural season in the village in which the land is situated or at a place in another village situated at a distance not exceeding fifteen kilometers from the land :

Provided that, for the purpose of this Explanation, it shall not be necessary for a person to so reside in such village or place if a certificate is granted by the Collector to such person that owing to the smallness of his holding, limited income from agriculture or any other reason as may be prescribed, it is not possible for him to so reside in such village or place, without detriment to his means of livelihood, and such certificate is in force.;

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

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

(6C) "to hold land" as an owner or tenant shall, for the purpose of clause (2D) of this section and sections 32A, 32B, mean to be lawfully in actual possession of land as an owner or tenant, as the case may be'

(7) "improvement" means with reference to any land, any work

which adds to the value of the land and which is suitable thereto as also consistent with the purpose for which it is held; and includes

(a) the construction of tanks, wells, water channels, embankments and other work for storage, supply or distribution of water for agricultural purposes;

(b) the construction of works for the drainage of land or for the protection of land from floods or from erosion or other damage from water;

(c) the reclaiming, clearing, enclosing, levelling or terracing of land;

(d) the erection of buildings on the land, required for the convenient or

profitable use of such land for agricultural purpose; and (e) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto as are not of the nature of ordinary repairs; but does not include such clearances, embankments, levelling, enclosures, temporary wells, water channels and other works as are commonly made by the tenants in the ordinary course of agriculture;

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

(8) "land" means (a) land which is used for agricultural purpose or which is so used but is left fallow, and includes the sites of farm buildings appurtenant to such land; and

(b) for the purposes of sections, 11, 16, 17, 17A, 17B, 18, 19, 20, 26, 28, 29, 29A, 30, 41, 43, 63, 64, 64A, 84A, 84B, and 84C (i) the sites of dwelling houses occupied by agriculturists, agricultural labourers or artisans and land appurtenant to such dwelling houses; (ii) the sites of structures used by agriculturists for allied pursuits;

(9) "landholder" means a zamindar, jagirdar, saranjamdar, inamdar, talukdar, malik or a khot or any person not hereinbefore specified who is a holder of land or who is interested in land and whom the State Government has declared on account of the extent and value of the land or his interests therein to be a landholder for the purpose of this Act;

(9A) "landless person" means a person who, holding no land for agricultural purposes, whether as an owner or tenant earns his

livelihood principally by manual labour; and intends to take the profession of agriculture and is capable of cultivating land personally;

(10) "Mamlatdar" includes a Mahalkari and any other officer, whom the State Government may appoint to perform the duties of a Mamlatdar under this Act;

(10A) "permanent tenant" means a person (a) who immediately before the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 (Bom. XIII of 1956)(hereinafter called "the Amending Act, 1955"),

(i) holds land as mulgenidar or mirasdar; or (ii) by custom, agreement, or the decree or order of Court holds the land on lease permanently; or

(b) the commencement or duration of whose tenancy cannot satisfactorily be proved by reason of antiquity; and includes a tenant whose name or the name of whose predecessor-in-title has been entered in the record of rights or in any public record or in any other revenue record as a permanent tenant immediately before the commencement of the Amending Act, 1955;

(11) "person" includes a joint family ;

(12) "prescribed" means prescribed by rules made under this Act;

(13) "profits of agriculture" in respect of any land means the surplus remaining with the holder after the expenses of cultivation including the wages of the cultivator working on the land are deducted from the gross produce :

Explanation. If the members of the family of a holder work on the land for the purpose of cultivation thereof, the labour of such members shall be taken into account in estimating the expenses of cultivation referred to in this clause;

(14) "protected tenant" means person who is recognised to be a protected tenant under section 4A;

(16) "rent" means any consideration, in money or kind or both, paid or payable by a tenant on account of the use or occupation of the land held by him but shall not include the rendering of any personal service or labour;

(16A) "serving member of the armed forces" means a person in the

service of the armed forces of the Union; provided that if question arises whether any person is a serving member of the armed forces of the Union, such question shall be decided by the State Government, and its decision shall be final;

(16B) "small holder" means an agriculturist cultivating land less in area than an economic holding who earns his livelihood principally by agriculture or by agricultural labour ;

(16C) "specified date" means the date of the coming into force of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1972 (Guj. 5 of 1973);

(17) "tenancy" means the relationship of landlord and tenant; (18) "tenant" means a person who holds land on lease and include (a) \a person who is deemed to be a tenant under section 4 ; (b) \a person who is a protected tenant; and (c) \a person who is a permanent tenant; and the word "landlord" shall be construed accordingly;

(d) a person who, after the surrender of his tenancy in respect of any land at any time after the appointed day but before the specified date has continued, or is deemed to have continued, to remain in actual possession, with or without the consent of the landlord of such land till the specified date;

(19) "Tribunal" means the Agricultural Lands Tribunal constituted under section 67 ;

(20) 'Village' means a village recognized as such in the revenue accounts;

(20A) "warkas land" means land which is used for the purpose of rab manure in connection with rice cultivation and is classified in the revenue record as warkas'

(21) Words and expressions used in this Act but not defined shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879 (Bom. V of 1879), and the Transfer of Property Act, 1882 (IV of 1882), as the case may be.

CHAPTER 2

GENERAL PRIVISIONS REGARDING TENANCIES

3. Application of Chapter V of Transfer of Property Act :-

The provisions of Chapter V of the Transfer of Property Act, 1882 (IV of 1882), shall in so far as they are not inconsistent with the

provisions of the Act, apply to the tenancies and leases of land to which this Act applies.

4. Persons to be deemed tenants :-

A person lawfully cultivating any land belonging to another persons shall be deemed to be a tenant if such land is not cultivated personally by the owner and if such person is not

(a) a member of the owner's family, or

(b) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owners, family, or

(c) A mortgagee in possession. Explanation I. A person shall not be deemed to be a tenant under this section if such person has been on an application made by the owner of the land as provided under section 2-A of the Bombay Tenancy Act, 1939 (Bom. XXIX of 1939), declared by a competent authority not to be a tenant.

Explanation II. Where any land is cultivated by a widow or a minor or a person who is subject to physical or mental disability or a serving member of the armed forces through a tenant then notwithstanding anything contained in Explanation I to clause (6) of section 2, such tenant shall be deemed to be a tenant within the meaning of this section.

4A. Protected tenants :-

For the purposes of this Act, a person shall be recognized to be a protected tenant, if such person has been deemed to be a protected tenant under sections 3, 3A and 4 of the Bombay Tenancy Act, 1939 (Bom. XXIX 1939), referred to in Schedule I to this Act.

4B. Tenancy not to be terminated by efflux of time :-

No tenancy of any land (other than tenancy created with the previous sanction of the collector under section 73-AA of the Bombay Land Revenue code, 1879) shall be terminated merely on the ground that the period fixed by agreement or usage for its duration has expired.

5. Ceiling area :-

(1) for the purposes of this Act, the ceiling area of lands shall be

(a) 48 acres of jirayat land, or

(b) 24 acres of seasonally irrigated land or paddy or rice land, or

(c) 12 acres of perennially irrigated land.

(2) Where the land held by a person consists of two or more kinds of land specified in sub-section (1), the ceiling area of such holding shall be determined on the basis of one acre of perennially irrigated land being equal to two acres of seasonally irrigated land or paddy or rice land, or four acres of jirayat land.

Explanation In calculating the ceiling area, warkas land shall be excluded.

6. Economic holding :-

(1) For the purposes of this Act, an economic holding shall be (a) 16 acres of jirayat land, or (b) 8 acres of seasonally irrigated land, or paddy or rice land, or (c) 4 acres of perennially irrigated land.

(2) Where the land held by a person consists of two or more kinds of land specified in sub-section (1), an economic holding shall be determined on the basis applicable to the ceiling area under sub-section (2) of section 5.

Explanation In calculating an economic holding, warkas land shall be excluded.

6A. Irrigated land :-

For the purposes of this Act,

(a) irrigated land, whether perennially or seasonally irrigated, shall not include land irrigated by source other than canals or bandharas within the meaning of the Bombay Irrigation Act, 1879 (Bom. VII of 1879), or any lift irrigation system constructed or maintained by the State Government;

(b) seasonally irrigated land shall include alluvial land and land situated in the bed of a river and seasonally flooded by the water of such river.

7. Power of Government to vary ceiling area and economic holding :-

Notwithstanding anything contained in section 5 and 6, it shall be lawful for the State Government, if it is satisfied that it is expedient so to do in the public interest, to vary, by notification in the official Gazette, the acreage of the ceiling area or economic holding, or the basis of determination of such ceiling area or economic holding,

under sub-section (2) of section 5, regard being had to-

- (a) the situation of the land,
- (b) its productive capacity,
- (c) the fact that the land is located in a backward area, and
- (d) any other factors which may be prescribed :

Provided that the extent of ceiling area shall not be varied so as to increase it if it is already in excess of the ceiling area as determined for the time being under the Gujarat Agricultural Lands Ceiling Act, 1960 (Guj. XXVII of 1961), or so as to exceed the extent of ceiling area as so determined if it is less than such extent.

8. Rent and its maximum and minimum :-

(1) Subject to the provisions of this Act

(a) but notwithstanding any law, custom, usage, agreement or the decree or order of a court, the rent payable shall be paid annually, and in cash;

(b) such rent shall not exceed five times the assessment payable in respect of the land or twenty rupees per acre, whichever is less, and shall not be less than twice such assessment:

Provided that where the amount equal to twice the assessment exceeds the sum of twenty rupees per acre the rent shall be twice the assessment.

(2) For the purpose of this section "assessment" means (i) in areas in which a settlement has been made under Chapter VIII-A of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), or in which the assessment has been fixed under section 52 of the said Code the assessment so settled or fixed;

(ii) in areas to which rule 19N of the Land Revenue Rules, (1921) applies such assessment as may be leviable under that rule ;

(iii) in areas to which the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (Bom. XXXIX of 1954), applies the assessment fixed under section 7 of that Act;

(iv) in areas in which the assessment is payable in crop share or produce, such assessment as may be fixed by the State Government in accordance with the principles laid down in rule 19-

O of the Land Reveue Rules, (1921).

(3) If by custom, usage, agreement or the decree or order of a court, the amount of rent payable is less than the maximum or minimum specified in sub-section (1), the amount so payable shall be the rent in respect of the land.

Explanation. In respect of any land which is partially or wholly exempt from the payment of land renenue, the full amount of assessment leviable in respect of such land shall be deemed to be the assessment in respect thereof for the purpose of sub-section (1), as if the land was not exempt from the payment of land revenue either partially or wholly.

9. Rate of rent payable by tenant to his landlord :-

(1) Subject to the maximum and minimum limits of rent fixed under section 8, the Mamlatdar shall for each village, or group of villages or for any area in such village or group, within his jurisdiction, fix the rate of rent payable by a tenant for the lease of different classes of land situate in such village, or group of villages, or areas, as the case may be :

Provided that this sub-section shall not apply to rent payable in accordance with the provisions of sub-section (3) of section 8 where it is lower than the rent at the rate fixed by the Mamlatdar under this section.

(2) In arriving at such rate the Mamlatdar shall have regard to rents prevalent in the locality, the productivity of the lands, the prices of commodities and such other factors as may be prescribed.

(3) The rate of rent so fixed shall continue for a period of five years and shall be liable to be revised by the Mamlatdar thereafter at the end of each successive period of five years:

Provided that the rate of rent so fixed, if not revised at the end of any such period shall continue until it is so revised.

(4) The rent payable by a tenant to his landlord in respect of any land in a village, or group of villages, or areas, shall be at the rate fixed under sub-section (1):

Provided that the Mamlatadar or the Collector, subject to the provisions of section 8, may at any time during any such period of five years, on an application made to him in this behalf

(i) reduce the rent, if he is satisfied that on account of the deterioration of the land by flood, or other cause beyond the control of the tenant, the land has been wholly or partially rendered unfit for cultivation, or

(ii) enhance the rent, if he is satisfied that on account of any improvement made in the land, at the expense of the landlord, there has been an increase in the agricultural produce thereof.

9A. Quantum of rent payable by tenant to landlord :-

(1) The rent payable by a tenant shall, subject to the maximum and minimum fixed under section 8, be the rent at the rate fixed under section 9 in respect of the class of land to which the land held by the tenant belongs or where rent payable under the operation of sub-section (3) of section 8 is lower than the rent at the rate fixed under section 9, such lower rent:

Provided that where any land held by a tenant is wholly or partially exempt from the payment of land revenue and the rent payable in respect of such land is at the rate fixed under section 9, then the amount of rent shall be increased by a sum equal to the aggregate of the following amount, that is to say:

(i) the amount of full assessment leviable in respect of such land, (ii) the amount of the cesses mentioned in clauses (b), (c) and (d) of sub section (1) of section 10A levied or laviabale in respect of such land under the relevant law, and the tenant shall be liable to pay as so increased:

Provided further that if the amount of rent payable by the tenant for any year exceeds the value of 1/6th of the produce of the land in that year, the tenant shall be entitled to deduct from the rent for that year the amount so in excess, and the quantum of rent payable by the tenant to his landlord for that year shall be deemed to have been reduced to the extent of such deduction.

(2) If there is a dispute regarding the class to which any land belongs, either of the parties to the dispute may apply to the Mamlatdar who shall, after making an inquiry decide the dispute.

9B. Landlord not liable to make contribution towards cost of cultivation :-

Notwithstanding any law, usage or agreement of the decree or order of a court in the case of land in respect of which the rent has

been fixed under section 9, a landlord shall not be liable to make any contribution towards the cultivation of the land in the possession of his tenants.

9C. Liability of tenant to payment until rent is fixed under preceding sections :-

Until the rent is fixed in accordance with the provisions of the preceding sections, a tenant shall, subject to the maximum provided under section 8, be liable to pay to the landlord the rent at the rate at which it was payable immediately before the commencement of the Amending Act, 1955; and if such rent was payable in crop share or produce shall be determined in the prescribed manner.

10. Refund of rent recovered in contravention of the provisions of the Act and other penalties :-

If any landlord recovers rent from any tenant in contravention of the provisions of section 8, 9, 9A or 9C he shall forthwith refund the excess amount recovered to the tenant and shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar in this behalf and shall also be liable to such penalty as may be prescribed by rules made under this Act.

10A. Liability of tenant to pay land revenue and certain other cases :-

(1) Subject to the provisions of sub-section (2), every tenant shall be liable to pay in respect of the land held by him as a tenant

(a) the land revenue in accordance with the provisions of the Bombay Land Revenue Code, 1879,

(b) the irrigation cess in accordance with the provisions of the Bombay Irrigation Act, 1879,

(c) the cess levied under section 93 of the Bombay Local Boards Act, 1923, as amended in Schedule II of this Act and

(d) the cess levied under section 89-B of the Bombay Village Panchayats Act, 1933.

(2) If the aggregate amount of (i) the land revenue payable by a tenant under clause (a) of sub-section (1), (ii) the cess payable by him under clauses (c) and (d) of sub-section (1) and (iii) the rent payable by him to the landlord under section 9 of 9C, as the case may be, for any year exceeds the value of one-sixth of the produce

of such land in that year, the tenant shall be entitled to deduct from the rent for that year the amount so in excess, and the quantum of rent payable by the tenant to his landlord for that year shall be deemed to have been reduced to the extent of such deduction.

(3) Nothing in sub-section (1) and (2) shall apply to any land held by (a) a tenant in a Scheduled area; (b) a tenant who is paying to the landlord the rent under sub-section (3) of section 8 until such tenant is deemed to have purchased the land under section 32 or purchases the land under section 32F or 32-O and the purchase price is determined under section 32H.

(c) a tenant, where such land is wholly or partially exempt from the payment of land revenue.

11. Abolition of all cesses etc :-

(1) Notwithstanding any agreement usage or law, it shall not be lawful for any landlord to levy any cess, rate, veto, huk or tax or service of any description or denomination whatsoever from any tenant in respect of any land held by him as a tenant other than the rent lawfully due in respect of such land.

(2) Nothing in sub-section (1) shall affect the liability of a tenant to pay any of the cesses under section 10A.

12. Enquiries as regards reasonable rent. :-

Deleted by Bom. 13 of 1956, sec. 8.

13. Suspensions or remissions of rent :-

(1) Notwithstanding anything contained in section 84A of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), whenever from any cause the payment of the whole land revenue payable to Government in respect of any land is suspended or remitted, the landlord shall suspend or remit, as the case may be, the payment to him of the rent of such land by his tenant. If in the case of such land the land revenue is partially suspended or remitted, the landlord shall suspend or remit the rent payable by the tenant of such in the same proportion.

(2) If no land revenue is payable to Government in respect of such land and if from any cause, the payment of the whole or any part of the land revenue payable to Government in respect of any other land in the neighbourhood of such land has been suspended or

remitted, the Collector shall, subject to the general or special orders of Government, in the manner provided in sub-section (1) suspend or remit, as the case may be the payment to the landlord of the rent or part of it due in respect of such land.

(3) No application for assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), shall be entertained, no suit shall lie and no decree of a Civil Court shall be executed for recovery by a landlord of any rent, the payment of which has been remitted, or during the period for which the payment of such rent has been suspended under this section. The period during which the payment of rent is suspended under this section shall be excluded in computing the period of limitation prescribed for any suit or proceeding for the recovery of such rent.

(4) Notwithstanding anything contained in sections 86 and 87 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), the Collector shall in passing an order under sub-section (2) of section 87 of the said Code, for rendering assistance to the landlord allow to the tenant a set off for the sum, if any, paid by such tenant to the landlord in excess of the amount of rent due from him after deducting the amount required to be remitted under sub-section (1) or sub-section (2) of this section or under section 84A of the said Code. The set off under this sub-section shall be allowed only in respect of the sums paid by such tenant to such landlord during a period of three years immediately preceding the date of the application made under section 86 of the said Code.

(5) If any landlord fails to suspend or remit the payment of rent as provided in this section, he shall be liable to refund to the tenant the amount recovered by him in contravention of this section. The tenant may apply to the Mamlatdar for the recovery of the amount and the Mamlatdar may after making an inquiry make an order for the refund and for inflicting such penalty on the landlord as may be prescribed.

14. Termination of tenancy for default of tenant :-

(1) Notwithstanding any law, agreement or usage, or the decree or order of a court, the tenancy of any land shall not be terminated

(a) unless the tenant (i) has failed to pay the rent for any revenue year before the 31st day of May thereof; (ii) has done any act which is destructive or permanently injurious to the land; (iii) has sub-divided, sub-let or assigned the land in contraventions of

section 27; (iv) has failed to cultivate it personally; or (v) has used such land for a purpose other than agriculture or allied pursuits; and

(b) unless the landlord has given three month's notice in writing informing the tenant of his decision to terminate the tenancy and the ground for such termination, and within that period the tenant has failed to remedy the breach for which the tenancy is liable to be terminated.

(2) Nothing in sub-section (1) shall apply to the tenancy of any land held by a permanent tenant unless by the conditions of such tenancy the tenancy is liable to be terminated on any of the grounds mentioned in the said sub-section:

15. Surrender by tenant :-

(1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, no tenant shall at any time terminate the tenancy in respect of any land by surrendering his interest therein in favour of the landlord.

(2) If a tenant intends to terminate tenancy in respect of any land by surrendering his interest therein, he shall intimate in writing to the landlord and to the Collector to that effect. On receipt of such intimation the Collector shall, after giving an opportunity to the landlord, the tenant and any other person interested in the land to be heard and after holding such inquiry as he deems fit, call upon the tenant to tender to the landlord the rent in arrears within the period specified in the order and pass an order directing that the tenancy shall be terminated and that the land shall vest in the State Government free from all encumbrances as if, on termination of such tenancy, the State Government had acquired the land from the landlord, and such land shall be liable to be disposed of in the manner provided under clause (c) of sub-section (2) of section 32P.

(3) Where any land vests in the State Government under the provisions of sub-section (2), the landlord shall be entitled to be paid by the State Government an amount which shall be equal to the price of such land and such price shall be determined and payable in the manner provided in sub-section (5) of section 32P as if the land had been sold under sub-section (2) of that section.

(4) If the tenant fails to pay to the landlord the rent in arrears within the period specified under sub-section (2), the same shall be

recovered from him as arrears of land revenue and paid to the landlord.

16. Bar to eviction from dwelling house :-

(1) If in any village, a tenant is in occupation of a dwelling house built at the expense of such tenant or his predecessor in-title on a site belonging to his landlord, such tenant shall not be evicted from such dwelling house (with the materials and the site thereof and the land immediately appurtenant thereto and necessary for its enjoyment) unless

(a) the landlord proves that the dwelling house was not built at the expense of such tenant or his predecessor-in-title : and

(b) such tenant makes any three defaults in the payment of rent, if any, which he has paying for the use and occupation of such site.

(2) The provisions of sub-section (1) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture from which he has been evicted under section 31.

17. Tenant to be given first option of purchasing site on which he has built a dwelling house :-

(1) If a landlord to whom the site referred to in section 16 belongs, intends to sell such site, the tenant at the expenses of whom or whose predecessor-in-title, a dwelling house is built thereon shall be given in the manner provided in sub-section (2) of the first option of purchasing the site at a value determined by the Tribunal.

(2) The landlord intending to sell such site shall give notice in writing to the tenant requiring him to state within three months from the date of service of such notice whether he is willing to purchase the site.

(3) If within the period of three months so specified the tenant intimates in writing to the landlord that he is willing to purchase the site, the landlord shall make an application to the Tribunal for the determination of the value of the site. On receipt of such application the Tribunal after giving notice to the tenant and after holding an inquiry shall determine the value of the site which shall not exceed 20 times the annual rent thereof. The Tribunal may, by an order in writing require the tenant to deposit the amount of value of such site within one year from the date of such order. On the deposit of such amount the site shall be deemed to have been

transferred to the tenant and the amount deposited shall be paid to the landlord. The Tribunal shall on payment of the prescribed fees grant a certificate in the prescribed form to such tenant specifying therein the site so transferred and the name of such tenant.

(4) If the tenant fails to intimate his willingness to purchase the site within the time specified in sub-section (2) or fails to deposit the amount of the value within the time specified in sub-section (3) the tenant shall be deemed to have relinquished his right of first option to purchase the site and the landlord shall then be entitled to evict the tenant either on payment of such compensation for the value of the structure of such dwelling house as may be determined by the Tribunal or allow the tenant at his option to remove the materials of the structure.

(5) Any sale of a site held in contravention of this section shall be null and void.

17A. Tenants right to purchase site referred to in section 16
:-

(1) If a tenant referred to in section 16 intends to purchase the site on which a dwelling house is built, he shall give notice in writing to the landlord to that effect.

(2) If the landlord refuse, or fails to accept the offer and to execute the sale deed within three months from the date other of, the tenant may apply to the Tribunal for the determination of the reasonable price of the land which shall not exceed 20 times the annual rent thereof; and thereupon the provisions for the determination and payment of the price and the issue of a certificate of purchase contained in the next succeeding section shall apply thereto.

17B. Tenant to be deemed to have purchased sites referred to in section 16 from specified date :-

(1) On and with effect from such date as the State Government may, by notification in the Official Gazette, sepecify, every tenant referred to in section 16 shall be deemed to have purchased from his landlord the site on which the dwelling house occupied by such tenant, was built, and the land immediately appurtenant thereto and necessary for enjoyment of the dwelling house free from all encumbrances, at the price to be fixed by the Tribunal, being a price not exceeding twenty times the annual rent for the site.

(2)

(3) As soon as may be thereafter, the Tribunal shall publish or cause to be published a notice in such village within its jurisdiction in which all such sites are situate and shall, as far as practicable, issue notice to each such landlord and tenant and to any other person interested in such site to appear before it on the date specified in the notice. The notice published in a village shall be affixed in the Chavdi or at such public place as the Tribunal may direct.

(4) The Tribunal shall, after giving an opportunity to such landlord, tenant and other person interested to be heard and after holding an inquiry, determine the price of the site.

(5) On the determination of the price of the site under sub-section (4), the tenant shall deposit the amount of such price with the Tribunal

(a) either in lump sum within one year from such date, or

(b) in such instalments not exceeding three with simple interest at the rate of 4 1/2 per cent, per annum, and at such intervals during the period not exceeding three years and on or before such dates, as may be fixed by the Tribunal and the Tribunal shall direct that the amount deposited in lump sum or the amount of the instalments deposited at each interval shall be paid in accordance with the provisions of section 32Q so far as they are applicable.

(6) On the deposit of the amount of the price in lump sum or of the last instalment of such price, the Tribunal shall, on payment of a prescribed fee, grant a certificate in the prescribed form, to the tenant declaring him to be the purchaser of the site. Such certificate shall be conclusive evidence of the sale.

(7) If the tenant fails to pay any instalment on or before the date fixed by the Tribunal under sub-section (5), the amount of such instalment and the interest thereon shall be recovered as an arrear of land revenue.

(8) If after holding an inquiry under sub-section (4), the Tribunal is satisfied that the tenant is not willing to purchase the site, the Tribunal shall issue a certificate to the landlord to that effect. On the issue of such certificate the landlord shall be entitled to evict the tenant and dispose of the site in such manner as he may think

fit either or payment of such compensation for the value of the structure of such dwelling house as may be determined by the Tribunal, or after allowing the tenant, at his option, to remove the materials of the structure:

Provided that the landlord shall not dispose of the site in any manner except by first giving option of purchasing the same for the price determined by the Tribunal, to an agricultural labourer, landless person, small holder or a village artisan, who owns no house site, in the said order of priority, and where any site is disposed of without giving such option such disposal shall be void :

Provided further that the provisions of section 63 shall apply to the disposal of the site in any manner in a case where the option of purchase is not exercised by any of the persons mentioned in the first proviso.

18. Dwelling houses of agricultural labourers, etc :-

The provisions of sections 16,17,17A and 17B shall apply

(a) to the dwelling houses and sites thereof occupied by agricultural labourers and artisans in any village; and

(b) to the lands held on lease in any village by persons carrying on an allied pursuit for the purpose of such pursuit.

19. Tenants rights to trees planted by him :-

If a tenant has planted or plants any trees on any land leased to him he shall be entitled to the produce and the wood of such trees during the continuance of his tenancy and shall on the termination of his tenancy be entitled to such compensation for the said trees as may be determined by the Mamlatdar :

Provided that a tenant shall not be entitled to compensation under this section if the tenancy is terminated by surrender on the part of the tenant:

Provided further that the landlord shall during the continuance of the tenancy, be entitled to the rent of the land as if the trees had not been planted.

20. Right to produce of naturally growing trees :-

(1) A tenant shall during the continuance of his tenancy be entitled to two thirds of the total produce of trees naturally growing on the land, the landlord being entitled to one-third of the produce of such

trees.

(2) If there is any dispute regarding the right to the produce of such trees or the apportionment of such produce as provided under sub-section (1) the tenant or the landlord may apply to the Mamlatdar. Such application shall be made in such form as may be prescribed.

(3) On receipt of such application, the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit.

21. Sub-letting of land by or on behalf of person in military, naval or air service, of the Union not to terminate tenancy.

:-

Deleted by Bom. 13 of 1956, s. 16

22. Tenants responsible for maintenance of boundary marks

:-

Notwithstanding anything contained in section 123 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879) the responsibility for the maintenance and good repair of the boundary marks of the land held by the tenant and any charges reasonably incurred on account of service by revenue officers in case of alteration, removal or disrepair of such boundary marks shall-be upon the tenant.

23. Repairs of protective bunds :-

(1) Notwithstanding any agreement, usage or custom to the contrary, if it appears to the State Government that the construction, maintenance or repairs of any bunds protecting any land held by a tenant is neglected due to a dispute between the landlord and the tenant or for any other reason, it may be a order in writing direct that the construction, maintenance or repairs shall be carried out by such persons as may be specified in the order and the cost thereof shall be recoverable from the person in actual possession of the land as arrears of land revenue.

(2) The person from whom the costs are recovered under sub-section (1) shall be entitled to recover the same or any part thereof from any person who under any agreement, usage or custom is wholly or partially liable to construct, maintain or repair the bunds.

(3) Notwithstanding anything contained in sub-section (1), it shall be lawful for the tenant of any land, the protective bunds of which are neglected, to construct, maintain or repair such bunds at his

costs and the costs so incurred by him shall on application made by him to the Mamlatdar be recoverable by him from the landlord according to his liability under the agreement, usage or custom. The costs of the proceedings of the tenant's application shall also be recoverable from the landlord in case the landlord is held wholly or partially liable to pay the costs incurred by the tenant for construction, maintenance or repairs to the bunds.

24. Relief against termination of tenancy in certain cases :-

Where any tenancy of any land held by any tenant is terminated on the ground that the tenant has done any act which is destructive or permanently injurious to the land, no proceeding for ejectment against such tenant shall lie unless and until the landlord has served on the tenant a notice in writing specifying the act of destruction or injury complained of and the tenant fails within a period of one year from the service of notice to restore the land to the condition in which it was before such destruction or injury.

25. Relief against termination of tenancy for non-payment of rent :-

(1) Where any tenancy of any land held by any tenant is terminated for payment of rent and the landlord files any proceeding to eject the tenant, the Mamlatdar shall call upon the tenant to tender to the landlord the rent in arrears together with the cost of the proceeding within three months from the date of order, and if the tenant complies with such order, the Mamlatdar shall, in lieu of making an order for ejectment, pass an order directing that the tenancy had not been terminated and thereupon the tenant shall hold the land as if the tenancy had not been terminated:

Provided that if the Mamlatdar is satisfied that in consequence of total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Mamlatdar may, for reasons to be recorded in writing, direct that the arrears of rent together with the costs of the proceedings if awarded, shall be paid within one year from the date of the order and that if before the expiry of the said period the tenant fails to pay the said arrears of rent and costs, the tenancy shall be deemed to be terminated and the tenant shall be liable to be evicted.

(2) Nothing in this section shall apply to any tenant whose tenancy is terminated for non-payment of rent if he has failed for any three

years to pay rent and the landlord has given intimation to the tenant to that effect within a period of three months on each default.

25A. Tenancy to be in abeyance during usufructuary mortgage in favour of tenant :-

If any land is mortgaged by a landlord by way of a usufructuary mortgage to a tenant cultivating such land, the tenancy of such land shall be in abeyance during the period the mortgage subsists. After the expiry of the said period it shall, notwithstanding any other law for the time being in force, be lawful to the tenant to continue to hold the land on the terms and conditions on which he held it before the mortgage was created.

26. Receipts for rent :-

(1) In the absence of an express intimation in writing to the contrary by a tenant, every payment made by a tenant to the landlord shall be presumed to be a payment on account of rent due by such tenant for the year in which the payment is made.

(2) When any amount of rent received in respect of any land by a landlord or by a person on behalf of such landlord, the landlord or, as the case may be, the person shall at the time, when such amount is received by him, give a written receipt therefore in such form and in such manner as may be prescribed.

27. Sub-division, sub-letting and assignment prohibited :-

(1) Save as otherwise provided in section 32-F no sub-division or sub-letting of the land held by a tenant or assignment of any interest therein shall be valid:

Provided that nothing in this sub-section shall prejudicially affect the rights of a permanent tenant:

Provided further that if the tenant dies, (i) if he is a member of a joint family, the surviving members of the said family, and (ii) if he is not a member of a joint family, his heirs, shall be entitled to partition and sub-divide the land leased subject to the following conditions:

(a) each sharer shall hold his share as a separate tenant,

(b) the rent payable in respect of the land leased shall be apportioned among the sharers, as the case may be, according to the share allotted to them,

(c) The area allotted to each sharer shall not be less than the unit which the State Government may, by general or special order, specify in this behalf having regard to the productive capacity and other circumstances relevant to the full and efficient use of the land for agriculture,

(d) if such area is less than the unit referred to in clause (c), the sharers shall be entitled to enjoy the income jointly, but the land shall not be divided by metes and bounds.

(e) if any question arises regarding the apportionment of the rent payable by the sharers, it shall be decided by the Mamlatdar, whose decision shall be final.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for a tenant, (a) who is a widow, minor or a person subject to any physical or mental disability, or a serving member of the armed forces, to sub-let such land held by her or him as a tenant; or (b) who is a member of a co-operative farming society and as such member to sub-let, assign, mortgage or to create a charge on his interest in the land in favour of such society, or in consideration of a loan advanced by any person authorised under section 54 of the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVIII of 1947).

(3) Notwithstanding anything contained in sub-section (1), it shall also be lawful for a tenant to mortgage or create a charge on his interest in the land in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883 (XIX of 1883), the Agriculturists' Loans Act, 1884 (XII of 1884), or the Bombay Non-Agriculturists' Loans Act, 1928 (Bom. III of 1928), or in favour of a co-operative society in consideration of a loan advanced to him by such co-operative society, and without prejudice to any other remedy, open to the State Government or the co-operative society, as the case may be, in the event of his making default in payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government or the co-operative society, as the case may be, to cause his interest in the land to be attached and sold and the proceeds to be applied in payment of such loan.

28. Bar to attachment, seizure or sale by process of Court :-
Save as expressly provided in this Act or as provided in the Bombay

Co-operative Societies Act, 1925 (Bom. XXVIII of 1925), or the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVIII of 1947), for the recovery of loans permitted under section 27, any interest in the land held by him as a tenant shall not be liable to be attached, seized or sold in execution of a decree or order of a Civil Court.

29. Procedure of taking possession :-

(1) A tenant or an agricultural labourer or artisan entitled to possession of any land or dwelling house under any of the provisions of this Act may apply in writing for such possession to the

4. Pending applications appeals, revision applications not to be dismissed if filed within period of two years.- If at the date when this Act comes into force Continue... Mamlatdar. The application shall be made in such form as may be prescribed and within a period of two years from the date on which the right to obtain possession of the land or dwelling house is deemed to have accrued to the tenant, agricultural labourer or artisan, as the case may be.

(2) Save as otherwise provided in sub-section (3A), no landlord shall obtain possession of any land or dwelling house held by a tenant except under an order of the Mamlatdar. For obtaining such order he shall make an application in the prescribed form and within a period of two years from the date on which the right to obtain possession of the land or dwelling house, as the case may be, is deemed to have accrued to him.

(3) On receipt of application under sub-section (1) or (2) the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit:

Provided that where an application under sub-section (2) is made by a landlord in pursuance of the right conferred on him under section 31, the Mamlatdar shall first decide, as preliminary issues, whether the conditions specified in clauses (c) and (d) of section 31A and sub-sections (2) and (3) of section 31B are satisfied. If the Mamlatdar finds that any of the said conditions is not satisfied, he shall reject the application forthwith.

(3A) Where a landlord proceeds for termination of the tenancy under sub-section (1) of section 43-1B, then, notwithstanding anything contained in this Act, the application for possession of the land shall be made to the Collector, who shall, after holding an inquiry in the prescribed manner, pass such order thereon as he

deems fit.

(4) Any person taking possession of any land or dwelling house except in accordance with the provisions of sub-sections (1), (2) or as the case may be, (3A) shall be liable to forfeiture of crops, if any, grown in the land in addition to payment of costs as may be directed by the Mamlatdar or by the Collector and also to the penalty prescribed in section 81. If an application under section 29 of the said Act is pending before the Mamlatdar or the Tribunal, or an appeal or an application for revision arising out of such application is pending before the Collector or the Bombay Revenue Tribunal as the case may be, on such date such application, appeal or application for revision shall not be dismissed only on the ground that the said application under section 29 of the said Act was not made within the period of limitation, if it was made within the period prescribed by section 29 of the said Act as amended by this Act.

29A. Provisions of section 29 apply to sites used for allied pursuits :-

The provisions of section 29 shall apply to the sites used for allied pursuits as they apply to the sites of dwelling houses of an agricultural labourer or artisan in regard to taking possession of any land or dwelling house under the provisions of these Act.

30. Rights and privileges tenants not to be affected :-

Save as provided in this Act, the rights or privileges of any tenant under usage or law for the time being in force or arising out of any contract, grant, decree or order of a court or otherwise howsoever shall not be limited or abridged.

CHAPTER 3

SPECIAL RIGHTS AND PRIVILEGES OF TENANTS AND PROVISIONS FOR DISTRIBUTION OF LAND AND PERSONAL CULTIVATION

31. Landlords right to terminate tenancy for personal cultivation and non-agricultural purpose :-

(1) Notwithstanding anything contained in sections 14 and 30 but subject to sections 31A to 31D (both inclusive), a landlord (not being a landlord within the meaning of Chapter III-AA) may after giving notice and making an application for possession as provided in sub-section (2), terminate the tenancy of any land (except a permanent tenancy), if the landlord bona fide requires the land for any of the following purposes :

(a) for cultivating personally, or

(b) for any non-agricultural purposes.

(2) The notice required to be given under sub-section (1) shall be in writing, shall state the purpose for which the landlord requires the land and shall be served on the tenant on or before the 31st day of December 1956. A copy of such notice shall, at the same time, be sent to the Mamlatdar. An application for possession under section 29 shall be made to the Mamlatdar on or before the 31st day of March 1957.

(3) Where a landlord is a minor, or a widow, or a person subject to mental or physical disability then such notice may be given and an application for possession under section 29 may be made,

(i) by the minor within one year from the date on which he attains majority; (ii) by the successor-in-title of a widow within one year from the date on which her interest in the land ceases to exist; (iii) within one year from the date on which mental or physical disability ceases to exist; and

.

Provided that where a person of such category is a member of a joint family, the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section unless before the 31st day of March 1958 the share of such person in the joint family has been separated by metes and bounds and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated, having regard to the area, assessment, classification and value of the land, in the same proportion as the share of that person in the entire joint family property, and not in a larger proportion.

(4) Notwithstanding anything contained in sub-section (3), (a) the right conferred under the said sub-section (3) on a landlord who is a minor or a person subject to mental or physical disability shall, after the specified date, be exercisable, (i) by such landlord, in a case where the period of one year within which such right may be exercised under sub-section (3) has commenced, within such period of one year or within a period of six months from the specified date, whichever period expires earlier;

(ii) by the guardian or other legal representative of such landlord,

in a case where the period of one year within which such right may be exercised under sub-section (3) has not commenced, within a period of six months from the specified date;

(b) the right conferred under the said sub-section (3) on a landlord who was a widow on the first day of April, 1957 shall, after the specified date,

(i) be exercisable by the widow within a period of six months from the specified date;

(ii) be exercisable, in a case where the interest of the widow in the land has ceased to exist, by reason of her death or otherwise, before the specified date but the period of one year within which her succession-in-title is entitled to exercise the right under section 31 has not expired, by the successor-in-title of the widow within a period of one year from the date on which her interest in the land ceased or, within a period of three months from the specified date, whichever period expires earlier;

(iii) in a case where the interest of the widow in the land ceases to exist on or after the specified date, expire on the date on which her interest so ceases to exist.

31A. Conditions of termination of tenancy :-

The right of a landlord to terminate a tenancy for cultivating the land personally under section 31 shall be subject to the following conditions:

(a) If the landlord at the date on which the notice is given on the date on which it expires has no other land of his own or has not been cultivating 279 personally any other land he shall be entitled to take possession of the land leased to the extent of ceiling area.

(b) If the land cultivated by him personally is less than a ceiling area, the landlord shall be entitled to take possession of so much area of the land leased as will be sufficient to make up the area in his possession to the extent of a ceiling area.

(c) The income by the cultivation of the land of which he is entitled to take possession is the principal source of income for his maintainance.

(d) The land leased stands in the record of rights or in any public record or similar revenue record on the 1st day of January, 1952, and thereafter during the period between the said date and the

appointed day in the name of the landlord himself, or of any of his ancestors but not of any other predecessor-in-title from whom title is derived, whether by assignment or court sale or otherwise or if the landlord is a members of a joint family, in the name of a member of such family.

(e) If more tenancies than one are held under the same landlord, then the landlord shall be competent to terminate only the tenancy or tenancies which are the shortest in point of duration.

31B. No termination of tenancy in contravention of Bom. LXII of 1947 or if tenant is member of co-operative farming society :-

In no case a tenancy shall be terminated under section 31

(1) in such manner as will result in leaving with a tenant, after termination less than half the area of the land leased to him, or

(2) in such a manner as will result in a contravention of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act 1947 (Bom. LXII of 1947), or in making any part of the land leased a fragment within the LXII of 1947. meaning of that Act, or

(3) if the tenant has become a member of a co-operative farming society and so long as he continues to be such member, or,

(4) if the tenant is a member of a Scheduled Caste or a Scheduled Tribe.

31C. Landlord not entitled to terminate tenancy for personal cultivation of land left with tenant :-

The tenancy of any land left with the tenant after the termination of the tenancy under section 31 or before the commencement of the Amending Act, 1955, under any other law then in force on the ground that the landlord required the land to cultivate personally or for any non-agricultural purpose shall not at any time afterwards be liable to termination again on the ground that the landlord bonafide requires that land for personal cultivation.

31D. Apportionment of rent after termination of tenancy for land left with tenant :-

If, in consequence of the termination of the tenancy under section 31 any part of the land leased is left with the tenant, the rent shall be apportioned in the prescribed manner in proportion to the area

of the land left with the tenant. (II) Purchase of land by tenants

32. Tenants deemed to have purchased land on tillers day :-

(1) On the first day of April 1957 (hereinafter referred to as "the tillers' day") every tenant shall, subject to the other provisions of this section and the provisions of the next succeeding sections, be deemed to have purchased from his landlord, free of all encumbrances subsisting thereon, on the said day, the land held by him as tenant, if

(a) such tenant is a permanent tenant thereof and cultivates land personally;

(b) such tenant is not a permanent tenant but cultivates the land leased personally; and

(i) the landlord has not given notice of termination of his tenancy under section 31; or

(ii) notice has been given under section 31, but the landlord has not applied to the Mamlatdar on or before the 31st day of March 1957 under section 29 for obtaining possession of the land; or

(iii) the landlord has not terminated this tenancy on any of the grounds specified in section 14, or has so terminated the tenancy but has not applied to the Mamlatdar on or before the 31st day of March 1957 under section 29 for obtaining possession of the lands :

Provided that if an application made by the landlord under section 29 for obtaining possession of the land has been rejected by the Mamlatdar or by the Collector in appeal or in revision by the Gujarat Revenue Tribunal under the provisions of this Act, the tenant shall be deemed to have purchased the land on the date on which the final order of rejection is passed. The date on which the final order of rejection is passed is hereinafter referred to as "the postponed date" :

Provided further that the tenant of a landlord who is entitled to the benefit of the proviso to sub-section (3) of section 31 shall be deemed to have purchased the land on the 1st day of April 1958, if no separation of his share has been effected before the date mentioned in that proviso.

(1A)(a) Where a tenant, on account of his eviction from the land by the landlord, before the 1st day of April 1957, is not in possession

of the land on the said date but has made or makes an application for

(b) Where such tenant has not made an application for possession within the period specified in sub-section (1) of section 29 or the application made by him is finally rejected under this Act, and the land is held by any other person as tenant on the expiry of the said period or on the date of the final-rejection of the application, such other person shall be deemed to have purchased the land on the date of the expiry of the said period or as the case may be, on the date of the final rejection of the application.

(1B) Where a tenant who was in possession of land on the appointed day and who, on account of his being dispossessed of such land or any part thereof by the landlord at any time before the specified date otherwise than in the manner provided in section 29 or any other provision of this act, is not in possession of such land or any part thereof and such land or part thereof is in the possession of the landlord or his successor in interest on the said date and such land or part thereof is not put to a non-agricultural use on or before the said date, then the Mamlatdar shall, notwithstanding anything contained in the said section 29 or any other provision of this Act either suo motu or on an application of the tenant made within the prescribed period, hold an inquiry and direct that such land or, as the case may be, part thereof shall be taken from the possession of the landlord or, as the case may be, his successor in interest, and shall be restored to the tenant; and thereafter, the provisions of this section and sections 32A to 32R (both inclusive) shall, so far as they may be applicable, apply thereto, subject to the modification that the tenant shall be deemed to have purchased such land or part thereof on the date on which such land or, as the case may be, part thereof is restored to him :

Provided that the tenant shall be entitled to restoration of land or part thereof, as the case may be, under this sub-section only if he gives an undertaking in writing within such period as may be prescribed to cultivate it personally and of so much thereof as together with the other land held by him as owner or tenant shall not exceed the ceiling area

"Provided further that (i) if the tenant fails to give such undertaking within such prescribed period, or if the tenant, after giving such undertaking, refuses to accept the tenancy or

possession of the lands, the land the possession

(ii) if the tenant gives such undertaking and accepts such tenancy or possession of the land, such portion of the land referred to in clause (i) to the restoration of which the tenant would not be entitled under the first proviso, shall vest in the State Government free from all encumbrances, and shall be disposed of in the manner provided in sub-section (2) of section 32P".

Explanation. In this sub-section "successor in interest" means a person who acquires the interest by testamentary disposition or devolution on death.

(2) Where by custom, usage or agreement or order of a Court, any warkas land belonging to the landlord is used by the tenant for the purpose of rab manure in connection with rice cultivation in the land held by him as tenant

(a) the whole of such workas land, or

(b) as the case may be, such part thereof as the Tribunal may determine in cases where such warkas land is jointly used by more persons than one for the purpose of rab manure, shall be included in the land to be deemed to have been purchased by the tenant under sub-section (1):

Provided that in cases referred to in clause (b) the Tribunal may determine that such warkas land shall be jointly held by persons entitled to use the same, if in the opinion of the Tribunal, the partition of such warkas land by metes and bounds is neither practicable nor expedient in the interest of such persons.

(3) In respect of the land deemed to have been purchased by the tenant under sub-section (1), (a) the tenant shall continued to be liable to pay to the landlord the rent of such land, and

(b) the landlord shall continue to be liable to pay to the State Government the dues, if any, referred to in clauses (a), (b), (c) and (d) of sub-section (1) of section 10A, where the tenant is not liable to pay such dues under sub-section (3) of that section. until the amount of the purchase prices payable by the tenant to the landlord is determined under section 32H.

(4) On the date of the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960, (Guj. XVI of 1960) every tenant in the areas within the limits of Municipal

boroughs within the meaning of the Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925) or within the limits of municipal district constituted under the Bombay District Municipal Act, 1901, (Bom. III of 1901.) shall, subject to the other provisions of this Act, be deemed to

Provided that nothing in this sub-section shall apply to land leased by the landlord and situated within the limit of any such Municipal borough or municipal district, if such land does not exceed an economic holding and the total annual income of the landlord including the rent of such lands does not exceed Rs.1,500 and such land is not held under a permanent tenancy.

(5) A person eligible to the exemption as provided in the proviso to sub-section (4), shall make an application before the 1st day of July, 1961 to the Mamlatdar for the certificate as provided in section 88C, and the provisions of sub-sections (2) to (4) of that section shall apply thereto as if the application had been made under section 88C.

(6) The provisions of sections 32S, 32T and 32U shall mutatis mutandis apply to the termination of tenancy of such land by a landlord holding a certificate under sub-section (5) and purchase of such land by the tenant thereof as if such landlord were a certified landlord and such tenant were an excluded tenant within the meaning of those sections.

32A. Tenants deemed to have purchased up to ceiling area :-

A tenant shall be deemed to have purchased land under section 32

(1) in the case of a tenant who does not hold any land as owner but holds land as tenant in excess of the ceiling area, up to the ceiling area,

(2) in the case of a tenant who holds land as owner below the ceiling area, such part of the land only as will raise his holding to the extent of the ceiling area.

32B. When tenants not deemed to have purchased lands :-

If a tenant holds land partly as owner and partly as tenant but the area of the land held as owner is equal to or exceeds the ceiling area, he shall not be deemed to have purchased the land held by him as a tenant under section 32.

32C. When tenants entitled to choose lands to be purchased :-

If a tenant holds the land separately from more than one landlord, the tenant shall, subject to the rules made by the State Government in this behalf, be entitled to choose the area and the location of the land to be purchased from each of such landlords: Provided that the area so chosen shall not, as far as may be practicable, be other than a survey number or a sub-division of a survey number.

32D. When tenants deemed to have purchased fragments :-

(1) If the land held on tenancy is only a fragment, the tenant shall be deemed to have purchased such fragment under section 32 notwithstanding anything contained in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Bom. LXII of 1947).

(2) If the tenancy of the land is attached to a holding or part thereof under section 29A of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Bom. LXII of 1947), the tenant shall notwithstanding anything to the contrary contained in that Act, be deemed, in the circumstances set out in section 32, to have purchased the land held on such tenancy.

32E. Disposal of balance of lands after purchase by tenant :-

The balance of any land after the purchase by the tenant under section 32 shall be disposed of by sale by the Collector in the manner specified in clause (c) of sub-section (2) of section 32P, and thereupon the provisions of sub-section (5) of section 32P shall apply to such sale.

32F. Right of tenant to purchase where landlord is minor, etc :-

(1) Notwithstanding anything contained in the preceding sections

(a) where the landlord is a minor or a widow, or a person subject to any mental or physical disability the tenant shall have the right to purchase such land under section 32 within one year from the expiry of the period during which such landlord is entitled to terminate the tenancy under section 31 :

Provided that where a person of such category is a member of a joint family, the provisions of this sub-section shall not apply if at

least one member of the joint family is outside the categories mentioned in this sub-section unless before the 31st day of March 1958 the share of such person in the joint family has been separated by metes and bounds and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated, having regard to the area, assessment, classification and value of the land, in the same proportion as the share of that person in the entire joint family property, and not in a larger proportion;

(b) where the tenant is a minor, or a widow or a person subject to any mental or physical disability or a serving member of the armed forces, then subject to the provisions of clause (a), the right to purchase land under section 32 may be exercised

(i) by the minor within one year from the date on which he attains majority; (ii) by the successor-in title of the widow within one year from the date on which her interest in the land ceases to exist; (iii) within one year from the date on which the mental or physical disability of the tenant ceases to exist; (iv) within one year from the date on which the tenant ceases to be serving member of the armed forces :

Provided that where a person of such category is a member of a joint family, the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section unless before the 31st day of March 1958 the share of such person in the joint family has been separated by metes and bounds and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated, having regard to the area, assessment, classification and value of the land, in the same proportion as the share of that person on the entire joint family property, and not in a larger proportion.

(1A) On and after the date of the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960), (hereinafter referred to in this sub-section as "the said date"), every tenant who

(2) The provisions of sections 32 to 32E (both inclusive) and sections 32G to 32R (both inclusive) shall, so far as may be applicable, apply to such purchase.

32FF. Tenant in possession who has surrendered tenancy to be deemed to have purchased land on specified date :-

(1) Notwithstanding anything contained in the proceeding sections, a person who is a tenant within the meaning of sub-clause (d) of clause (18) of section 2 shall be deemed to have purchased the land in his possession of which he is the tenant, free from all encumbrances subsisting thereon, on the specified date.

(2) The provisions of sections 32 to 32E (both inclusive) and sections 32G to 32R (both inclusive) shall, so far as may be applicable, apply to such purchase.

32G. Tribunal to issue notices and determine price of land to be paid by tenants :-

(1) As soon as may be after the tiller's day the Tribunal shall publish or cause to be published a public notice in the prescribed form in each village within its jurisdiction calling upon

(a) all tenants who under section 32 are deemed to have purchased the lands,

(b) all landlords of such lands, and

(c) all other persons interested therein, to appear before it on the date specified in the notice. The Tribunal shall issue a notice individually to each such tenant, landlord and also, as far as practicable, other persons calling upon each of them to appear before it on the date specified in the public notice.

(2) The Tribunal shall record in the prescribed manner the statement of the tenant whether he is or is not willing to purchase the land held by him as a tenant

(3) Where any tenant fails to appear or makes a statement that he is not willing to purchase the land, the Tribunal shall by an order in writing declare that such tenant is not willing to purchase the land and that the purchase is ineffective;

Provided that if such order is passed in default of the appearance of any party, the Tribunal shall communicate such order to the parties and any party on whose default the order was passed may within 60 days from the date on which the order was communicated to him apply for the review of the same.

(4) If a tenant is willing to purchase, the Tribunal shall, after giving an opportunity to the tenant and landlord and all other persons interested in such land to be heard and after holding an inquiry,

determine the purchase price of such land in accordance with the provisions of sections 32H and of sub-section (3) of section 63A:

Provided that where the purchase price in accordance with the provisions of section 32H is mutually agreed upon by the landlord and the tenant, the Tribunal after satisfying itself in such manner as may be prescribed that the tenant's consent to the agreement is voluntary may make an order determining the purchase price and providing for its payment in accordance with such agreement.

(5) In the case of a tenant who is deemed to have purchased the land on the postponed date the Tribunal shall, as soon as may be, after such date determine the price of the land.

(6) If any land which, by or under the provisions of any of the Land Tenures Abolition Acts referred to in Schedule III to this Act, is regranted to the holder thereof on condition that it was not transferable, such condition shall not be deemed to affect the right of any person holding such land on lease created before the regrant and such person shall as a tenant be deemed to have purchased the land under this section, as if the condition that it was not transferable was not the condition of regrant.

32H. Purchase price and its maxima :-

(1) Subject to the additions and deductions as provided in sub-sections (1A) and (1B), the purchase price shall be reckoned as follows, namely :

(i) in the case of a permanent tenant who is cultivating the land personally the purchase price shall be the aggregate of the following amounts, that is to say :

(a) an amount equal to six times the rent of the land;

(b) the amount of the arrears of rent, if any, lawfully due on the tillers' day or the postponed date;

(c) the amounts, if any, paid by or recovered from the landlord as land revenue and cesses referred to in clauses (a), (b), (c) and (d) of sub-section (1) of section 10A, in the event of the failure on the part of the tenant to pay the same;

(ii) in the case of other tenants, the purchase price shall be the aggregate of the following amounts, that is to say,

(a) such amount as the Tribunal may determine not being less than

20 times the assessment and not more than 200 times the assessment;

(b) the value of any structures, wells, and embankments constructed and other permanent fixtures made and trees planted by the landlord on the land;

(c) the amount of the arrears of rent, if any, lawfully due on the tillers' day or the postponed date;

(d) the amounts, if any, paid by or recovered from the landlord as land revenue and other cesses referred to in clauses (a), (b), (c) and (d) of sub-section (1) of section 10A, in the event of the failure on the part of the tenant to pay the same.

Explanation 1, For the purposes of calculating the price under this sub-section, the amount of water rate, if any, levied under section 55 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), and included in such assessment, shall be excluded.

Explanation 2. For the purposes of this sub-section, the expression "assessment" shall have the meaning assigned to it in section 8.

(1A) Where a tenant to whom sub-sections (1) and (2) of section 10A do not apply, has, after the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 (Bom. XIII of 1955), paid in respect of the land held by him as tenant land revenue and other cesses referred to in sub-section (1) of that section, on account of the failure of the landlord to pay the same, a sum equal to the total amount so paid by the tenant until the date of the determination of the purchase price shall be deducted from the aggregate of the amounts determined under sub-section (1).

(1B) (a) On the amount arrived at in accordance with the provisions of sub-sections (1) and (1A), there shall be calculated interest at 4-1/2 per cent, per annum for the period between the date on which the tenant is deemed to have purchased the land under section 32 and the date of the determination of the purchase price.

(b)(i) The amount of interest so calculated shall be added to, and (ii) the amount of rent, if any, paid by the tenant to the landlord and the value of any products of trees planted by the landlord if such products are removed by the landlord during the said period shall be deducted from, the amount so arrived at.

(2) The State Government may, by general or special order, fix

different minima and maxima for the purpose of sub-clause (a) of clause (ii) of sub-section (1) in respect of any kind of land held by tenants in any backward area. In fixing such minima and maxima, the State Government shall have regard to the rent

payable for the land and the factors specified in sub-section (3) of section 63A.

32I. Sub-tenant of permanent tenant to be deemed to have purchased land. :-

(1) Where a permanent tenant has sub-let the land held by him, the sub-tenant shall, to the extent and subject to the conditions specified in sections 32 to 32E (both inclusive), be deemed to have purchased the land on the tiller's day.

(2) The purchase price thereof shall be determined in the manner provided in clause (ii) of sub-section (1) of section 32-H.

(3) Out of the purchase price payable by such sub-tenant the amount equal to six times the rent shall, in lump sum, be payable to the owner and the balance shall be paid to the permanent tenant.

(4) The provisions of sections 32 to 32H (both inclusive) and sections 32J to 32R (both inclusive), in so far as they may be applicable, shall apply to the purchase of the land by such sub-tenant and payment to be made, to and on behalf, of the permanent tenant.

32J. Appeal to State Government against decision of Tribunal. :-

Deleted by Guj. 36 of 1965,s.2

32K. Mode of payment of price by tenant :-

(1) On the determination of the purchase price payable under section 32H, the tenant, (i) if he is a permanent tenant, shall deposit with the Tribunal the entire amount of the purchase price within one year from such date as may be fixed by the Tribunal :

Provided that if the Tribunal is satisfied that such tenant has failed to make the payment within the time specified for any reason beyond his control, the Tribunal may extend the period by a period not exceeding one year ;

(ii) if he is not a permanent tenant, shall deposit with the Tribunal

the entire amount of the price

(a) either in lump sum within one year from such date, or

(b) in such annual instalment not exceeding twelve with simple interest at the rate of 4-1/2 per cent, per annum on or before such dates as may be fixed by the Tribunal; and

Provided that in a case in which the tenant is required to deposit the amount in lump sum, if the Tribunal is satisfied that such tenant has failed to deposit the amount within the period specified in sub-cause (a) for any reason beyond his control, it may extend the period by a period not exceeding one year :

Provided further that where the period within which the lump sum was to be paid has expired before the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960), then notwithstanding the expiry of the period the Tribunal may extend the period by a period not exceeding one year from the date of such commencement.

(2) During any period for which payment of rent is suspended or remitted under section 13, the tenant shall not be bound to pay the purchase price in lump sum or the amount of any instalments fixed under this section or any interest thereon, if any.

32L. Purchase price recoverable as arrear of land revenue
:-

(1) If a permanent tenant or on his behalf, a sub-tenant fails to deposit the amount of the purchase price as required under section 32-K such amount shall be recoverable as an arrear of land revenue.

(2) If a tenant or sub-tenant of a permanent tenants fail to make payment of any instalment in accordance with the provision of the foregoing sections and the default in payment of which does not render the purchase ineffective under section 32M, the amount of such instalment shall also be recoverable as an arrear of land revenue.

(3) The amount recovered under sub-section (1) or (2) shall be deposited with the Tribunal.

32M. Purchase to be ineffective on tenants failure to pay purchase price in lump sum or in instalments within given

period :-

(1) On the deposit of the price in lump sum or of the last instalment of such price, the Tribunal shall issue a certificate of purchase in the prescribed form, to the tenant in respect of the land. Such certificate shall be conclusive evidence of purchase. If a tenant fails to pay the lump sum, within the period fixed under clause (ii) of sub-section (1) of section 32K or is at any time in arrears of four instalments, the purchase shall be ineffective and the land shall be at the disposal of the Collector under section 32 P and any amount deposited by such tenant towards the price of the land shall be refunded to him.

(2) In the case of the purchase of any land by a tenant, which before the date of the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1965 (Guj. 36 of 1965) has become ineffective by reason of the failure of the tenant to pay the lump sum within the period fixed under clause (ii) of sub-section (1) of section 32K or the tenant remaining in arrears of four instalments, if the tenant deposits with the Tribunal within a period of three years from the date of such commencement the entire amount of the price of the land as fixed under section 32K or, as the case may be, such portion of the price so fixed as may have remained unpaid, together with the interest, if any, payable under section 32K, the purchase of the land shall be deemed not to have become ineffective and the Tribunal shall issue a certificate of purchase to the tenant under sub-section (1).

(3) Notwithstanding the expiry of the period specified in sub-section (2), if the tenant of land to which sub-section (2) applies deposits with the Tribunal within a period of two years after the expiry of the period mentioned in sub-section (2) the entire amount of the price of the land or, as the case may be, the portion of the price, together with interest, as specified in the said sub-section (2), the purchase of the lands shall be deemed not to have become ineffective and the Tribunal shall issue a certificate of purchase to the tenant under sub-section (1).

(4) In the case of the purchase of any land by a tenant which at any time after the date of the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1965 (Guj. 36 of 1965) has become ineffective by reason of the failure of the tenant to pay the lump sum within the period fixed under clause (ii) of sub-section (1) of section 32K or the tenant remaining

in arrears of four instalments, if such land has not been disposed of by the Collector in the manner provided in sub-section (2) of section 32P, then, if the tenant deposits with the Tribunal within the period of two years after the expiry of the period mentioned in sub-section (2) the entire amount of the price of the land as fixed under section 32K, or, as the case may be, such portion of the price so fixed as may have remained unpaid, together with the interest, if any, payable under section 32K, the purchase of the land shall be deemed not to have become so ineffective and the Tribunal shall issue a certificate of purchase to the tenant under sub-section (1).

(5) Notwithstanding the expiry of the period specified in sub-section (3) or (4)

(a) if the tenant of land to which sub-section (3), or as the case may be, sub-section (4) applies and which has not been disposed of by the Collector in the manner provided in sub-section (2) of section 32P, deposits with the Tribunal at any time before two months after the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1981 (Guj. 13 of 1981.), or

(b) if the specified tenant of land to which sub-section (3) or, as the case may be, sub-section (4) applies and which has not been disposed of by the Collector in the manner provided in sub-section (2) of section 32P, deposits with the Tribunal at any time before the end of December, 1986. the entire amount of the price of the land or, as the case, may be, the unpaid portion of the price, together with interest, as specified in the said sub-sections (3) and (4) as the case may be, the purchase of the land shall be deemed not to have become ineffective and the Tribunal shall issue a certificate of purchase to the tenant or the specified tenant under sub-section (1).

Explanation. For the purposes of this section and sections 32PP and 32 PPP, the expression "specified tenant" means a tenant who holds land (whether as a tenant or owner or otherwise) not exceeding four hectares.

32N. Landlord right to recover rent when purchase becomes ineffective :-

(1) Where any purchase of land becomes ineffective, the landlord shall be entitled to recover from the tenant the rent of the land as if the land had not been purchased. The amount of rent so

recoverable shall be deducted from the amount, if any, to be refunded to the tenant:

Provided that (a) where the amount of rent exceeds the amount, if any, to be refunded to the tenant, the tenant shall, within three months from the date on which the purchase becomes ineffective, pay to the landlord the amount of rent so in excess, and

(b) where the tenant fails to pay the amount in accordance with clause (a) it shall be recovered from him as an arrear of land revenue and paid to the landlord.

(2) If within three months from the date on which the purchase of any land has become ineffective the landlord fails to refund the tenant the amount paid after deducting any rent due to him it shall be recovered from him as an arrear of land revenue and paid to the tenant.

32O. Right of tenant whose tenancy is created after tillers day to purchase land :-

(1) In respect of any tenancy created after the tiller's sY notwithstanding any agreement or usage to the contrary, a tenant cultivating personally shall be deemed to have purchased on the date of expiry of one year

(2) The provisions of sections 32 to 32N (both inclusive) and of sections 32P, 32Q and 32R in so far as they may be applicable shall apply to the purchase of the land by a tenant under-section (1).

32P. Power of Collector to resume and dispose of land not purchased by tenant an appeal against Collectors Order. :-

(1) Where the purchase of any land by tenant under section 32 becomes ineffective under the foregoing provisions of this sub-chapter or where the tenant fails to exercise the right to purchase land under section 43-ID within the period specified in that section the Collector may suo motu or on an application made in this behalf and after holding a formal inquiry direct that the land shall be disposed of in the manner provided in sub-section (2).

(2) Such direction shall, subject to the provisions of sub-sections (2AA) and (2A), Provide (a) that the tenancy in respect of the land shall be terminated and the tenant be summarily evicted;

(b)

(c) that , the entire land of such portion thereof, as the case may be, notwithstanding that it is a fragment, shall, subject to the terms and conditions as may be specified in the direction be disposed of by sale to person in the following order of priority (hereinafter called "the priority list"):

(a-i) the tenant whose tenancy in respect of that land is terminated if such tenant is willing to accept the offer of sale, provided the occasion for the issue of such directions has not arisen by reason of an act of collusion between such tenant and the landlord;

(i) a co-operative farming society, the members of which are agricultural labourers, landless persons or small holders or a combination of such persons; (ii) agricultural labourers ; (iii) landless persons; (iv) small holders; (v) a co-operative farming society of agriculturists (other than small holders) who hold either as owner or tenant or partly as owner and partly as tenant, land less in area than an economic holding and who are artisans; (vi) an agriculturist (other than a small holder) who holds either as owner or tenant or partly as owner and partly as tenant, land less in area than an economic holding and who is an artisan; (vii) any other co-operative farming society; (viii) any agriculturist who holds either as owner or tenant or partly as owner and partly as tenant land larger in area than an economic holding but less in area than the ceiling area; (ix) any person not being an agriculturist, who intends to take to the profession of agriculture :

Provided that the State Government may, by notification in the Official Gazette, give, in relation to such local areas as it may specify, such priority in the above order as it thinks fit to any class of persons who, by reason of the acquisition of their land for any development project approved for the purpose by the State Government, have been displaced, and require to be re-settled :

Provided further that (a) where there are two or more co-operative farming societies falling under item (i), (v) or (vii), preference amongst them shall be given in the following order, namely :

(1) a co-operative farming society each of the members of which belongs to a Scheduled Tribe ;

(2) a co-operative farming society the membership of which is held partly by persons belonging to a Scheduled Tribe and partly by persons belonging to a Scheduled Castes ;

(3) a co-operative farming society each of the members of which belongs to a Scheduled Caste ;

(4) a co-operative farming society the membership of which is not solely held by persons belonging to a Scheduled Tribe or Scheduled Caste ;

(b) in the case of persons falling under items (ii), (iii) and (iv) preference shall be given in the following order, namely :

(1) a person belonging to a Scheduled Tribe ; (2) a person belonging to a Scheduled Caste ; (3) other persons.

(2AA) Where in any case the direction under sub-section (2) provides that the land in respect of which the tenancy is terminated shall be disposed of by sale to the tenant referred to in sub-clause (a-i) of clause (c) of sub-section (2), the tenant shall be liable to be evicted only if the land or, as the case may be, the portion thereof could not be disposed of by sale to him.

(2A) Where the tenancy in respect of any land is terminated under clause (a) of sub-section (2) but the tenant of such land is a co-operative farming society of the type referred to in sub-clause (i) of clause (c) of sub-section (2), the direction under sub-section (2) shall further provide

(i) that the entire land or such portion thereof, as the case may be, shall be disposed of by sale to the co-operative farming society which was the tenant of the land or as the case may be, portion thereof immediately before the termination of the tenancy under clause (a) of sub-section (2) :

Provided that the total acreage of the land to be so disposed of shall not exceed an area arrived at by multiplying the ceiling area by the total number of the members of the co-operative farming society ;

(ii) that on the termination of the tenancy under clause (a) of sub-section (2), the co-operative farming society shall be liable to be evicted only from such portion of the land as could not be disposed of by sale to it under a direction issued under sub-section (2).

(3)

(4) Where the land or portion thereof is offered to sale under sub-section (2) but no person comes forward to purchase such land or

portion, such land or portion, as the case may be, shall vest in the State Government and the Collector

(5) Where any land is sold under sub-section (2), the Collector shall determine the price of the land in accordance with the provisions of section 63A and the price so determined shall be payable by annual instalments not exceeding six with simple interest at the rate of 4-1/2 per cent per annum as the Collector may determine and the price of the land recovered from the purchase shall, subject to the provisions of section 32Q, be paid to the owner thereof.

(6) On the payment of the last instalment of the price, together with the interest due, the Collector shall issue a certificate of purchase in the prescribed form to the purchaser in respect of the land. Such certificate shall be conclusive evidence of purchase.

(7)(a) Where, before the specified date, any land has been surrendered to a landlord under sub-section (2) of this section as in force immediately before such date; and the landlord has taken possession of the land, the landlord shall be liable to cultivate the land personally and shall be entitled to the use and occupation of the land so long as he cultivates the land personally.

(b) If he fails to so cultivate the land he shall be evicted from the land and the land shall be disposed of in accordance with the provisions of section 84-C.

(8) No land of the description referred to in sub-section (7) shall be transferred by sale, gift, exchange, mortgage, lease or assignment or partitioned without the previous sanction of the Collector and except on payment of such amount as the State Government may by general or special order determine.

(9) Any person aggrieved by any order made by the Collector under the foregoing provisions of this section may appeal to the State Government against such order.

(10) The State Government shall after giving an opportunity to the parties to be heard, decide the appeal.

(11) The order of the Collector, subject to such appeal and decision of the State Government on appeal, shall be final.

32PP. Further opportunity to tenant to purchase land :-

(1) Notwithstanding anything contained in sections 32G and 32P,

where before the date of the coming into force of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1965 (Guj. 36 of 1965) (hereinafter referred to in this section as "the said date")

(i) any land has been at the disposal of the Collector under section 32P on account of the purchase of the land by the tenant thereof having become ineffective under sub-section (3) of section 32G by reason of the tenant failing to appear before the Tribunal or making a statement expressing his unwillingness to purchase the land, and

(ii) the land so at the disposal of the Collector has not been disposed of in the manner provided in sub-section (2) of section 32P, the tenant, if he is willing to purchase the land may make an application in writing to the Tribunal within a period of one year from the said date for a declaration that the purchase has not become ineffective.

(1A) Notwithstanding the expiry of the period specified in sub-section (1), the right conferred under that sub-section, may be exercised as if in that sub-section, for the words, brackets and figures "the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1965 (Guj. 36 of 1965)" the words, brackets and figures "the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1970" (Guj. 2 of 1971), were substituted.

(1B) Where an application for a declaration that the purchase has not become ineffective made by a tenant under sub-section (1) before the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1970 was not admitted by the Tribunal on the ground that the period for making it had expired, such tenant shall also be entitled to exercise the right conferred under sub-section (1) by making an application within the period specified in that sub-section and on receipt of an application from any such tenant the Tribunal shall admit it as if it were an application made within such specified period.

(1C) Notwithstanding the expiry of the period specified in sub-section (1) read with sub-section (1A), the right conferred under sub-section (1) may be exercised,

(a) by a tenant at any time before two months after the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1981 (Guj. 13 of 1981.); or

(b) by a specified tenant at any time before the end of December, 1986 (1D) Where an application for a declaration that the purchase has not become ineffective made by a tenant under sub-section (1) before the specified date was

"(a) such tenant shall also be entitled to exercise the right conferred under sub-section (1) by making an application at any time before two months after the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1981 (Guj. 13 of 1981.) or

(b) such tenant being a specified tenant shall also be entitled to exercise the right conferred in sub-section(1) by making an application at any time before the end of December, 1986. and on receipt of an application from any such tenant or specified tenant the Tribunal shall admit it as if it were an application made within the period specified for making it.

(2) On receipt of an application under sub-section (1) the Tribunal shall issue a notice to the tenant and the landlord calling upon them to appeal before it on the date specified in the notice.

(3) If the tenant appears and makes a statement that he is willing to purchase the land, the land shall cease to be at the disposal of the Collector under section 32P and the Tribunal shall determine the purchase price of the land in the manner provided in section 32G as if the purchase had not been ineffective.

(4) The provisions of sections 32 to 32P and sections 32Q and 32R shall so far as may be applicable apply to the purchase of the land by a tenant under this section.

(5) In the case of land to which this section applies no action shall be taken under section 32P unless the tenant entitled to make an application under this section fails to make such application within the period specified in sub-section 1.

Explanation. Notwithstanding anything contained in any judgment, decree or order of any court, Tribunal or other authority, for the purpose of clause (ii) of sub-section (1), the land shall not be deemed to have been disposed of till the person entitled to take possession of the land in pursuance of any direction issued under sub-section (2) of section 32P takes actual possession of such land in accordance with law.

32PPP. Further opportunity to purchase land to tenants whose purchase became ineffective after commencement of Guj. 36 of 1965. :-

(1) Notwithstanding anything contained in sections 32G and 32P, where on or after the date of the coming into force of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1965, (Guj. 36 of 1965),

(i) any land has been at the disposal of the Collector under section 32P on account of the purchase of the land by the tenant thereof having become ineffective under sub-section (3) of section 32G by reason of the tenant failing to appear before the Tribunal or making a statement expressing his unwillingness to purchase the land, and

(ii) the land so at the disposal of the Collector has not been disposed of in the manner provided in sub-section (2) of section 32P (a) the tenant, if he is willing to purchase the land may make an application in writing to the Tribunal before two months after the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1981 (Guj. 13 of 1981), or

(b) the tenant, if he is a specified tenant and is willing to purchase the land, may make an application in writing to the Tribunal before the end of December, 1986.

for a declaration that the purchase has not become ineffective.

(2) On receipt of an application under sub-section (1) the Tribunal shall issue a notice to the tenant and the landlord calling upon them to appear before it on the date specified in the notice.

(3) If the tenant appears and makes a statement that he is willing to purchase the land, the land shall lease to be at the disposal of the Collector under section 32P and the Tribunal shall determine the purchase price of the land in the manner provided in section 32G as if the purchase has not been ineffective.

(4) The provisions of section 32 to 32P and sections 32Q and 32R shall so far as may be applicable apply to the purchase of the land by a tenant under this section.

(5) In the case of land to which this section applies no action shall be taken under section 32P unless the tenant entitled to make an application under this section fails to make such application within the period specified in sub-section (1).

Explanation. Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, for the purpose of clause (ii) of sub-section (1), the land shall not be deemed to have been disposed of till the person entitled to take possession of the land in pursuance of any direction issued under sub-section (2) of section 32P takes actual possession of such land in accordance with law.

32Q. Amount of purchase price to be applied towards satisfaction of debts :-

(1) During an inquiry held under section 32G the Tribunal shall determine any encumbrances lawfully subsisting on the land on the tiller's day.

(2)(a) If the total amount of the encumbrances is less than the purchase price so determined, (i) where the purchase price is paid in lump sum it shall be deducted from the purchase price and the balance paid to the landlord; (ii) where the purchase price is made payable in instalments, the Tribunal shall deduct such amount from such instalments toward the payment of the encumbrances.

Provided that where under any agreement, award, the decree or order of a court or any law, the amount of the encumbrances is recoverable in instalments, the Tribunal shall deduct such amount as it deems reasonable from the instalments so payable. (b) If the total amount of encumbrance is more than the amount so determined, the purchase price in lump sum or the instalments, as the case may be, shall be distributed in the order of priority. If any person has a right to receive maintenance or alimony from the profits of the lands, the Tribunal shall also make deductions for payment out of the purchase price.

(3) In such question involves any question of law regarding the validity of the encumbrance or the claim of the holder of the encumbrance or any question regarding the account due in respect of the encumbrance, then notwithstanding anything contained in section 85A, the Tribunal shall in the manner prescribed refer the question for decision to the Civil Judge within the territorial limits of whose jurisdiction the land is situate. On receipt of such reference the Judge concerned shall, after giving notice to the parties concerned, try the question referred to and record findings thereon and send the same to the Tribunal. The Tribunal shall then give the decision in accordance with the said findings.

(4) Nothing in this section shall affect the rights of holder of any such encumbrances to proceed to enforce against the landlord his right in any other manner or any other law for the time being in force.

32QQ. Deposit or payment of purchase price by State Government on behalf of specified tenant :-

(1) (a) Where a specified tenant permitted under clause (b) of sub-section (5) of section 32M to deposit with the Tribunal at any time before the end of December 1986 the entire amount of the price of the land or, as the case may be, the unpaid portion of the price, together with the interest, as specified in sub-sections (3) and (4) of section 32M, has failed to deposit with the Tribunal such amount before the date of the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Second Amendment) Ordinance, 1986 (Guj. Ord. 14 of 1986) (hereinafter referred to as "the said date"), the State Government shall, notwithstanding the expiry of the period specified in clause (b) of sub-section (5) of section 32M, deposit on behalf of such specified tenant, with the Tribunal within a period of twelve months from the said date such amount and 'on depositing such amount with the Tribunal the purchase of land shall be deemed not to have become ineffective and the Tribunal shall issue a certificate of purchase to the specified tenant under-section (1) of section 32M.

(b) Where a specified tenant permitted under clause (b) of sub-section (1C) or clause (b) of sub-section (1D) of section 32PP or under sub- clause (b) of clause (ii) of sub-section (1) of section 32PPP to make at any time before the end of December 1986 an application under sub-section (1) of section 32PP for a declaration that purchase has not become ineffective, fails to make such application before the end of December 1986, and the Collector directs under sub-section (2) of section 32P that the land in respect of which the tenancy is terminated shall be disposed of by sale to the specified tenant who is a tenant referred to in sub-clause (a-i) of clause (c) of the said sub- section (2) and the land is disposed of by sale to such specified tenant, the Collector shall issue a certificate of purchase in the form prescribed under sub-section (1) of section 32M to such specified tenant who shall be liable to pay to the Collector the price of such land determined by the Collector under sub-section (5) of section 32P.

(2) The amount deposited with the Tribunal under clause (a) of

sub-section (1) or, as the case may be, the amount of price of land which the specified tenant is liable to pay to the Collector under clause (b) of sub-section (1) shall be deemed to be the amount of loan granted to the specified tenant by the State Government on such terms and conditions as may be prescribed and the amount of loan and interest or any portion thereof shall be recoverable from such specified tenant as arrears of land revenue.

32R. Purchase to be evicted if he fails to cultivate personally :-

If at any time after the purchase of the land under any of the foregoing provisions, the purchaser fails to cultivate the land personally, he shall unless the Collector condones such failure for sufficient reasons, be evicted and the land shall be disposed of in accordance with the provisions of section 84C.

(II-A) Termination of tenancy by landlords, and purchase of land by tenants, of lands to which section 88C applies

32S. Definitions :-

For the purposes of section 32T and 32U

(i) 'Certified landlord' means a person who holds a certificate issued to him under sub-section (4) of section 88C: but does not include a landlord within the meaning of chapter III-AA holding a similar certificate and

(ii) 'Excluded tenant' means a tenant of land to which the provisions of sections 32 to 32R (both inclusive) do not apply by virtue of sub-section (1) of section 88C.

32T. Special right of certified landlord to terminate tenancy for personal cultivation :-

(1) Notwithstanding anything contained in section 31 to 31B (both inclusive) but subject to the provisions of this section a certified landlord may, after giving notice and making an application for possession as provided in sub-sections (3) terminate the tenancy of any land leased by him to an excluded tenant, if he bonafide requires such land for cultivating it personally.

(2)(a) The notice may be given and an application may be made by a certified landlord under sub-section (3) notwithstanding that in respect of the same tenancy any application made by him in accordance with sub- section (2) of section 31

(i) is pending before the Mamlatdar or in appeal before the Collector or in revision before the Gujarat Revenue Tribunal on the date of the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960, (Guj. XVI of 1960),

(hereinafter referred to in section as 'the commencement date'), or

(ii) has been rejected by the Mamlatdar or in appeal by the Collector or in revision by the Gujarat Revenue Tribunal before the commencement date;

(b) Any such pending application shall be deemed to have abated on the commencement date.

(3) The notice required to be given under sub-section (1) shall be in writing and shall be served on the tenant on or before the 31st day of December, 1961 and a copy thereof shall, at the same time be sent to the Mamlatdar. An application for possession of the land shall thereafter be made under section 29 to the Mamlatdar on or before the 31st day of March, 1962:

Provided that where a landlord has applied for certificate under sub-section (3) of section 88C within the period prescribed or specified therefor but no certificate has been issued to him before the 31st day of December, 1961, he may give such notice and make an application for possession of the land before the expiry of three months from the date on which a certificate is issued to him under sub-section (4) of section 88C.

(4) Where the certified landlord is of one of the following categories, namely: (a) a minor, (b) a widow,

(c) or

(d) a person subject to any physical or mental disability, then if he has not given a notice and not made an application as required by sub-sections (1) and (3), such notice may be given and such application may be made

(A) by the landlord within one year from the date on which- (i) in the case of category (a) he attains majority; (ii)

(iii) in the case of category (d) he ceases to be subject to such physical or mental disability; and (B) in the case of a widow, by the successor-in-title within one year from the date on which the

widow's interest in the land ceases to exist :

Provided that where a person of such category is a member of a joint family , the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section unless the share of such person in the joint family has been separated by metes and bounds before the 31st day of March 1958 and the Mamlatdar on inquiry is satisfied that the

(5) The right of a certified landlord to terminate a tenancy under this section shall be subject to the following conditions, namely:

(a) that if before the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960), the landlord has already under section 31 or under any other law then in force terminated the tenancy of any land held by the same tenant on the ground that he required it for personal cultivation thereof or for non-agricultural use and taken possession, he shall not be entitled to terminate a tenancy under the provisions of sub- section (1);

(b) that notwithstanding anything contained in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Bom. LXII of 1947), the landlord shall be entitled to take possession of the land leased to the extent of half the area thereof:

Provided that if at the date on which the application for possession is made by the landlord to the Mamlatdar in accordance with sub-section (3) or (4)

(i) the landlord has not been cultivating personally any other and or has been cultivating personally other land less than half an economic holding, and

(ii) the tenant has been cultivating and is entitled to continue to cultivate personally other land exceeding half an economic holding. the landlord shall be entitled to take possession of the whole of the land leased;

(c) that the land leased stands in the Record of Rights or in any public record or similar revenue record on the 1st day of January, 1952 and thereafter until the commencement date in the name of the landlord himself, or of any of his ancestors but not of any other predecessor-in- title from, whom title is derived by assignment or

court sale or otherwise, or of a joint family of which the landlord is a member ;

(d) that the landlord shall not be entitled to the possession of the land, if an application under clause (iv) of sub-section (1) of section 88D has been made and has not been rejected.

(6) The tenancy of any land left with the tenant after the termination of the tenancy under this section shall not at any time afterwards be liable to termination again on the ground that the landlord bona fide, requires that land for personal cultivation.

(7) If, in consequence of the termination of the tenancy under this section any part of the land leased is left with the tenant, the rent shall be apportioned in the prescribed manner in proportion to the area of the land left with the tenant.

32U. Tenants of lands mentioned in section 88C to be deemed to have purchased land and other incidental provisions :-

(1) Notwithstanding anything contain in sub-section (1) of section 88C, but subgt to the provisions of this section every excluded tenant holding land from a certified landlord shall except as otherwise provided in sub-section (3), be deemed to have purchased from the landlord on the first day of April 1962, free from all encumbrances subsisting thereon on the said day, the land held by him as tenant, if such land is cultivated by him personally; and 358

(i) the landlord has not given notice of termination of tenancy in accordance with sub-section (3) of section 32T, or

(ii) the landlord has given such notice but has not made an application thereafter under section 29 for possession as required by the said sub-section (3), or

(iii) the landlord not being a person of any of the categories specified in sub-section (4) of section 32T has not terminated the tenancy but has not applied to the Mamlatdar on or before the 31st day of March 1962 under section 29 for possession of the land :

Provided that where the landlord has made such application for possession but it is rejected by the Mamlatdar or in appeal by the Collector or in revision by the Gujarat Revenue Tribunal under the provisions of this Act, the tenant shall be deemed to have

purchased the land on the date on which the final order of rejection is passed.

(2)(a) Where a tenant, on account of his eviction from the land by the landlord before the 1st day of April 1962, is not in possession of the land on the said date but has made or makes an application for possession of the land under sub-section (1) of section 29 within the period specified in that sub-section, then if the application is allowed by the Mamlatdar, or as the case may be, in appeal by the Collector or in revision by the Gujarat Revenue Tribunal, he shall be deemed to have purchased the land on the date on which the final order allowing the application is passed.

(b) Where such tenant has not made an application for possession within the period specified in sub-section (1) of section 29 or the application made by him is finally rejected under this Act, and the land is held by any other person as tenant on the expiry of the said period or on the date of the final rejection of the application, such other person shall be deemed to have purchased the land on the date of the expiry of the said period or, as the case may be, on the date of the final rejection of the application.

(3) Where the certified landlord being a person of any of the categories specified in sub-section (4) of section 32T has not given notice of termination of the tenancy of an excluded tenant in accordance with sub-section (3) of that section or has given such notice but has not made an application thereafter under section 29 for possession as required by the said sub-section (3) such excluded tenant shall be deemed to have purchased the land held by him as tenant on the expiry of the period specified in sub-section (4) of section 32T:

Provided that where the tenancy is terminated and application for possession is made in accordance with the provisions of sub-section (4) of section 32T but the application is rejected by the Mamlatdar or in appeal by the Collector or in revision by the Gujarat Revenue Tribunal, the tenant shall be deemed to have purchased the land on the date on which the final order of rejection is passed.

(4) The provisions of section 32 to 32R shall so far as may be applicable apply to the purchase of land under this section by an excluded tenant.

33. Right of tenants to exchange land :-

(1) Notwithstanding anything contained in this Act or any other law or any agreement or usage, the tenants holding lands as such tenants may agree and may make an application to the Mamlatdar in the prescribed form for the exchange of their tenancies in respect of the lands held by them as 1 tenants.

(2) On receipt of the application the Mamlatdar after giving notice to the landlords concerned and after making an inquiry may sanction the exchange on such terms and conditions as may be prescribed and may issue certificates in the prescribed form to the applicants.

(3) The certificate so issued shall be conclusive of the fact of such exchange against the landlords and all persons interested in the lands exchanged.

(4) Each of the two tenants shall on exchange hold the land on the same terms and conditions on which it was held by the original tenant immediately before the exchange subject to such modifications as may have been sanctioned by the Mamlatdar.

(III) Restriction upon holding land in excess of ceiling area.

34A. Holders of land to furnish particulars of land to Mamlatdar :-

Every person holding land in the charge of more than one Village Accountant whether as owner or tenant or partly as owner and partly as on the 31st day of March 1957, shall within the prescribed period furnish in the prescribed manner true particulars of all the land so held by him to each of the Mamlatdars within whose jurisdiction any piece of such land is situate.

35. SECTION :-

36. Fragment in excess of economic holding or ceiling area may be permitted to remain with holder :-

If, as a result of any redistribution or transfer of land under the provisions of this Act, any area in excess of the economic holding for ceiling area, which a person is entitled to hold under this Act is left over as a fragment, the Collector may, , permit such fragment to remain with either to the holders of the land, having regard to the efficient use thereof for agricultural purposes.

37. Landlord to restore possession if he fails to cultivate within one year :-

(1) If after the landlord takes possession of the land after the termination of the tenancy under section 31 or 32T he fails to use it for any of the purposes specified in the notice given under section 31 or 32T within one year from the date on which he took possession or ceases to use it at any time for any of the aforesaid purposes within twelve years from the date on which he took such possession, the landlord shall forthwith restore possession of the land to the tenant whose tenancy was terminated by him, unless he obtained from the tenant his refusal in writing to accept the tenancy on the same terms and conditions or has offered in writing to give possession of the land to the tenant on the same terms and conditions and the tenant has failed to accept the offer within three months of the receipt thereof.

(1A) Notwithstanding anything contained in sub-section (1), where in respect of any land the possession of which has been taken by the landlord after the termination of the tenancy under section 31 or 32T, the Mamlatdar suo motu or on an application from any person interested in such land has reason to believe that the landlord has failed to use the land for any of the purposes specified in the notice given to the tenant under section 31 or 32T, within one year from the date on which he took possession of the land or ceases or has ceased to use it for the purpose specified in the notice, at any time within twelve years from the date on which he took possession, or has transferred the land to any other person and such transfer is inconsistent with the ground on which the tenancy of the land was terminated, the Mamlatdar shall, after issuing a notice to the landlord or as the case may be, to the landlord should not be disentitled to retain possession of the land, or, as the case may be, why the transfer should not be declared invalid and after holding such inquiry as he deems fit, declare that the landlord shall not be entitled to retain possession of the land or, as the case may be, that the transfer of the land shall be invalid and that the transferee shall be deemed to be unauthorisedly occupying the land.

(1B) Where in the case of any landlord a declaration has been made under sub-section (1A) that he shall not be entitled to retain possession of the land, such landlord shall forthwith offer in writing to the tenant whose tenancy was terminated to give possession of the land on the same terms and conditions on which the tenancy was held before its termination. If within three months of the receipt of such offer the tenant accepts such offer the landlord shall

forthwith restore possession of the land to the tenant and if within the said period the tenant refuses in writing or fails to accept the tenancy, the land shall vest in the State Government free from all encumbrances lawfully subsisting thereon on the date of such vesting.

(2) After the tenant has recovered possession under sub-section (1) or (1B) he shall, subject to the provisions of this Act hold such land on the same terms and conditions on which he held it at the time his tenancy was terminated.

(3) If the landlord has failed to restore possession of the land to the tenant as provided in sub-section (1) or (1B) he shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar for the loss suffered by the tenant on account of eviction.

(4) Where before the commencement of the Amending Act, 1955 a landlord in accordance with the provisions of this Act as then in force has terminated the tenancy of any land by giving notice to the tenant that he required the land for cultivating personally or for any non-agricultural purpose and has taken possession of the land, whether before or after such commencement, then if he fails to use the land for the purpose specified in the notice within one year from the date on which he took possession or ceases to use it for the purpose specified in the notice at any time within twelve years from the date on which he took possession, the foregoing provisions of this section shall, notwithstanding any decree or order of a court or tribunal, apply to such failure or cessation, as the case may be, as if there had been a termination of the tenancy under section 31, and where after the termination of tenancy as aforesaid the land has been transferred to any person and the transfer is inconsistent with the ground on which the tenancy of the land was terminated the transfer shall be invalid and the person shall be deemed to be unauthorisedly occupying the land.

(5) Whereas a failure or cessation referred to in sub-section (4) has taken place before the date of the coming into force of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960), the liability of the land lord under sub-section (1) to restore possession of the land to the tenant shall commence from that date.

(5AA) Where in any case the transfer of any land has been declared

to be invalid under sub-section (1A) or (4) and the transferee is deemed to be in unauthorised occupation of the land, such land shall be deemed to vest in the State Government on and from the date of such declaration, free from all encumbrances lawfully subsisting thereon on the said date.

(5AB) Where any land vests or is deemed to vest in the State Government under sub-section (1B) or (5AA) the State Government shall dispose of such land by granting it on new and impartible tenure and on payment of occupancy price equal to the reasonable price determined by the Mamlatdar in accordance with the provisions of section 63A, to persons or bodies in the order given in the priority list and the encumbrances referred to in sub-section (1B) or (5AA) shall be paid

Explanation. In this sub-section, "new and impartible tenure" means the tenure of occupancy which is non-transferable and non-partible without the previous sanction of the Collector.

(5B) If the Mamlatdar declares the transfer to be invalid he shall direct and that the amount of consideration, if any, received by the transferor shall be paid by the transferor to the transferee within the period specified in the direction.

(5C) If the transferor fails to pay the amount to the transferee within the period so specified, the amount shall be recovered from him as an arrear of land revenue and paid to the transferee.

(5D) Nothing in section 84A, 84B, or 84C shall apply to a transfer of land which is invalid under this section.

(6) The provisions of this section shall not apply to a landlord who becomes a serving member of the armed forces, and on that account, fails to use the land, or ceases to use it, for any of the purposes specified in the notice referred to in sub-section (1) or (1B) and within period specified in that sub-section.

38. Circumstances in which landlord shall be deemed to cultivate personally. :-

Deleted by Bom. 13 of 1956, s. 26.

39. Application for recovery of possession by tenant :-

If at any time the tenant makes an application to the Mamlatdar and satisfies him that the landlord has failed to comply within a reasonable time with the provisions of section 37, the tenant shall

be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar, for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required by section 37.

40. Continuance of tenancy on death of tenant :-

(1) Where a tenant (other than a permanent tenant) dies, the landlord shall be deemed to have continued the tenancy on the same terms and conditions on which such tenant was holding it at the time of his death, to such heir or heirs of the deceased tenant as may be willing to continue the tenancy.

(2) Where the tenancy is inherited by heirs other than the widow of the deceased tenant, such widow shall have a charge for maintenance on the profits of such land.

41. Compensation for improvement made by tenant :-

(1) A tenant who has made an improvement on the land held by him shall if his tenancy is terminated under the provisions of this Act, be entitled to compensation for such improvement. For determining the amount of the compensation the tenant shall apply to the Mamlatdar in the prescribed form.

(2) The compensation to which a tenant shall be entitled under sub-section (1) shall be the estimated value of such improvement at the time of the termination of his tenancy. In estimating such value regard shall be paid to

(a) the amount by which the value of the land is increased by the improvement;

(b) the present condition of the improvement and the probable duration of its effects ;

(c) the labour and capital provided or spent by the tenant for the making of the improvement; and

(d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement including permanent fixtures.

42. Tenants right to erect farm-house. :-

A tenant shall be entitled to erect a farm house on the land held by him as a tenant.

43. Restriction on transfer of land purchased or sold under this Act :-

(1) No land or any interest therein purchased by a tenant under section 17B, 32, 32F, 32-I, 32-O, 32U, 43-1D or 88E or sold to any person under section 32P or 64 shall be transferred or shall be agreed by an instrument in writing to be transferred, by sale, gift, exchange, mortgage, lease or assignment, without the previous sanction of the Collector and except in consideration of payment of such amount as the State Government may by general or special order determine; and no such land or any interest, therein shall be partitioned without the previous sanction of the Collector.

(1A) The sanction under sub-section (1) shall be given by the Collector in such circumstances and subject to such conditions, as may be prescribed by the State Government,

1AA) Notwithstanding anything contained in sub-section (1), it shall be lawful for such tenant or a person to mortgage or create a charge on his interest in the land in favour of the State Government in consideration of loan advanced to him by the State Government under the Land Improvement Loans, Act, 1883 (19 of 1883), the Agriculturists' Loans Act, 1884, (12 of 1884) or the Bombay Non-agriculturists' Loans Act, 1928 (Bom. III of 1928), as in force in the State of Gujarat, or in favour of a bank or co-operative society, and without prejudice to any other remedy open to the State Government, bank or co-operative society, as the case may be, in the event of his making default in payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government, bank or co-operative society, as the case may be, to cause his interest in the land to be attached and sold and the proceeds to be applied in payment of such loan.

Explanation. For the purpose of this sub-section, "bank" means (a) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(b) any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(c) any corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);

(d) the Agricultural Refinance and Development Corporation,

established under the Agricultural Refinance and Development Corporation Act, 1962 (10 of 1963);

(1B) Nothing in sub-section (1) or (1AA) shall apply to land purchased under section 32, 32F, 32O, or 64 by a permanent tenant thereof, if prior to the purchase, the permanent tenant, by usage, custom, agreement or decree or order of a court, held a transfer right in the tenancy of the land.

(2) Any transfer or partition, or any agreement of transfer, of any land any interest therein in contravention of sub-section (i) shall be in valid.

CHAPTER 3A

SPECIAL PROVISIONS FOR LANDS HELD ON LEASE BY INDUSTRIAL OR COMMERCIAL UNDERTAKINGS AND BY CERTAIN PERSON FOR THE CULTIVATION OF SUGARCANE AND OTHER NOTIFICATION AGRICULTURAL PRODUCE

43IA. Definition :-

In this Chapter, unless the context requires otherwise, 'landlord' means a landlord (including a certified landlord within the meaning of section 32S) who is, or has ceased to be, a serving member of the armed forces; and in relation to the land of a landlord who is dead, includes his widow, son, son's son, unmarried daughter, father or mother.

43IB. Right of landlord to terminate the tenancy :-

(1) Notwithstanding anything contained in the foregoing provisions of this Act, but subject to the provisions of this section, it shall be lawful to a landlord at any time after the

(a) of so much of such land as will be sufficient to make up the total land in his actual possession equal to the ceiling area; and

(b) where the landlord is a member of a joint family, only to the extent of his share in the land (not exceeding the ceiling area) held by the joint family, provided that the Collector on inquiry is satisfied that such share has (regard being had to the area, assessment, classification and value of land) been separated by metes and bounds in the same proportion as his share in the entire joint family property and not in a larger proportion.

(2) No tenancy of any land shall be terminated under sub-section (1), unless a notice in writing is given to the tenant, and an application for possession under sub-section (3A) of section 29 is made to the Collector:

Provided that in the case of a landlord ceasing to be a serving member of the armed forces or dying while being or after ceasing to be such member, whether before or after the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965 (Guj. 24 of 1965) such notice shall be given and such application be made not later than the date of the expiry of a period of two years

(a) from the date of such cesser or as the case may be, death, or

(b) from the date of the commencement of the Gujarat Tenant Law (Defence Personal) (Amendment) Act, 1965. (Guj. 24 of 1965) Whichever event occurs later.

(3) Nothing in this Chapter shall (a) apply to a tenancy of land created (after obtaining possession thereof under the provisions of this Chapter (by a landlord who has ceased to be a serving member of the armed forces, but the provisions of section 32-O shall apply to such tenancy as they apply in relation to a tenancy created after the tiller's day.

(b) entitle a landlord who has ceased to be a serving member of the armed forces (as a result of this being duly dismissed or discharged after a court martial or on account of bad character or as a result of desertion) or who has not been attested, to terminate the tenancy of his land under this section.

(4) Nothing in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (Bom. LXII of 1947), shall affect the termination of any tenancy under this Chapter.

43IC. Transfer of pending proceedings to Collector and State Government :-

All proceedings for recovery or restoration of possession of land filed under section 31 or 32T by a landlord pending immediately before the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965 (Guj. 24 of 1965), before a Mamlatdar shall (Subject to any rules made as respects such transfer or any matter incidental thereto) on such commencement, stand transferred to the Collector, and all such proceedings pending in appeal before the Collector or in revision before the Gujarat Revenue Tribunal shall likewise stand transferred to the State Government: and such proceedings shall be deemed to have been instituted for restoration of the land before the Collector

under section 43-IB, or as the case may be, pending in revision before the State Government under section 73-A and be disposed of accordingly.

43ID. Right of tenant to purchase land from landlord :-

(1) Notwithstanding anything contained in the foregoing provisions of this Act, or any law, agreement custom, or usage, to the contrary, but subject to the provisions of this section a tenant holding land from a landlord shall, subject to the provisions of section 32A, be entitled to purchase from the landlord.

(a) where the landlord fails to make an application as required by section 43-IB, the land so held by him, and

(b) in any other case, such part of the land held by the tenant as is left with him after the termination of tenancy under section 43-IB.

(2) The right to purchase land under sub-section (1) shall be exercised within one year from the date on which possession of the land is obtained by the landlord in pursuance of the provisions of section 43-1B; or as the case may be, from the date of the expiry of the period referred to in the proviso to sub- section (2) of section 43-1B; and intimation of exercise of the right shall be sent to the landlord and the Tribunal in the prescribed manner within the period aforesaid.

(3) The provisions of sections 32 to 32E (both inclusive) and sections 32G to 32N (both inclusive) and sections 32P, 32Q and 32R shall apply to the purchase of the land by a tenant under sub-section (1) as those provisions apply in relation to the purchase of land under section 32.

43IE. Savings :-

Nothing in this Chapter shall apply in relation to land which before the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965 (Guj. of 1965), is purchased by any tenant under the provisions of Chapter III.

CHAPTER 3AA

SPECIALPROVISIONS FOR TERMINATION OF TENANCY BY LANDLORD WHO ARE OR HAVE BEENSERVING MEMBERS OF THE ARMED FORCES, AND FOR PURCHASE OF THEIRLANDS BY TENANTS

43A. Some of the provisions not to apply to leases of land obtained by industrial or commercial undertakings certain cooperative societies or for cultivation of sugarcane or

fruits or flowers :-

(1) The provisions of sections 4B, 8, 9, 9A, 9B, 9C, 10, 10A, 14, 16, 17, 17A, 17B, 18, 27, 31 to 31D (both

(a) land leased to or held by any industrial or commercial undertaking (other than a Co-operative Society) which in the opinion of the State Government bona fide carries on any industrial or commercial operations and which is approved by the State Government;

(b) leases of land granted to any bodies or persons other than those mentioned in clause (a) for the cultivation of sugarcane or the growing of fruits or flowers or for the breeding of livestock;

(c) to lands held or leased by such co-operative societies as are approved in the prescribed manner by the State Government which have for their objects the improvement of the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture and allied pursuits.

(2) The State Government may by notification in the Official Gazette in this behalf direct that the provisions of the said sections shall not apply to a lease of land obtained by any person for growing any other class of agricultural produce to which it is satisfied that it will not be expedient in the public interest to apply the said provisions. Before the issue of such notifications, the State Government shall direct an inquiry to be made by an officer authorised in this behalf by the State Government and shall give all persons who are likely to be affected by such notification, an opportunity to submit their objections.

(3) Notwithstanding anything contained in sub-sections (1) and (2) it shall be lawful for the State Government to direct, by notification in the Official Gazette that the leases or lands, as the case may be to which the provisions of sub-sections (1) and (2) apply, shall be subject to such conditions as may be specified in the notification, in respect of

(a) the duration of the lease ;

(b) the improvements to be made on the land and the formation of co-operative farming societies for that purpose and financial assistance to such societies:

(c) the payment of land revenue, irrigation cess, local fund cess

and any other charges payable to the State Government or any local authority; or

(d) any other matter referred to in sections mentioned in sub-section (1).

43B. Reasonable rent of land to which section 43A applies

:-

Notwithstanding any agreement, usage decree or order of a court or any other authority, in the case of any land to which section 43A applies, the rent payable shall be reasonable rent as determined under the following clauses :

(1) A landlord or a tenant of such land may make an application in writing to the Mamlatdar for the determination of the reasonable rent in respect of such land.

(2) On receipt of such application the Mamlatdar shall give notice thereof to the other party to the lease and after holding an inquiry shall determine the reasonable rent.

(3) In determining the reasonable rent regard shall be had to the following factors: (a) profits of agriculture of similar lands in the locality ; (b) prices in the locality of the particular crop for the growing of which the land is leased; (c) the improvements made in the land by the lessee or the landlord; (d) the assessment payable in respect of land; (e) the profits realised by the lessee on account of the lease of the land; (f) profits earned by an industrial or commercial undertaking by the manufacture or sale of articles made out of the produce of the land leased; (g) such other factors as may be prescribed;

(4) The reasonable rent determined by the Mamlatdar under clause (2) shall, with effect from the date specified by the Mamlatdar in that behalf, be deemed to be the rent fixed under the lease in lieu of the rent, if any agreed between the parties.

CHAPTER 3B

SPECIAL PROVISIONS IN RESPECT OF AREAS WITHIN THE LIMITS OF A MUNICIPALITY OR A CANTONMENT.

43C. Certain provisions not to apply to municipal or cantonment areas :-

Nothing in section 32 to 32R (both inclusive) and 43 shall apply to lands in the areas which on the date of the coming into force of the Amending Act, 1955 are within the limits of:

(b) a municipal corporation constituted under Bombay Provincial Municipal Corporation Act, 1949. (Bom. LIX of 1949).

(e) a contonment, or

(f) any area included in a Town Planning Scheme under the Bombay Town Planning Act, 1954 (Bom. XXV-II of 1955): Provided that if any person has acquired any right as a tenant under this Act on or after the 28th December 1948, the said right shall not be deemed to have been affected by the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952, or (save as expressly provided in section 43D), by the Amending Act, 1955, (Bom. XXX-III of 1952) notwithstanding the fact that either of the said Act has been made applicable to the area in which such land is situate.

43D. Termination of tenancy :-

(1) In the areas to which section 43C applies notwithstanding anything contained in section 31 to 31D (both inclusive) a landlord may terminate the tenancy of a tenant (other than a permanent) in respect of any land with effect from the 31st day of May of any year by giving the tenant three months' notice in writing, of the landlord bonafide requires the land for any non-agricultural purpose :

Provided that the three months' period of such notice shall expire before the 31st day of May of such year.

(2) The provisions of sections 29, 37 and 39 shall mutatis mutandis apply to the termination of the tenancy of a tenant in respect or any land under sub-section (1).

CHAPTER 4

MANAGEMENT OF ESTATES HELD BY LANDHOLDERS

44. Power to assume management of landholders estate :-

Notwithstanding any law for the time being in force, useage or custom or the terms of contract or grant, when the State Government is satisfied that on account of the neglect of a landholder or disputes between him and his tenants, the cultivation of his estate has seriously suffered, or when it appears to the State Government that it is necessary for the said purpose or for the purpose of ensuring the full and efficient use of land for agriculture to assume management of any landholder's estate, a notification annauncing such intention shall be published in the Official Gazette, and the Collector shall cause notice of the substance of such

notification to be given at convenient places in the locality where the estate is situated, such notification shall be conclusive.

45. Vesting of estate in management :-

(1) On the publication of the notification under section 44, the estate in respect of which the notification has been published shall, so long as the management continues, vest in the State Government. Such management shall be deemed to commence from the date on which the notification is published and the State Government shall appoint a Manager to be in charge of such estate.

(2) Notwithstanding the vesting of the estate in the State Government under sub-section (1), the tenant holding the lands on lease comprised in the estate shall, save, as otherwise provided in this Chapter, continue to have the same right and shall be subject to the same obligations, as they have or are subject under the preceding Chapters in respect of the lands held by them on lease.

46. Effect of declaration of management :-

On the publication of the notification under section 44, the following consequences shall ensue:

(1) All proceedings then pending in any Civil Court in respect to the debts and liabilities enforceable against the estate shall be stayed: and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended;

(2) So long as the management continues no fresh proceedings, processes, executions or attachments shall be instituted in or issued, enforced or executed by any Civil Court in respect of such debts and liabilities.

(3) So long as the management continues the holder of the estate shall be incompetent (a) to enter in to any contract involving the estate in pecuniary liability, (b) to mortgage, charge, lease or alienate the property under management or any part thereof, or (c) to grant valid receipts for the rents and profits arising or accruing therefrom:

Provided that nothing contained in this section shall be deemed to preclude the Manager from letting and the holder from taking the whole or a part of such estate on such terms consistent with this Act as may be agreed upon between the parties;

(4) So long as the management continues, no person other than the Manager shall be competent to mortgage, charge, lease or alienate such estate or any part thereof.

47. Managers power :-

(1) The Manager shall during the management of the estate have all the powers which the holder thereof might as such have exercised and shall receive and recover all rents and profits due in respect of the property under management.

(2) For the purposes of recovering such rents and profits the Manager shall have, in addition to any powers possessed by the holder, all the powers possessed by the Collector under the law for the time being in force for securing and recovering land revenue due to Government.

48. Manager to pay costs of Management etc :-

(1) From the sums received or recovered under section 47, the Manager shall pay (i) the costs of management including the costs of necessary repairs;

(2) The residue shall be retained by the Manager for the liquidation, in the manner hereinafter provided, of the debts and liabilities other than those mentioned in sub-section (1) and also for the repayment, other before or after the liquidation of such debts and liabilities, of any loan received from Government by the Manager under this Act. The balance, if any, shall be paid to the holder.

49. Notice to claimants :-

On the publication of the order of management, the Manager shall publish in the Official Gazette, a notice calling upon all persons having claims against the estate under management to notify the same in writing to such Manager within two months from the date of the publication. He shall also cause copies of such notice to be exhibited at such several places as he thinks fit.

50. Claim to contain full particulars :-

(1) Every such claimant shall, along with his claim, present full particulars thereof.

(2) Every document on which the claimant finds his claim, or on which he relies in support thereof, shall be delivered to the

Manager along with the claim.

(3) If the documents be an entry in any book, the claimant shall produce the book to the Manager, together with copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

(4) If any document in possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

51. Claim not duly notified to be barred :-

Every such claim other than the claim of the Government not informed to the Manager within the time and in the manner required by such notice shall, except as provided hereinafter, be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged : Provided that when proof is made to the Manager that the claimant was unable to comply with the provisions of section 49, the Manager may receive such claim within the further period of two months from the expiration of the original period of two months.

52. Determination of debts and liabilities :-

The Manager shall inquire into the history and merits every claim received under preceding sections and shall in accordance with the rules to be made under this Act determine the amount of the debts and liabilities, if any, justly due to the several claimants.

53. Power to rank debts and fix interest :-

If such amount cannot be paid at once, the Manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest, if any to be paid thereon, respectively from the date of the final decision thereon, to the date of the payment and discharge thereof.

54. Scheme for liquidation :-

When the total amount of the debts and liabilities including those due and incurred, to the Government has been finally determined, the Manager shall prepare and submit to the Collector a schedule of such debts and liabilities, and scheme (hereinafter called the liquidation scheme) showing the mode in which it is proposed to

pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, to partly in one of such ways and partly in the other.

55. Provisions of scheme :-

Every liquidation scheme shall further provide for the continuance of the payments to be made by the Manager and for the repayment of money, if any, which the Manager proposes to borrow from Government under this Act and may provide for the improvement of the estate under management either from the said income or with the aid of the funds raised as aforesaid of partly in one of such ways and partly in the other.

56. Effects of sanctioning scheme :-

When the Collector sanctions the liquidation scheme, he shall notify the fact of such sanction at such place and in such manner as the State Government may from time to time by rule direct; and thereupon

(i) all proceedings, processes, executions and attachment stayed or suspended under section 46 shall be for ever barred;

(ii) every debt or liability due or owing to any person which was provable before the Manager shall be extinguished, and such person shall be entitled to receive under the liquidation scheme the amount, of any, finally awarded to him under the preceding sections in respect of such debt or liability.

57. Power to remove mortgagee in possession :-

(1) if the estate under management or any part thereof be in the possession of a mortgagee or a conditional vendee, the Manager, at any time after the liquidation scheme has been sanctioned as aforesaid, may by an order in writing require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

(2) If such incumbrance refuses or neglects to obey such order, the Manager may without resorting to a Civil Court enter upon the property and summarily evict therefrom the said incumbrancer or any other person obstructing or resist on his behalf.

(3) Nothing in this section shall be held to affect the right of any incumbrancer to receive under the liquidation scheme the amount,

if any, awarded to him under this Act.

58. Power to sell or lease :-

Subject to the rules made under this Act, the Manager after the liquidation scheme has been sanctioned as aforesaid, shall have power to sell or grant on lease all or any part of the estate under the management.

Provided that the estate or any part thereof shall not be sold or leased for a period exceeding ten years without the previous permission of the Collector :

Provided further that the Collector shall not give such permission unless he is satisfied that such sale or lease is necessary for the benefit of the estate or unless such sale is in favour of a tenant under sections 32, 32F, 32I or 32O. The decision of the Collector shall be final.

59. Managers receipt a discharge :-

The Manager's receipt for any moneys rents or profits raised or received by him under this Act shall discharge the person paying the same therefrom or from being concerned to see to the application thereof.

60. Holder of estate dying :-

(1) If the holder of the estate dies after the publication of the order of management, the management shall continue and proceed in all respects as if the holder were still living.

(2) Any person succeeding to the whole or any part of the estate under management shall, while such management continues, be subject in respect of such estate to the disabilities imposed under this Act.

(3) No Civil Court shall, during the continuance of the management issue any attachment or other process against any portion of the estate under management for or in respect of any debt or liability incurred by any such person either before or after his said succession.

61. Termination of Management :-

The State Government, when it is of opinion that it is not necessary to continue the management of the estate, by order published in the Official Gazette direct that the said management shall be terminated. On the termination of the said management, the

estates shall be delivered into the possession of the holder, or, if he is dead, of any person entitled to the said estate together with any balances which may be due to the credit of the said holder. All acts done or purporting to be done by the Manager during the continuance of the management of the estate shall be binding on the holder or to any person to whom the possession of the estate has been delivered.

62. Manager deemed to be public servant :-

The Manager appointed under this Chapter shall be deemed to be a public servant under section 21 of the Indian Penal Code, (XLV of 1860.)

CHAPTER 5

RESTRICTIONS ON TRANSFERS OF AGRICULTURAL LANDS, MANAGEMENT OF UNCULTIVATED LANDS AND ACQUISITION OF ESTATES AND LANDS

63. Transfers to non-agriculturists barred :-

(1) Save as provided in this Act,

(a) no sale (including sales in execution of a decree of a Civil Court or for recovery of arrears of land revenues or for sums recoverable as arrears of land revenue), gift, exchange or lease of any land or interest therein, or

(b) no mortgage of any land or interest therein, in which the possession of the mortgaged property is delivered to the mortgagee, or

"(c) no agreement made by an instrument in writing for the sale, gift, exchange, lease or mortgage of any land or interest therein. shall be valid in favour of a person who is not an agriculturist or who being an agriculturist cultivates personally land not less than the ceiling area whether as an owner or tenant or partly as owner and partly as tenant or who is not an agricultural labourer:

Provided that the Collector or an officer authorised by the State Government in this behalf may grant permission for such sale, gift, exchange, lease or mortgage or for such agreement, on such conditions as may be prescribed :

Provided further that no such permission shall be granted, where land is being sold to a person who is not an agriculturist for agricultural purpose, if the annual income of such person from other sources exceeds five thousand rupees.

(2) Nothing in this section shall be deemed to prohibit the sale, gift, exchange or lease, or the agreement for the sale, gift, exchange or lease, of a dwelling house or the site thereof or any land appurtenant to it in favour of an agricultural labourer or an artisan or a person carrying on any allied pursuit.

(3) Nothing in this section shall apply or be deemed to have applied to a mortgage of any land or interest therein effected in favour of a co-operative society

(4) Nothing in section 63A shall apply to any sale made under sub-section(1).

63A. Reasonable price of land for the purpose of its sale and purchase. :-

(1) Except as otherwise expressly provided in this Act, the price of any land sold or purchased under the provisions of this Act, shall consist of the following amounts, namely :

(a) an amount not being less than 20 times the assessment levied or leviable in respect of the land and not being more than 200 times such assessment excluding, however, for the purpose of calculation, the amount of water rate, if any, levied under section 55 of the Bombay Land Reveue Code, 1879 (Bom. V of 1879) and included in such assessment;

(b) the value of any structures, wells and embankments constructed, permanent fixtures made and trees planted on the land.

(2) Where under the provisions of this Act any land is sold or purchased by mutual agreement, such agreement shall be registered before the Mamlatdar, and the price of the land shall, subject to the limit specified in sub-section (1), be such as may be mutually agreed upon by the parties. In the case of disagreement between the parties, the price shall be determined by the Tribunal having regard to the factors mentioned in this section.

(3) Where in the case of a sale or purchase of any land under this Act, the Tribunal or the Mamlatdar has to fix the price of such land under this Act, the Tribunal or the Mamlatdar, as the case may be, shall subject to the quantum specified in sub-section (1), fix the price having regard to the following factors, namely:

(a) the rental values of lands used for similar purposes in the

locality;

(b) the structures and wells constructed and permanent fixtures made and trees planted, on the land by the landlord or tenant;

(c) the profits of agriculture of similar lands in the locality; (d) the prices of crops and commodities in the locality;

(e) the improvements made in the land by the landlord or the tenant;

(f) the assessment payable in respect of the land; and

(g) such other factors as may be prescribed.

Explanation For the purposes of this section the expression "assessment" shall have the meaning assigned to it in section 8.

64. Sale of agricultural land to particular person :-

(1) Where a landlord intends to sell any land, he shall apply to the Tribunal for determining the reasonable price thereof. The Tribunal shall thereupon determine the reasonable price of the land in accordance with the provisions of section 63A. The Tribunal shall also direct that the price shall be payable either in lump sum, or in annual instalments not exceeding six carrying simple interest at 4 1/2 percent, per annum :

Provided that in the case of sale of the land in favour of a permanent tenant when he is in possession thereof, the price shall be at six times the annual rent.

(2) After the Tribunal has determined the reasonable price, the landlord shall simultaneously in the prescribed manner make an offer

(a) in the case of agricultural land (i) to the tenant in actual possession thereof, notwithstanding the fact that such land is a fragment, and

(ii) to all persons and bodies mentioned in the priority list; (b) in the case of a dwelling house, or a site of a dwelling house or land appurtenant to such house when such dwelling house, site or land is not used or is not necessary to carry on agricultural operations in the adjoining lands

(i) to the tenant thereof; (ii) to the person residing in the village who is not in possession of any dwelling house :

Provided that if there are more than one such person the offer shall be made to such person or persons and in such order of priority as the Collector may determine in this behalf having regard to the needs of the following persons, namely:

(i) an agricultural labourer, (ii) an artisan, (iii) a person carrying on an allied pursuit, (iv) any other person in the village.

(3) The persons to whom such offers are made shall intimate to the landlord within one month from the date of receipt of the offer whether they are willing to purchase the land at the price fixed by the Tribunal.

(4) (a) If only one person intimates to the landlord under sub-section (3) his willingness to accept the offer made to him by the landlord under sub-section (2), the landlord shall call upon such person by a notice in writing in the prescribed form to pay him the amount of the reasonable price determined by the Tribunal or to deposit the same with the Tribunal within one month or such further period as the landlord may consider reasonable from the date of receipt of the notice by such person.

(b) If more than one person intimate to the landlord under sub-section (3) their willingness to accept the offers made to them by the landlord under sub-section (2), the landlord shall call upon by a notice in writing in the prescribed form the person having the highest priority in the order of priority given in sub-section (2) to pay him the amount of the reasonable price determined by the Tribunal or to deposit the same with the Tribunal within one month or such further period as the landlord may consider reasonable from the date of receipt of the notice by such person.

(5) If the person to whom a notice is given by the landlord under sub-section (4) fails to pay the amount of the reasonable price to the landlord or to deposit the same with the Tribunal within the period referred to in sub-section (4) such person shall be deemed to be not willing to purchase the land and the landlord shall call upon the manner provided in sub-section (4) the person who stands next highest in the order of priority and who has intimated his willingness to the landlord under sub-section (3).

(6) If any dispute arises under this section regarding (a) the offer made by the landlord under sub-section (2), or (b) the notice given by the landlord under sub-section (4) or (5) or (c) the payment or deposit of the reasonable price or (d) the execution of the sale

deed, such dispute shall be decided by the Tribunal.

(7)(a) Notwithstanding anything contained in the foregoing provisions of this section a landlord may after obtaining the previous permission of the Tribunal as provided in the next succeeding clause (b) sell any land notwithstanding the fact that such land is a fragment to the tenant in actual possession thereof at a price mutually agreed upon between him and the tenant subject to the provisions of section 63A.

(b) The landlord shall make an application in writing to the Tribunal for permission to sell the land at such price. On receipt of the application, the Tribunal shall grant the permission if, on holding an inquiry, it is satisfied that the price has been agreed to voluntarily by the tenant.

(8) Any sale made in contravention of this section shall be invalid.

(9) If a tenant refuses or fails to purchase the land or a dwelling house offered to him under this section, and the land or the dwelling house, as the case may be, is sold to any other person under this section, the landlord shall be entitled to evict such tenant and put the purchaser in possession.

64A. x x x :-

65. Assumption of management of lands which remained uncultivated. :-

(1) If it appears to the State Government that for any two consecutive years, any land has remained uncultivated or the full and efficient use of the land has not been made for the purpose of agriculture, through the default of the holder or any other cause whatsoever not beyond his control the State Government may, after making such inquiry as it thinks fit, declare that the management of such land shall be assumed. The declaration so made shall be conclusive.

(1A) The assumption of management of land under sub-section (1) on the ground that the full and efficient use of the land has not been made for the purpose of agriculture shall be for such period as the State Government may, from time to time fix, so, however, that such period shall not exceed ten years in the aggregate.

(2) On the assumption of the management, such land shall vest in the State Government during the continuance of the management

and the provisions of Chapter IV shall mutatis mutandis apply to the said land :

Provided that the manager may in suitable cases give such land on lease at rent even equal to the amount of its assessment:

Provided further that, if the management of the land has been assumed under sub-section (1) on account of the default of the tenant, such tenant shall cease to have any right or privilege under Chapter II or III, as the case may be, in respect of such land, with effect from the date on and from which such management has been assumed.

65A. Power of State Government to declare that mere raising of grass shall not be deemed full and efficient use for agriculture :-

For the purpose of this Act, in respect of any land which is used by the holder for raising grass or which abounds in natural growth of grass but which, in the opinion of the State Government, is suitable for growing food crops, the State Government may, having regard to the extent of the land held by such holder and after determining the requirements of grass for his cattle, declare by notification in the Official Gazette, that the mere raising of grass therein or allowing its natural growth thereon, or in or on any part of such land shall not be deemed to be the full and efficient use of such land and for agriculture.

66. Acquisition of estate or land under management or interest therein :-

(1) If at any time it appears to the State Government that any estate or land, the management of which has been assumed under the provisions of this Act or the interest of any other person in such estate or land should in the public interest, be compulsorily acquired, it shall be lawful for the State Government to publish a notification to that effect in the Official Gazette. The notification so published shall be conclusive that the estate, land or interest is needed to be acquired in public interest.

(2) On the publication of the notification, the Collector shall cause publicity to be given to it at convenient places in the locality and also notices to the holder of the estate, land or interest and to all persons known or believed to be interested therein.

(3) The Collector shall then make an inquiry in the prescribed

manner to determine the value of the estate, land or interest which has been acquired. For the said pupose the Collector shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908 (V of 1908) in trying a suit:

(a) proof of facts by affidavits,

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

(c) compelling the production of documents.

(4) In determining the value of Collector shall take into consideration (a) the assessment payable in respect of the estate or land, (b) the profits of agriculture and cultivation of the estate or land and of similar estates and lands in the locality, (c) the price of crops and commodities in the locality, (d) exemption from assessment and other privileges enjoyed by the holder and other persons interested in respect of the land, estate and interest, (e) Any other matter which may be prescribed.

(5) After determining the value of the estate, land or interest the Collector shall make an award which shall contain (a) the particulars of the estate, land or interest, (b) the compensation which in his opinion should be allowed for the land, (c) the apportionment of the compensation among all persons known, or believed to be interested.

(6) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence as between the Collector and persons interested whether they have respectively appeared before the Collector or not of all the particulars including areas and value of the estate, land or interest and the apportionment of compensation.

(7) When the Collector has made an award, the estate, land or interest therein shall vest in the Government free from all incumbrances.

CHAPTER 5A

CONSTRUCTION OF WATER COURSE THROUGH LAND OF ANOTHER

66A. Construction of water course through land belonging to other person :-

(1) If any person (hereinafter called the applicant) desires to

construct a water course to take water for the purpose of agriculture from a source of water to which he is entitled, but such water course is to be constructed through any land which belongs to, or is in possession of, another person (hereinafter called the neighbouring holder), and if no private agreement is arrived at for such construction between the applicant and the neighbouring holder, the person desiring to construct the water course may make an application in the prescribed form to the Mamlatdar.

Explanation. For the purposes of this Chapter the neighbouring holder shall include the person to whom the land belongs and all persons holding through or under him.

(2) On receipt of the application, if the Mamlatdar, after making an inquiry and after giving to the neighbouring holder and all other persons interested in the

(i) the water course shall be constructed through such land in such direction and manner as is agreed upon by the parties, or failing agreement as directed by the Mamlatdar so as to cause as little damage to the land through which it is constructed, as may be possible;

(ii) where the water course consists of pipes, the pipes shall be laid at a depth not less than one foot and a half from the surface of the land;

(iii) where the water course consists of a water channel, the channel shall not exceed five feet in breadth ;

(iv) the applicant shall paid to the neighbouring holder

(a) such compensation for any damage caused to such land by reason of the construction of the water course injuriously affecting such land,

(b) such annual rent as the Mamlatdar may decide to be reasonable; (v) the applicant shall maintain the water course in a fit state of repairs; (vi) the applicant shall within the prescribed period execute an agreement in the prescribed form in favour of the neighbouring holder; (vii) such other conditions as the Mamlatdar may think fit to impose.

(3) An order made under sub-section (2) shall direct how the amount of compensation shall be apportioned among the neighbouring holder and all persons interested in the land.

(4) Any order made under sub-section (2) shall after the applicant executes an agreement as required under clause (vi) of sub-section (2) be a complete authority to him or to any agent or other person employed by him for the purpose to enter upon the land specified in the order with assistants or workmen and to do all such work as may be necessary for the construction of the water course and for renewing or repairing the same.

66B. Failure to pay rent and to keep water course in good repair :-

If the applicant in whose favour an order under sub- section (2) of section 66A was made

(a) fails to pay the amount of compensation or the amount of the rent, it shall be recovered as an arrear of land revenue on an applicant being made, to the Mamlatdar by the person entitled thereto;

(b) fails to maintain the water course in a fit state of repairs, he shall be liable to pay such compensation as may be determined by the Mamlatdar for any damage caused on account of such failure.

66C. Removal or discontinuance of water course :-

(1) If a person intends to remove or discontinue the water course constructed under the authority conferred on him under section 66A, he may do so after giving notice to the Mamlatdar and the neighbouring holder.

(2) In the event of removal or discontinuance of such water course, the person taking the water shall fill in and reinstate the land at his own cost with the least practicable delay. If he fails to do so, the neighbouring holder may apply to the Mamlatdar who shall require such person to fill in and reinstate the land.

66D. Neighbouring holder entitled to use surplus water on payment of rate :-

The neighbouring holder or any person on his behalf shall have the right to the use of any surplus water from the water course on payment of such rates as may be agreed upon between the parties, and on failure of agreement, as may be determined by the Mamlatdar. If a dispute arises whether there is or is no surplus water in the water course, it shall be determined by the Mamlatdar, and his decision shall be final.

67. Tribunal :-

(1) For the purposes of this Act, there shall be a Tribunal called the Agricultural Lands Tribunal for each taluka or mahal or for such area as the State Government may think fit.

(2) The State Government may appoint an officer not below the rank of a Mamlatdar to be the Tribunal and to exercise the powers and perform the duties and functions of the Tribunal under this Act in a taluka or mahal or any other area referred to in sub-section (1):

Provided that the State Government may for any area constitute a Tribunal consisting of not less than three members of whom (a) at least one shall be a person who is holding or has held a judicial office not lower in rank than that of a civil judge under the Bombay Civil Courts Act, 1869 (Bom. XIV of 1869), or who is qualified to practise as a lawyer in the State of Gujarat, and

(b) one shall be appointed to be the President of the Tribunal; and the Tribunal so constitute shall exercise the powers and perform the duties and function of the Tribunal under this act.

Explanation In this section 'lawyer' means any person entitled to appear and plead for another Court in the State and includes an advocate, a vakil and an attorney of the High Court of Gujarat.

68. Duties of the Tribunal :-

It shall be the duty of the Tribunal

(a) to determine the value of the site of a dwelling house under section 17;

(b) to determine the purchase price of land under section 32G, 63A or 64;

(c) to decide any dispute under section 32 to 32R (both inclusive);

(d) to perform such other function in carrying out the provisions of this Act, as may be prescribed or as may be directed by the State Government.

69. Powers of the Tribunal :-

(1) The Tribunal shall have the same powers in making inquiries

under this Act as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908 (V of 1908), in trying a suit namely:

- (a) proof of facts by affidavits ;
 - (b) summoning and enforcing the attendance of any person and examining him on oath ; and
 - (c) compelling the production of documents.
- (2) The Tribunal shall have also such other powers as may be prescribed. The Tribunal shall have powers to award costs.
- (3) The orders of the Tribunal shall be given effect to in the manner provided in section 73.

70. Duties of the Mamlatdar :-

For the purposes of this Act the following shall be the duties and functions to be performed by the Mamlatdar

- (a) to decide whether a person is an agriculturist;
- (b) to decide whether a person is or was a tenant or a protected tenant or a permanent tenant;
- (c) to determine the rates of rent under section 9;
- (d) to decide dispute regarding class of land under section 9A;
- (e)
- (f) to determine the amount of compensation under section 10 for the contravention of section 8, 9, 9A, and 9C;
- (h) to determine the amount to be refunded to a tenant under section 13(5);
- (i) to determine the amount of compensation for trees to which a tenant is entitled under section 19;
- (j) to determine any dispute regarding the right to produce of trees naturally growing under section 20;
- (k) to determine the costs of repairing protective bunds under section 23;
- (l) to sanction exchange of tenancies under section 33;
- (m) to determine the amount of compensation payable to tenant

for any improvement under section 41;

ma) to determine what is reasonable rent under section 43B;

(mb) to issue a certificate under section 84A, and decide under section 84B or 84C whether a transfer or acquisition of land is invalid and to dispose of land as provided in section 84C;

(mc) to decide references under section 85A;

(md) to decide any dispute under section 88C;

(n) to take measures for putting the tenant or landlord or the agricultural labourer or artisan or person carrying on an allied pursuit into the possession of the land or dwelling house under this Act;

(na) to decide all matters relating to the construction of water course under Chapter V-A;

(nb) to issue temporary injunction;

(o) to decide such other matters as may be referred to him by or under this Act.

71. Commencement of proceedings :-

Save as expressly provided by or under this Act, all inquiries and other proceedings before the Mamlatdar or Tribunal shall be commenced by an application which shall contain the following particulars :

(a) the name, age, profession and place of residence of the applicant and the opponents;

(b) a short description and situation of the property of which possession is sought, or the amount of the claim, as the case may be ;

(c) the circumstances out of which the cause of action arose ;

(d) a list of the applicant's documents, if any, and of his witnesses, and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of the hearing ;

(e) such other particulars as may be prescribed.

72. Procedure :-

In all inquiries and proceedings commences on the presentation of

application under section 71 the Mamlatdar or the Tribunal shall exercise the same powers as the Mamlatdar's Court under the Mamlatdar's Courts Act, 1906 (Bom. II of 1906), and shall save as provided in section 29 follow the provisions of the said Act as if the Mamlatdar or the Tribunal were a Mamlatdar's Court under the said Act and the application presented was a plaint presented under section 7 of the said Act. In regard to matters which are not provided for in the said Act, the Mamlatdar or the Tribunal shall follow the procedure as may be prescribed by the State Government. Every decision of the Mamlatdar or the Tribunal shall be recorded in the form of an order which shall state reasons for such decision.

72AA. Distribution of business amongst Mamlatdars :-

Where in any taluka or mahal in addition to the Mamlatdar appointed, under section 12 of the Bombay Land Revenue Code, 1879, or as the case may be, in addition to the Mahalkari appointed under section 13 of the said Code one or more officers are appointed by the State Government to perform the duties of a Mamlatdar under this Act in such taluka or mahal, each such officer shall dispose of such inquiries or proceedings commenced under section 71 as the Mamlatdar or as the case may be, the Mahalkari, subject to the control of the Collector, may be general or special order, refer to him.

72A. Power of Collector to transfer proceedings :-

The Collector may, after due notice to the parties, by order in writing transfer any proceeding under this Act pending before a Mamlatdar in his district from such Mamlatdar to any other Mamlatdar in his district and the Mamlatdar to whom the proceedings is so transferred shall thereupon exercise jurisdiction under this Act in such proceeding : Provided that any order issued to village officers under sub-section (2) of section 73 shall be issued by the Mamlatdar to whom such village officers are subordinate.

72B. Application for possession of land made to different Mamlatdars to be heard by designated Mamlatdar :-

(1) If in the course of the hearing of an application for possession of any land made by a landlord under section 29, the Mamlatdar of one area finds that the landlord had made a similar application to the Mamlatdar of another area for possession of other land held by him in that area, then the Mamlatdar shall refer the case to the

Collector if the other land is in the same district, and to the State Government if the other land is in another district.

(2) On receipt of the reference, the Collector or the State Government, as the case may be, shall

(a) call for the proceedings of the other application from the Mamlatdar concerned;

(b) having regard, among other matters to the extent of the land of which possession is sought under the different applications, transfer all the

(c) Give an intimation of the transfer to the Mamlatdars, the landlord and the tenants concerned.

(3) The Mamlatdar to whom the applications are so transferred shall exercise jurisdiction in respect thereof under this Act:

Provided that any order to be issued to village officers under subsection (2) of section 73 shall be issued by or through the Mamlatdar to whom such village officers are subordinate.

72C. Designated Tribunal to conduct proceedings in respect of land held by the same tenant in different areas :-

(1) If in the course of a proceeding under section 32G in respect of any tenant, the Tribunal finds that such tenant holds as a tenant other land outside its jurisdiction, then the Tribunal shall refer the case in the prescribed manner to the Collector if the other land is in the same district, to the State Government if the other land is in another district.

(2) On receipt of the reference the Collector or the State Government, as the case may be, shall

(a) call for the details of such land in the prescribed form from the Tribunal within whose jurisdiction the land is situate;

(b) taking into consideration the extent of land held by the tenant as tenant situate within the jurisdiction of different Tribunals, direct that the proceeding under sections 32G, 32H, 32I, 32K, 32L, 32M, 32N and 32Q, in respect of all the lands held by the tenant as tenant shall be conducted and disposed of by the Tribunal designated for the purpose, and transfer the case accordingly; and

(c) give an intimation of the transfer to the Tribunal, the landlords

and the tenant concerned.

(3) The Tribunal designated under sub-section (2) shall exercise jurisdiction under this Act in respect of all the said lands :

Provided that any order to be issued to village officers under sub-section (2) of section 73 shall be issued by or through the Mamlatdar to whom such village officers are subordinate.

73. Execution for order for payment of money or for restoring possession :-

(1) Any sum the payment of which has been directed by an order of the Mamlatdar or the Tribunal including an order awarding costs shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

(2) An order of the Mamlatdar or the Tribunal awarding possession or restoring the possession or use of any land shall be executed in the manner

Provided that such order shall not be executed till the expiry of the period of appeal or, as the case may be, of application for revision as provided in section 79.

73A. Powers of Collector in inquiries under sub-section (3A) of section 29; provision as respects revision and execution of orders :-

(1) for the purpose of an inquiry under sub-section (3A) of section 29, the Collector shall have the same powers as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit namely: -

- (a) proof of facts by affidavits,
- (b) summoning and enforcing attendance of any person and examining him on oath, and
- (c) compelling the production of documents.

(2) The order of the Collector under sub-section (3A) of section 29 shall, subject to revision under sub-section (3), be final.

(3) The State Government may suo motu or on an application from any person interested in the land, call for the record of any such inquiry for the purpose of

Provided that no such order shall be modified annulled or reversed, unless an opportunity has been given to the interested parties to show cause why such order should not be modified, annulled or reversed.

(4) Every such order of the Collector or of the State Government in revision awarding possession of any land shall be executed in the manner provided for the execution of the orders of the Mamlatdar or Tribunals under section 73.

74. Appeals :-

(1) An appeal against the order of the Mamlatdar and the Tribunal may be filed to the Collector in the following cases :

- (a) an order under section 4,
- (d) an order under section 9, (da) an order under section 9A:
- (e) an order under section 10,
- (g) an order under section 13,
- (h) an order under section 17,
- (i) an order under section 19,
- (j) an order under section 20,
- (k) an order under section 23,
- (l) an order under section 25,
- (m) an order under section 29,
- (ma) an order under sub-sections (1B) and (2) of section 32, (mb) a decision under section 31 or 32F, or an order under section 32G,
- (n) an order under section 32K, 32M or 32Q,
- (na) a decision under the proviso to sub-section (4) of section 32T or an order under section 32U,
- (o) an order under section 33,
- (oo) an order under sub-section (5) of section 34,
- (p) an order under section 37,
- (q) an order under section 39,

(r) an order under section 41,

(rr) an order made pursuant to a notification issued under sub-section (3) of section 43 A,

(ra) an order under section 43B.

(s) an order under section 64, (t) an order under Chapter V-A,

(ta) an order passed under clause (b) or clause (nb) of section 70,

(u) an order made under section 84A, 84B or 84C, (ua) an order under section 84CC,

(v) an order under section 85A,

(w) an order under section 88C.

(2) Save as otherwise provided in this Act, the provisions of Chapter XIII of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), shall apply to appeals to the Collector under the Act, as if the Collector were the immediate superior of the Mamlatdar or the Tribunal. The Collector in appeal shall have power to award costs.

74A. Powers of Collector to transfer and withdraw appeals
:-

The Collector may, after due notice to the parties, by order in writing

(a) transfer any appeal pending before him or before any Assistant or Deputy Collector subordinate to him to any Assistant or Deputy Collector specified in such order, performing the duties and exercising the powers of a Collector and upon such transfer the Assistant Collector or the Deputy Collector, as the case may be, shall have power to hear and decide the appeal as if it was originally filed to him, or

(b) withdraw any appeal pending before any Assistant or Deputy-Collector and himself hear and decide the same.

75. Appeal against award of Collector :-

(1) An appeal against the award of the Collector made section 66 may be filed to the Gujarat Revenue Tribunal, notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1957 (Bom. XXXI of 1958).

(2) In deciding appeals under sub-section (1) the Gujarat Revenue

Tribunal shall exercise all the powers which a court has and subject to the regulations framed by such Tribunal under the Bombay Revenue Tribunal Act, 1957 (Bom. XXXI of 1958) follow the same procedure which a court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908 (V of 1908).

76. Revision :-

(1) Notwithstanding anything contained in the Bombay Revenue Revision Tribunal Act, 1957 (Bom. XXXI of 1958) an application for revision may be made to the Gujarat Revenue Tribunal constituted under the said Act against any order of the Collector except an order under section 32P or an order in appeal against an order under sub-section (4) of section 32G on the following grounds, only :

(a) that the order of the Collector was contrary to law,

(b) that the Collector failed to determine some material issue of law; or

(c) that there was a substantial defect in following the procedure provided by this Act or that there has been failure to take evidence or error in appreciating important evidence which has resulted in the miscarriage of justice.

(2) in deciding applications under this section the Gujarat Revenue Tribunal shall follow the procedure which may be prescribed by rules made under this Act after consultation with the Gujarat Revenue Tribunal.

76A. Revisional powers of Collector :-

Where no appeal has been filed within the period provided for it, the Collector may, suo motu or on a reference made in this behalf by the State Government, at any time,

(a) call for the record of any inquiry or the proceeding of the Mamlatdar or Tribunal for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of such Mamlatdar or Tribunal, as the case may be, and

(b) pass such order thereon as he deems fit:

Provided that no such record shall be called for after the expiry of

one year from the date of such order and no order of such Mamlatdar or Tribunal shall be modified annulled or reversed unless opportunity has been given to the interested parties to appear and be heard,

76AA. Revisional power of Government in certain cases :-

An application for revision may be made to the State Government against the decision of the Collector in an appeal against an order made under sub-section (4) of section 32G and the State Government may call for the proceedings of the Collector for the purpose of satisfying itself as to the legality or propriety of the decision of the Collector and pass such order as it may think fit."

77. Court Fees :-

Notwithstanding anything contained in the Court-fees Act, 1870 (VII of 1870). Every application or appeal made under this Act to the Mamlatdar, Tribunal Collector, State Government or Gujarat Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed.

78. Orders in appeals or revision :-

(1) The Collector in appeal and the Gujarat Revenue Tribunal in appeal under section 75 and in revision under section 76 may confirm, modify or rescind the order in appeal or revision or its execution or may pass such other order as may seem legal and just in accordance with the provisions of this Act.

(2) The orders of the Collector in appeal or of the Gujarat Revenue Tribunal or of the State Government in appeal or revision shall be executed in the manner provided for the execution of the orders of the Mamlatdar and Tribunal under section 73.

79. Limitation :-

Every appeal or application for revision under this Act shall be filed within a period of sixty days from the date of the order of the Mamlatdar, Tribunal or Collector, as the case may be. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to the filing of such appeal or application for revision :

Provided that an appeal against a decision of the Mamlatdar under section 31 or 32F or an order passed by the Tribunal under section 32G before the date of the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI

of 1960) may be filed within a period of six months from the date of such commencement.

80. inquiries and proceedings to be judicial proceedings :-

All inquiries and proceedings before the Mamlatdar, the Tribunal, the Collector, the Gujarat Revenue Tribunal and the State Government shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (XLV of 1860).

80A. Pleaders, etc. excluded from appearance :-

Notwithstanding anything contained in this Act or any law for the time being in force, no pleader shall be entitled to appear on behalf of any party in any proceedings under this Act before the Mamlatdar, the Tribunal or the Collector :

Provided that the Mamlatdar, the Tribunal or the Collector may, in the interest of justice for reasons to be recorded in writing, allow the parties to be represented at their own cost by a pleader :

Provided further that pleader's fees shall not be allowed as part of the costs for the appearance of a pleader in any such proceedings:

Provided also that if any officer of Government is appointed or declared by a competent court or is authorised under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceedings before the Mamlatdar, the Tribunal or the Collector. Such representative may also submit any application and otherwise act on behalf of the officer in any such proceedings.

Explanation For the purposes of this section the expression "pleader" includes an advocate, attorney, vakil or any other legal practitioner.

CHAPTER 7

OFFENCES AND PENALTIES

81. Offences and Penalties :-

(1) Whoever contravenes any provision of any of the section, sub-sections or clauses mentioned in the first column of the following Table shall, on conviction, for each such offence be punishable with

fine which may extend to the amount mentioned in that behalf in the third column of the said Table.

Explanation. The entries in the second column of the said table headed "subject" are not intended as the definitions of offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references, to the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column.

(2) An offence for the contravention of the provisions of section 11 or sub-section (2) of section 26 or section 29 shall be cognizable.

CHAPTER 8

MISCELLANEOUS

82. Rules. :-

(1) The State Government may make rules for carrying out the Rules purpose of this Act.

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

(a) the other pursuits to be prescribed under clause (2A) of section 2;

(b) the other factors to be prescribed under section 7 and section 9;

(bb) the manner in which the value of crop share or produce shall be determined under section 9C;

(c) the penalty to be recovered under section 10 or to be inflicted under sub-section (5) of section 13;

(e) the fees to be paid for the grant of a certificate and the form of such certificate under sub-section (3) of section 17;

(ee) the fee to be paid and the form of certificate, under sub-section (6) of section 17B;

(f) the manner and the form in which a receipt is to be given by the landlord under section 26;

(g) the manner of apportionment of rent under section 31D;

(ga) the rules subject to which a tenant shall be entitled to choose the area and location under section 32C;

(gaa) the manner of giving intimation under sub-section (1A) of section 32F and sub-section (1A) of section 32-O ;

(gb) the form of public notice under sub-section (1) and the manner of recording statement under sub-section (2), of section 32G;

(gc) the form of certificate to be issued under sub-section (1) of section 32M;

(gd) the manner of referring a question for decision under sub-section (3) of section 32Q;

(gdd) the terms and conditions on which the amount deposited or the amount of price of land shall be deemed to be the amount of loan granted under sub-section (2) of section 32QQ.

(h) the terms and conditions for exchange of lands and the form of certificate to be issued under section 33;

(hh) the period within which and the manner in which particulars of land are to be furnished to Mamlatdars under section 34A;

(hhh) the circumstances in which and the conditions subject to which, the previous sanction of the Collector under sub-section (1) of section 43 may be given;

(ha) other factors to be taken into consideration for determining reasonable rent under section 43B ;

(i) the manner of determining debts and liabilities under section 52;

(j) the manner of notifying liquidation scheme sanctioned under section 56;

(k) the conditions subject to which permission to acquire land or interests therein may be granted under section 63;

(ka) other factors to be taken into consideration for determining reasonable price under section 63A;

(kb) the manner in which an offer shall be and made and the form in which notice shall be given under section 64;

(l) the manner of making inquiry to determine the value of the

estate, land or interest acquired and any other matter to be taken into consideration in determining the value under section 66;

(la) the form in which an application shall be made and the period within which and the form in which an agreement shall be executed under section 66A;

(m) the other functions of the Tribunal under section 68;

(n) the other powers of the Tribunal under section 69;

(o) the other procedure to be followed by the Mamlatdar and Tribunal under section 72;

(p) the value of the court-fee stamp payable on an application to the Mamlatdar or Tribunal or on an application or appeal to the Collector or (Gujarat Revenue Tribunal under section 77;

(pp) the manner of disposal of land under sub-section (3) of section 84B;

(pa) the manner of grant of land under section 84C;

(pb) the period within which and the form in which an application under section 88C shall be made and the form of certificate to be issued under that section;

(q) any other matter which is or may be prescribed under this Act.
(2A) Such rules may also provide for the levy of fees for giving copies of, or extracts from, any document issued under this Act or record maintained under or for the purposes of the Act and the scales of such fees.

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

(4) All rules made under this section shall be laid before the State Legislature as soon as may be after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

83. Delegation of powers, functions and duties. :-

The State Government may, subject to such restrictions and conditions as it may impose, by notification in the Official Gazette,

delegate to any of its officers not below the rank of an Assistant or Deputy Collector all or any of the powers conferred or functions or duties imposed on it by this Act.

83A. Restriction on acquiring land by transfer which is invalid. :-

(1) No person shall acquire land by transfer where such transfer or acquisition is invalid under any of the provisions of this Act.

(2) Any person who acquires land in contravention of sub-section (1) shall, in the event of the transfer or acquisition being decided or declared invalid, be liable to suffer, the consequences under section 84 or 84C as the case may be.

84. Summary eviction :-

Any person unauthorisedly occupying or wrongfully in possession of any land

(a) the transfer or acquisition of which either by the act of parties or by the operation of law is invalid under the provisions of this Act,

(b) the management of which has been assumed under the said provisions, or

(c) to the use and occupation of which he is not entitled under the said provisions and the said provisions do not provide for the eviction of such person, may be summarily evicted by the Collector.

84A. Validation of transfers made before appointed day :-

(1) A transfer of any land in contravention of section 63 or 64 as it stood before the commencement of the Amending Act, 1955, made after the 28th day of December 1948 (when the Bombay Tenancy and Agricultural Lands Act, 1948 (Bom. LXVII of 1948), came into force) and before the 15th day of June 1955 shall not be declared to be invalid merely on the ground that such transfer was made in contravention of the said sections if the transferee pays to the State Government a penalty equal to one per cent of the consideration or Rs. 100, whichever is less :

Provided that, if such transfer is made by the landlord, in favour of the tenant in actual possession, the penalty leviable in respect thereof shall be one rupee : Provided further that if any such transfer is made by the landlord in favour of any person other than the tenant in actual possession, and such transfer is made either

after the unlawful eviction of such tenant, or results in the eviction of the tenant in actual possession, then such transfer shall not be deemed to be validated unless such tenant has failed to apply for the possession of the land under sub-section (1) of section 29 within two years from the date of his eviction from the land.

(2) On payment of such penalty, the Mamlatdar shall issue a certificate to the transferee that such transfer is not invalid.

(3) Where the transferee fails to pay the penalty referred to in sub-section (1) within such period as may be prescribed, the transfer shall be declared by the Mamlatdar to be invalid and thereupon the provisions of sub-sections (3) to (5) of section 84C shall apply:

Provided that where the transfer was made in favour of the tenant nothing in this sub-section shall apply to such transfer, if the tenant pays the penalty even after the expiry of the period prescribed for such payment but before the end of the 31st March 1966.

84B. Certain transfers made between appointed day and commencement of Amending Act, 1955 invalid :-

(1) Where in respect of a transfer or acquisition of any land made on or after the 15th day of June 1955 and before the commencement of the Amending Act, 1955, the Mamlatdar, suo motu or on the application of any person interested in such land, has reason to believe that such transfer or acquisition

(a) was in contravention of section 63 or 64 as it stood before the commencement of the Amending Act, 1955, or 457

(b) is inconsistent with any of the provisions of this Act as amended by the Amending Act, 1955, the Mamlatdar shall issue a notice in the prescribed form to the transferor, the transferee or the person acquiring such land, as the case may be, to show cause as to why the transfer or acquisition should not be declared to be invalid and shall hold an inquiry and decide whether the transfer or acquisition is or is not invalid.

Provided that where the transfer or acquisition was in favour of the tenant in possession of the land and the area of the land so transferred together with the area of other land, if any, cultivated personally by the tenant did not exceed the ceiling area, such transfer or acquisition shall not be declared to be invalid if the

tenant pays to the State Government a penalty of one rupee within such period not exceeding three months as the Mamlatdar may fix.

(2) If after holding such inquiry the Mamlatdar declares the transfer or acquisition to be invalid, he shall direct that the land shall be restored to the person from whom it was acquired, and that the amount of consideration paid, if any, shall be recovered as an arrear of land revenue from the transferor and paid to the transferee and until the amount is so fully paid, the said amount shall be a charge on the land,

(3) If the person to whom the land is directed to be restored refuses to take possession of the land, the Mamlatdar shall, subject to the provisions of section 63A, dispose of the land by sale in the prescribed manner in the following order of priority:

(i) the tenant in actual possession of the land if he is not the transferee, (ii) the persons or bodies in the order given in the priority list.

(4) The amount of price realised under sub-section (3) shall subject to the payment of any encumbrances subsisting on the land, be paid to the transferor.

(5) If the transferee refuses to accept the amount paid to him under sub-section (2) or the transferor refuses to accept the amount paid to him under sub-section (4) the amount shall be forfeited to the State Government.

84C. Disposal of land, transfer or acquisition of which is invalid :-

Where in respect of the transfer or acquisition of any land made on or after the commencement of the amending Act, 1955, the Mamlatdar suo motu or on the application of any person interested in such land has reason to believe that such transfer or acquisition is or becomes invalid under any of the provisions of this Act, the Mamlatdar shall issue a notice and hold an inquiry as provided for in section 84B and decide whether the transfer or acquisition is or is not invalid.

(2) If after holding such inquiry, the Mamlatdar comes to a conclusion that the transfer or acquisition of land to be invalid, he shall make an order declaring the transfer or acquisition to be invalid, unless the parties to such transfer or acquisition give an undertaking in writing that within a period of three months from

such date as the Mamlatdar may fix, they shall restore the land along with the rights and interest therein to the position in which it was immediately before the transfer or acquisition, and the land is so restored within that period:

Provided that where the transfer of land was made by the landlord to the tenant of the land and the area of the land so transferred together with the area of other land, if any, cultivated personally by the tenant did not exceed the ceiling area, the Mamlatdar shall not declare such transfer to be invalid

(i) if the amount received by the landlord as the price of the land is equal to or less than the reasonable price determine under section 63-A and the transferee pays to the State Government a penalty equal to Rs. 1 within such period not exceeding three months as the Mamlatdar may fix;

(ii) if the amount received by the landlord as the price of the land is in excess of the reasonable price determined under section 63A and the transferor as well as the transferee pays to the State Government each a penalty equal to one-tenth of the reasonable price within such period as may be fixed by the Mamlatdar.

(3) On the declaration made by the Mamlatdar under sub-section (2), (a) the land shall be deemed to vest in the State Government, free from all encumbrances lawfully subsisting thereon on the date of such vesting, and shall be disposed of in the manner provided in sub-section

(4); the encumbrances shall be paid out of the occupancy price in the manner provided in section 32Q for the payment of encumbrances out of the purchase price of the sale of land but the right of the holder of such encumbrances to proceed against the person liable, for the enforcement of his right in any other manner, shall not be affected.

(b) the amount which was received by the transferor as the price of the land shall be deemed to have been forfeited to the State Government and it shall be recoverable as an arrear of land revenue; and

(c) the Mamlatdar shall, in accordance with the provisions of section 63A determine the reasonable price of the land.

(4) After determining the reasonable price, the Mamlatdar shall

grant the land on new and impartible tenure and on payment of occupancy price equal to the reasonable price determined under sub-section (3) in the prescribed manner in the following order of priority :

(i) the tenant in actual possession of the land; (ii) the persons or bodies in the order given in the priority list:

Provided that where the transfer of land was made by the landlord to the tenant of the land and the area of the land so transferred together with the area of the land, if any, cultivated personally by the tenant did not exceed the ceiling area then

(i) if the amount received by the transferor as the price of the land is equal to or less than the reasonable price, the amount forfeited under sub-section (3) shall be returned to the transferor and the land restored the transferee on payment of a penalty of rupee one in each case; and

(ii) if the amount received by the transferor as the price of the land is in excess of the reasonable price, the Mamlatdar shall grant the land to the transferee on new and impartible tenure and on payment of occupancy price equal to one-tenth of the reasonable price and out of the amount forfeited under sub- section (3), the transferor shall be paid back an amount equal to nine-tenths of the reasonable price.

(5) The amount of the occupancy price realised under sub-section (4) shall, subject to the payment as aforesaid of any encumbrances subsisting on the land, be credited to the State Government:

Provided that where the acquisition of any excess land was on account of a gift or bequest, the amount of the occupancy price realised under sub-section (4) in respect of such land shall, subject to the payment of any encumbrances subsisting thereon, be paid to the donee or legatee in whose possession the land had passed on account of such acquisition.

Explanation For the purposes of this section "new and impartible tenure" means the tenure of occupancy which is non- transferable and non-partible with out the previous sanction of the Collector.

84CC. Dispossession of land in certain circumstances to be ineffective :-

(1) Where any person who had surrendered his tenancy in respect

of any land or part thereof at any time after 31st March, 1957 but before 5th December, 1972, the date of the publication in the Official Gazette of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Bill, 1972 (hereinafter referred to as the latter date) and had continued to remain in actual possession, with or without the consent of the landlord, of such land or, as the case may be, part thereof till the latter date had been dispossessed of such land or part thereof by the landlord at any time during the period between the latter date and the specified date, and the Mamlatdar suo motu or on the application of the person so dispossessed or of any other person interested in such land or part thereof has reason to believe that such dispossession was effected in anticipation in order to defeat the object of section 32 FF, the the Mamlatdar shall issue a notice in the prescribed form to the landlord to show cause as to why such dispossession should not be declared to have been effected in anticipation in order to defeat the object of section 32FF.

(2) If after hearing the landlord and holding such inquiry as the Mamlatdar thinks fit, the Mamlatdar declares that the dispossession was effected in anticipation in order to defeat the object of section 32FF, he shall direct that the land, or, as the case may be, part thereof, shall be restored to the person who has been dispossessed.

(3) If the person to whom the land, or, as the case may be, part thereof, is directed to be restored refuses to take possession thereof, the land shall be deemed to vest in the State Government free from all encumbrances lawfully subsisting thereon on the date of such vesting and shall be disposed of in the manner provided in sub-section (4) of section 84C.

(4) If the person to whom the land, or as the case may be, part thereof, is directed to be restored takes possession thereof, such person shall be deemed to have continued to remain in actual possession thereof during the period of dispossession as if he had not been dispossessed of such land, or, as the case may be, part thereof.

84D. Temporary leases of land liable to be disposed of under section 32P or 84C :-

(1) Where any land has become liable to be disposed of under section 32P, section 37 or section 84C and the Collector or, as the case may be, the Mamlatdar considers that such disposal is likely to

take time and that with a view to preventing the land remaining uncultivated it is necessary to take such a step, he may lease the land for cultivation to any agriculturist who has under personal cultivation land less than the ceiling area, subject to the following conditions:

(i) the lease shall be for a period of one year; (ii) the lessee shall pay rent at the rate fixed by the Mamlatdar and applicable to the land under section 9; (iii) the lessee shall be liable to pay the land revenue and the other cesses specified in sub-section (1) of section 10A and payable in respect of the land; (iv) if the lessee fails to vacate the land on the expiry of the term of the lease, he shall be liable to be summarily evicted by the Mamlatdar.

(2) The person holding land on lease under sub-section (1) shall not be deemed to be tenant within the meaning of this Act.

(3) The amount of rent realised under sub-section (1), shall be (a) paid to the owner of the land, where the land is liable to be disposed of under section 32P, and

(b) forfeited to Government, where the land is liable to be disposed of under section 37 or section 84C

85. Bar of Jurisdiction :-

(1) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar or Tribunal, a Manager, the Collector, the Gujarat Revenue Tribunal or the State Government in appeal or revision or the State Government in exercise of their, powers of control.

(2) No order of the Mamlatdar, the Tribunal, the Collector or the Gujarat Revenue Tribunal or the State Government made under this Act shall be questioned in any civil or criminal court. Explanation. For the purposes of this section a Civil Court shall include a Mamlatdar's Court constituted under the Mamlatdar's Court Act, 1906.

85A. Suits involving issues required to be decided under this Act :-

(1) If any suit instituted, whether before or after the specified date, in any Civil Court involves any issues which are required to be settled, decided or dealt with by any authority competent to settle,

decide or deal with such issues under this Act (hereinafter referred to as the "competent authority") the Civil Court shall stay the suit and refer such issues to such competent authority for determination.

(2) On receipt of such reference from the Civil Court, the competent authority shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate its decision to the Civil Court and such Court shall thereupon dispose of the suit in accordance with the procedure applicable thereto.

Explanation. For the purpose of this section a Civil Court shall include Mamlatdar's Court constituted under the Mamlatdar's Courts Act, 1906 (Bom. II of 1906)

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86. Control :-

In all matters connected with this Act, the State Government shall have the same authority and control over the Mamlatdars and the Collectors acting under this Act as they have and exercise over them in the general and revenue administration.

87. Indemnity :-

No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

87A. Saving in respect of provision of Land Tenures Abolition Acts :-

Nothing in this Act shall affect the provisions of any of the Land Tenures Abolition Acts, specified in Schedule III to this Act, in so far as such provisions relate to the conferment of right of an occupant in favour of any inferior holder or tenant in respect of any land held by him.

88. Exemption to Government lands and certain other lands :-

(1) Save as otherwise provided in sub-section (2), nothing in the foregoing provisions of this Act, shall apply

(a) to lands belonging to, or held on lease from, the Government;

(aa) to lands held or leased by a local authority;

(b) to any area which the State Government may, from time to

time, by notification in the Official Gazette, specify as being reserved for non agricultural or industrial development :

Provided that if after a notification in respect of any area specified in the notification is issued under this clause, whether before or after the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1965, the limits of the area so specified are enlarged on account of the addition of any other area thereto, then merely by reason of such addition, the reservation as made by the notification so issued shall not apply and shall be deemed never to have applied to the area so added, notwithstanding anything to the contrary contained in any judgment, decree, or order of any court, Tribunal or any other authority:

Provided further that if any land in the area so added has been transferred or acquired after the issue of the notification referred to in the first proviso but before the 29th day of October 1964, such transfer or acquisition of land shall have effect as if it were made in an area to which this clause applies;

(c) to an estate or land taken under the management of the Court of Wards or of a Government officer appointed in his official capacity as a guardian under the Guardians and Wards Act, 1890 (VIII of 1890) or to the lands taken under management temporarily by the Civil Revenue or Criminal Courts by themselves or through the receivers appointed by them till the decision of the title of the rightful holders;

(d) to an estate or land taken under management by the State Government under Chapter IV or section 65 except as provided in the said Chapter IV or section 65, as the case may be, and in sections 66, 80A, 82, 83, 84, 85, 86 and 87 :

Provided that with effect from the date on which such estate or land is released from such management, the foregoing provisions of this Act shall apply thereto and in the case of a tenancy (other than a permanent tenancy) subsisting on such date in respect of any land in such estate or such land, the landlord shall be entitled to terminate such tenancy under section 31 within one year from such date and the tenant shall be deemed to have purchased the land under section 32 on the expiry of the period during which such landlord is entitled to terminate the tenancy under section 31. The provisions of sections 31 to 31D (both inclusive) and 32 to 32R

(both inclusive) shall, so far, as may be applicable, apply to such termination of tenancy and to the right of the tenant to purchase the land : Provided further that

(1) in the case of a permanent tenancy the permanent tenant shall be deemed to have purchased the land held by him on permanent tenancy on the date on which the estate or land is released from management or has ceased to be subject to the provisions of this section as aforesaid, whether such release or cessation was before or after the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960) and (2) the provisions of sections 32 to 32R shall so far as may be applicable apply to the purchase of land by the permanent tenant under this section.

(2) the provisions of sections 32 to 32R shall so far as may be applicable apply to the purchase of land by the permanent tenant under this section. Explanation. For the purposes of clause (a) of this sub-section land held as inam or watan for service useful to Government and assigned as remuneration to the person actually performing such service for the time being under section 23 of the Bombay Hereditary Offices Act, 1874 (Bom. III of 1874), or any other law for the time being in force shall be deemed to be land belonging to Government. (1A) Where under the first proviso to sub-section (1) as it was in force before the date of the coming into force of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960) (hereinafter referred to in this sub-section as "the said date"), a landlord was entitled to terminate under section 31 the tenancy of any land after the 1st August, 1956 but within a period of one year from the date on which the land was released from management and the tenant had a right to purchase the land within one year from the expiry of that period, the tenant shall

(i) if the period for exercising the right of purchase had commenced under the aforesaid proviso before the said date, then whether the period had expired or not to be deemed to have purchased the land on that expiry of the period during which the landlord was entitled to terminate the tenancy, and

(ii) in any other case, be deemed to have purchased the land on the date on which the period for exercising the said right would have commenced under the aforesaid proviso. The provisions of sections 31 to 31D (both inclusive) and sections 32 to 32R (both

inclusive) shall, so far as may be applicable, apply and shall be deemed always to have applied to such termination of tenancy and to the right of the tenant to purchase the land.

(2) If any land held on lease from Government or any part thereof (i) is held at the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960) by a person under a sub-lease from the lessee and is cultivated personally by such person, or

(ii) is sub-leased after the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960) by the lease to any person for cultivation and such sub-leasing of the land or part thereof is authorised in accordance with the terms of the lease, then all the provisions of this Act except sections 32 to 32R (both inclusive) and section 43 shall notwithstanding anything contained in such lease, apply to the land, or as the case may be the part thereof, held under such sub-lease, as if the person holding it under such sub-lease were a tenant within the meaning of section 4 of this Act and the lessee were the landlord :

Provided that in the case of a sub-lease subsisting on the date of the commencement of the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960) the lessee shall be entitled to terminate under section 31 the sub-lease within one year from such date and the provisions of sections 31 to 31D (both inclusive) shall, so far as may be applicable, apply to the termination of the sub-lease.

Explanation. In sub-section (2) of this section references to a lessee include a reference to a person to whom the entire interest in the land held on lease, or in any part thereof has been transferred or assigned.

85A-I. Special provisions in respect of tenants of certain lands in villages specified in Schedule IV. :-

Deleted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

88A. Provisions of Act not to apply to land transferred to or by Bhoodan Samiti :-

Nothing in the foregoing provisions shall apply to land transferred to or by a Bhoodan Samiti recognized by the State Government in this behalf.

88B. Exemption from certain provisions to and of local authorities Universities and trusts :-

(1) Nothing in the foregoing provisions, except sections 3, 4B, 8, 9, 9A, 9B, 9C, 10, 10A, 11, 13 and 27 and the provisions of Chapters VI and VIII in so far as the provisions of the said Chapters are applicable to any of the matters referred to in the sections mentioned above, shall apply

(a) to lands held or leased by a University, established by law in the Bombay area of the State of Gujarat; and

(b) to lands which are the property of a trust for an educational purpose a hospital, Panjrapole, or Gaushala;

(c) to lands assigned or donated by any person before the 1st day of August, 1956 for the purpose of rendering any of the following services useful to the community, namely : maintenance of water works, lighting or filling of water troughs for cattle :

Provided that (i) such trust is or is deemed to be registered under the Bombay Public Trusts Act, 1950 (Bom. XXIX of 1950), and (ii) the entire income of such land is appropriated for the purposes of such trust.

(2) For the purposes of this section, a certificate granted by the Collector, after holding an inquiry, that the conditions in the proviso to sub-section (1) are satisfied by any trust shall be conclusive evidence in the behalf.

(3) Notwithstanding anything contained in sub-section (1), nothing in the foregoing provisions of this Act shall apply to lands leased for cultivation with the help of sewage, whether before or after the commencement of the Amending Act, 1955 by a local authority in discharge of its duties and functions relating to the establishment and maintenance of a farm for the disposal of sewage under the law under which such local authority is constituted.

88C. Exemption from certain provisions to lands leased by persons with the annual income not exceeding Rs. 1,500 :-

(1) Save as otherwise provided by the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Guj. XVI of 1960), nothing in sections 32 to 32R (both inclusive) shall apply to lands leased by any person if such land does not exceed an economic holding and the total annual income of such person

including the rent of such land does not exceed Rs. 1,500 :

Provided that the provisions of this sub-section shall not apply to any person who holds such land as a permanent tenant or who has leased such land on permanent tenancy to any other person.

(2) Every person eligible to the exemption provided in sub-section (1) shall make an application in the prescribed form to the Mamlatdar within whose jurisdiction all or most of the pieces of land leased by him are situate, within the prescribed period for a certificate that he is entitled to such exemption :

Provided that where such person is a widow she may make such application before the 1st day of July 1961 notwithstanding that the period prescribed under this section has expired.

(3) On receipt of such application, the Mamlatdar shall, after giving notice to the tenant or tenants of the land, hold inquiry and decide whether the land leased by such person is exempt under sub-section (1) from the provisions of sections 32 to 32R.

(4) If the Mamlatdar decides that the land is so exempt, he shall issue a certificate in the prescribed form to such person.

88CC. Rights of certain tenants to purchase land barred :-

Notwithstanding anything contained in this Act, a tenant who does not belong to any of the Scheduled Tribes shall not, after the commencement of the Bombay Land Revenue (Gujarat Second Amendment) Act, 1980 (Guj. 37 of 1980) be entitled to purchase from the land lord under this Act any land leased to him with the previous sanction of the Collector under section 73-AA of the Bombay Land Revenue Code, 1879, (Bom. V of 1879).

Explanation. For the purpose of this section "Schedule Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Gujarat under article 342 of the Constitution.

88CA. Sections 32 to 32R not to apply to certain service lands :-

Nothing in sections 32 to 32R (both inclusive) shall apply to land held as inani or watan for service useful to Government but not assigned as remuneration to the person actually performing such service for the time being under section 23 of the Bombay

Hereditary Offices Act, 1874, (Bombay III of 1874) or any other law for the time being in force.

88D. Power of Government to withdraw exemption :-

(1) Notwithstanding anything contained in sections 88, 88A, 88B and 88C, if the State Government is satisfied

(i) in the case of an area referred to in clause (b) of section 88, that the chances of non-agricultural or industrial development are remote, or that after the eviction of tenants from any land in such area, the land has not been used for a non-agricultural or industrial purpose.

(ii) that the lands transferred by a Bhoodan Samiti are not cultivated personally by the transferees or are alienated by them.

(iii) in the case of lands referred to in clause (b) of section 88B, that the trust is unable to look after the property or has mismanaged it or that there are disputes between the trust and the tenants, and,

(iv) in the case of lands referred to in section 88C, that the annual income of the person has exceeded Rs. 1,500 or that the total holding of such person exceeds an economic holding. the State Government may, by order published in the prescribed manner, direct that with effect from such date as may be specified in the order such land or areas, as the case may be, shall cease to be exempted from all or any of the provisions of this Act from which it was exempted under any of the sections aforesaid, and any certificate granted under section 88B or 88C, as the case may be, shall stand revoked.

(2) Where any such land or area ceases to be so exempted then in the case of a tenancy subsisting on the date specified in the order issued under sub-section (1) the landlord shall be entitled to terminate such tenancy under section 31 within one year from such date and the tenant, unless his tenancy is so terminated, shall have a right to purchase the land within one year from the expiry of the period during which such landlord is entitled to terminate the tenancy. The provisions of sections 31 to 31D (both inclusive) and sections 32 to 32R (both inclusive) shall so as far may be applicable, apply to such termination of tenancy and to the right of the tenant to purchase the land.

88E. Cesser of exemption in respect of certain public trust

lands :-

(1) Notwithstanding anything contained in section 88B, with effect on and from the specified date lands which are the property of an institution for public religious worship shall cease to be exempted from those provisions of the Act except sections 31 to 31D (both inclusive) from which they were exempted under Section 88B and all certificates granted under that section in respect of such lands shall stand revoked.

(2) Where any such land ceases to be so exempted, then in the case of a tenancy subsisting immediately before the specified date the tenant shall be deemed to have purchased the land on the specified date and the provisions of sections 32 to 32R (both inclusive) shall so far as may be applicable, apply. Explanation. In this section "specified date" means the date of the commencement of the Gujarat Devasthan Inams Abolition Act, 1969 (Gujarat 16 of 1969.)

89. Repeal :-

(1) The enactment specified in Schedule 1 is hereby repealed to the extent mentioned in the fourth column thereof.

(2) But nothing in this Act or any repeal effected thereby (a) shall affect the amendments made in section 59 of the Bombay Land Revenue Code, 1879 (Bom V of 1879) or sections 6 and 9 of the Khoti Settlement Act, 1880 : (Bom. I of 1880).

(b) shall, save as expressly provided in this Act, affect or be deemed to affect.

(i) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(ii) any legal proceeding or remedy in respect of any such right, title interest, obligation or liability or anything done or suffered before the commencement of this Act, and any such proceedings shall be continued and disposed of, as if this Act was not passed.

(3) Notwithstanding anything contained in sub-section (2), all proceedings for the recovery or restoration of the possession of the land under section 7 of the Act so repealed, pending at the date of the commencement of this Act before the Mamlatdar or in appeal before the Collector, shall, notwithstanding anything contained in this section, be deemed to have been instituted and pending before

the Mamlatdar or in appeal before the Collector, as the case may be, under this Act and shall be disposed of in accordance with the provisions of this Act.

(4) Any appointment, notification, notice, order, rule or form made or issued under the Bombay Tenancy Act, 1939 (Bom. XXIX of 1939) shall continue to be in force and deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act or rules made thereunder and shall continue to be in force unless and until it is supereded by any appointment, notification, notice, order rule or form made or issued under this Act.

90. Enactments amended :-

The enactments specified in Schedule II shall be amended to the extent mentioned in the fourth column thereof.

SCHEDULE 1

Enactment repealed

SCHEDULE 1			
Enactment repealed			
Year	No.	Short title	Extent of repeal
1	2	3	4
1939	XXIX	The Bombay	The whole except sections 3, 3-A and
		Tenancy Act,	4 as modified in the following manner,
		1939.	namely : —
			3. Protected tenants. — A tenant
			shall be deemed to be a protected
			tenant in respect of any land if —
			(a) he has held such land continuously
			for a period of not less than six
			years immediately preceding
			either —
			(i) the first day of January 1938,
			or
			(ii) the first day of January 1945;
			and
			(b) he has cultivated such land personally
			during the aforesaid
			period.
			Explanation I. — If the person who
			held such land on the first day of

		January 1938 or the first day of
		January 1945, as the case may be,
		came to hold the same by inheritance
		or succession from another person or
		if he has held such land as a tenant
		and is an heir to such other person,
		the period during which such other
		person held such land as a tenant
		shall be included in calculating the
		period of six years under this section.
		Explanation II. — If the person who
		held such land on the first day of
		January 1938 or the first day of
		January 1945, as the case may be,
		held as a tenant at any time within six
		years before the said date from the
		same landlord in the same village any
		other land which he cultivated personally,
		the period during which he
		held such other land shall be included
		in calculating the period of six years
		under this section.
		Explanation III. — Where any land
		is held by two or more persons jointly
		as tenants, all such persons shall, if
		any one of them cultivated and
		continues to cultivate such land
		personally and if the other conditions specified
		in this section are fulfilled, be deemed
		to be protected tenants in respect of
		such land.
		3A. Tenants on expiry of one year
		from coming into force of Bombay
		XXVI of 1946 to be deemed
		protected tenants. — Every tenant
		shall, from the eighth day of November
		1947 be deemed to be a protected
		tenant for the purposes of this Act and
		his rights as such protected tenant
		shall be recorded in the Record of
		Rights, unless his landlord has prior
		to the aforesaid date made an application
		to the Mamlatdar for a

			declaration that the tenant is not a protected tenant.
			Explanation. — A person shall not be
			deemed to be a protected tenant if
			such person has been on an
			application made by the owner of the land as
			provided in section 3-A of the Bombay
			Tenancy Act, 1939, (Bombay XXIX of
			1939) declared by a competent
			authority not to be a protected tenant.
			4. Tenants evicted after 1st April
			1937 to be deemed protected
			tenants. — (1) Every tenant shall be
			deemed to be a protected tenant for
			the purposes of this Act, if he —
			(a) held any land and cultivated it
			personally continuously for a
			period of not less than six years
			immediately preceding the first
			day of April 1937 and was evicted
			from such land on or after such
			date otherwise than by order of a
			competent authority on any of the
			grounds specified in section 14 of
			this Act, or
			(b) held any land and cultivated it
			personally continuously for a
			period of not less than six years
			immediately preceding the first
			day of April 1944 and was evicted
			from such land on or after such
			date otherwise than by order of a
			competent authority on any of the
			grounds specified in section 14 of
			this Act :
			Provided that any tenant who had
			been evicted from the land in consequence
			of his failure to tender the rent
			referred to in section 9 of the Bombay
			Small Holders Relief Act, 1938, (Bombay
			VIII of 1938) as provided therein,
			shall not be deemed to be a protected
			tenant for the purposes of this Act,
			unless he had paid to the landlord

			such rent in cases falling under clause
			(a) within four months from the date
			on which this section came into force
			in the area in which the land is
			situated and in cases falling under
			clause (b) within six months from the
			eighth day of November 1946.
			(2) A person who is deemed to be a
			protected tenant under sub- section
			(1) shall, if he had intimated in writing
			to the landlord in causes falling
			under clause (a) of sub-section (1)
			within one year after the coming into
			force of this section in the area in
			which the land is situated and in cases
			falling under clause (b) of sub-section
			(1) within one year after the eighth
			day of November 1946, that he is willing
			to hold the land on the same terms
			and conditions on which he held it at
			the time when he was evicted be in-
			titled to recover possession of the
			land —
			(a) in cases falling under clause (a) of
			sub-section (1) —
			(i) if the land has been leased out
			by the landlord for a period
			expiring after the 31st day of
			May immediately following
			the date of the coming into
			force of this section in the
			area in which the land is
			situated, from the date on
			which such lease expires; and
			(ii) in other cases, from the 1st day
			of June immediately following
			the date of the coming into
			force of this section in the
			area in which the land is
			situated;
			(b) in cases falling under clause (b) of
			sub-section (1) —
			(i) if the land has been leased out

			by the landlord for a period
			expiring after 31st day of May
			from the date on which such
			lease expires;
			(ii) in other cases from the 1st day
			of June 1947 and on so
			recovering possession, he
			shall, subject to the
			provisions of this Act, hold the
			land on the said terms and
			conditions.
			(3) The provisions of this section shall
			not apply in cases where the landlord
			is using the land for any of the purpose
			mentioned in sub-section (1) of
			section 34 of this Act.

SCHEDULE 2
SCHEDULE

SCHEDULE II			
Year	No.	Short title	Extent of amendment
1	2	3	4
1879	V	The Bombay	(1A) In section 80, for the words
		Land	'though non-payment by the occupant
		Revenue	
		Code, 1879.	of the land revenue due on account
			thereof, it shall be lawful for any person
			interested to pay on behalf of such
			occupant' the words 'through non-
			payment of the land revenue due on
			account thereof by the person
			primarily liable for payment of it, it
			shall be lawful for any person
			interested to pay on behalf of such person
			shall be substituted.
			(1) After section 84, the following
			section shall be inserted, namely. —
			"84-1A. Sections 83 and 84 not to
			apply to certain tenancies. — The
			provisions of sections 83 and 84 shall
			cease to apply to tenancies to which
			the provisions of the Bombay Tenancy

			and Agricultural Lands Act, 1948
			(Bom. LXVII of 1948) apply.
			(2) In section 86, for the proviso, the
			following shall be substituted, namely.—
			"Provided that such application shall
			be made before the expiry of the year
			immediately succeeding the revenue
			year or the year of the tenancy in
			which the said rent or land revenue
			became payable."
			(3) In section 136, to sub-section (1)
			the following proviso shall be added,
			namely. —
			"Provided that in the case of any land
			in the possession of a tenant if such
			tenant is liable to pay land revenue in
			respect of such land under the
			provisions of the Bombay Tenancy
			and Agricultural Lands Act, 1948,
			(Bom. LXVII of 1948) such tenant
			shall be primarily liable for the payment
			of the land revenue in respect of
			such land".
1879	VII	The Bombay Irrigation	In section 56D, for the proviso to sub-
		Act,	section (1) the following shall be substituted,
		1879.	namely: —
			"Provided that in the case of any land
			in the possession of a tenant, if such
			tenant is liable to pay the irrigation
			cess in respect of such land under the
			provisions of the Bombay Tenancy
			and Agricultural Lands Act, 1948
			(Bom. LXVII of 1948) such tenant
			shall be primarily liable to pay the
			irrigation cess, in respect of such
			land".
1923	VI	The Bombay	To section 96, the following proviso
		Local Boards	shall be added, namely: —
		Act, 1923.	
			"Provided that in the case of any land
			in the possession of a tenant, if such
			tenant is liable to pay the cess in

			respect of such land under the
			provisions of the Bombay Tenancy
			and Agricultural Lands Act, 1948.
			(Bom. LXVII of 1948), such tenant
			shall be primarily liable for the payment
			of the cess in respect of such
			land".
1925	VII	The Bombay	In section 24AA.
		Co-operative	
		Societies	
		Act,	
		1925;	
			(1) in clause (i) —
			(a) after the words "owns any land"
			the words "or has interest in any
			land as a tenant" shall be
			inserted;
			(b) for the words "on the land owned
			by him and specified therein" the
			words "on such land or interest
			specified in the declaration" shall
			be substituted;
			(2) after clause (ii), the following
			clause shall be inserted, namely: —
			"(iia) any person who has borrowed a
			loan from a society of which he is
			a member before the date of the
			coming into force of the Bombay
			Tenancy and Agricultural Lands
			(Amendment) Act, 1955 (Bom.
			XIII of 1956), and has any interest
			in land as a tenant shall as soon
			as possible make a declaration in
			the form and to the effect referred
			to in clause (i) and no such person
			shall unless and until he has
			made such declaration be entitled
			to exercise any right as a member
			of the society";
			(3) in clauses (iii), (iv), (vi) and (vii) for
			the word, brackets and figures "or (ii)"
			wherever [they occur the brackets,
			figures, letter and word "(ii) or (iia)"

			shall be substituted;
			(4) in clause (iv), after the words "of
			the land" the words "or interest" shall
			be inserted;
			(5) in clause (vi), after the words "on
			the land" the words "or interest" shall
			be inserted;
			(6) in clause (vii), after the word "on land" the
			words "or interest" shall be inserted.

SCHEDULE 3

List of Land Tenures Abolition Acts

SCHEDULE III	
List of Land Tenures Abolition Acts	
1.	The bombay Bhagdari and Narwadari Tenures Abolition Act, 1949 (Bom. XXXII of 1949).
2.	The Bombay Maleki Tenure Abolition Act, 1949 (Bom. LXI of 1949).
3.	The Bombay Taluqdari Tenure Abolition Act, 1949 (Bom. LXII of 1949).
4.	The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bom. LXIII of 1949).
5.	The Bombay Khoti Abolition Act, 1949 (Bom. VI of 1950).
6.	The Bombay Paragana and Kulkarni Watans (Abolition) Act, 1950 (Bom. LX of 1950).
7.	The Bombay Watwa Vazifdari Rights Abolition Act, 1950 (Bom. LXII of 1950).
8.	The Salsette Estates (Land Revenue Exemption Abolition) Act, 1951 (Bom. LXVII of 1951).
9.	The Bombay Land Tenures Abolition (Amendment) Act, 1953 (Bom. XXXVIII of 1953).
10.	The Bombay Personal Inams Abolition Act, 1952 (Bom. XLII of 1953).
11.	The Bombay Merged Territories (Ankadia Tenure Abolition) Act, 1953 (Bom. LXIII of 1953).
12.	The Bombay Kauli and Katuban Tenures (Abolition) Act, 1953 (Bom. XLIV of 1953).
13.	The Bombay Merged Territories (Baroda Mulgiras Tenure Abolition) Act, 1953 (Bom. XLV of 1953).
14.	The Bombay Merged Territories (Baroda Watan Abolition) Act, 1953 (Bom. XLVI of 1953).
15.	The Bombay Merged Territories Matadari Tenure Abolition Act, 1953 (Bom. XLVIII of 1953).

16. The Bombay Service Inams (Useful to Community) Abolition Act, 1953 (Bom. LXX of 1953).
17. The Bombay Merged Territories (Janjira and Bhor) Khoti Tenure Abolition Act, 1953 (Bom. LXXI of 1953).
18. The Bombay (Okhamandal Salami Tenure Abolition) Act, 1953 (Bom. I of 1954).
19. The Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (Bom. XXXIX of 1954).
20. The Bombay Bhil Naik Inams Abolition Act, 1955 (Bom. XXI of 1955).
21. The Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955 (Bom. XXII of 1955).

SCHEDULE 4

SCHEDULE

Deleted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960