

SAURASHTRA BARKHALI ABOLITION ACT, 1951

26 of 1951

[23rd July, 1951]

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SCHEDULE 1 :- SCHEDULE

SAURASHTRA BARKHALI ABOLITION ACT, 1951

26 of 1951

[23rd July, 1951]

An Act to provide for certain measures for the abolition of Barkhali tenure in Saurashtra. WHEREAS for the improvement of the land revenue administration and for agrarian reforms it is necessary to abolish the Barkhali tenure prevailing in certain parts of Saurashtra; It is hereby enacted as follows :-

1. Short title, extent and commencement :-

(1) This Act may be called the Saurashtra Barkhali Abolition Act, 1951 .

(2) It extends to the whole of the ¹[Saurashtra area of the ²(State of Gujarat)]

(3) It shall come into force on such date as the ³(Government), may, by notification, in the Official Gazette, appoint. ⁴

1. These words were substituted for the words "State of Saurashtra" by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

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

3. This word was substituted for the words "State Government" by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

4. This Act has been brought Into force from 1st September, 1951 by Revenue Department Notification No. RD/IV/978, dated the 18th August, 1951.

2. Definitions :-

In this Act, unless there is anything repugnant to the subjects or context-

¹[(i) "Barkhalidar" means a person who holds a tenure as Barkhalidar, Jivaidar, Chakariyat, Kherati or Dharmada and includes-

(a) any person who has been granted any such tenure; or

(b) any holder of an estate whom the Government may, by notification, in the Official Gazette, declare to be a Barkhalidar for the purposes of this Act: Provided that where the great-grand-father, grandfather or father of an Barkhalidar is alive, only the great-grand-father, grand father or the father, as the case may be, who is alive, shall be deemed to the Barkhalidar for the purposes of this Act;]

(ii) "bid land" means such land as has been used by Barkhalidar for grazing his cattle or for cutting grass for the use of his cattle;

² [(iia) "estate" includes a Jagir, Inam or other grant or interest or aggregate of interests of similar nature in land but shall not include an occupancy;]

(iii) "Gharkhed" means land lawfully reserved by a Barkhalidar for cultivating personally before 20th

(iv) "tenant" means an agriculturist who holds land on lease from a Barkhalidar or a person claiming through him and includes a person who is deemed to be a tenant under the provisions of this Act;

(v) all words and expression used, but not defined, in this Act shall have the meaning assigned to them in the Saurashtra Land Reforms Act, 1951.

1. This Clause was substituted for the original by Sau. Act No. XX of 1953.

2. This clause was Inserted by Saurashtra Act No. XX of 1953.

3. Act to over ride other laws :-

Save as otherwise expressly provided provisions in this Act and of the rules and orders made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law or any usage, agreement, settlement, grant, sanad or any decree or order of any court or other authority.

4. Person when deemed to be a tenant :-

(1) Any person who is lawfully cultivating any land belonging to a Barkhalidar shall, for the purposes of this Act, be deemed to be his tenant: Provided that no such person shall be deemed to be a tenant if he-

(a) is a member of the Barkhalidar's family; or

(b) is a servant on wages payable in cash or in kind but not in a share of the crops or a hired labourer cultivating the land under the personal supervision of the Barkhalidar or any member of his family; or

(c) is a mortgagee in possession.

Explanation.- A person who is otherwise deemed to be a tenant shall not cease to be a tenant only on the ground that he is also a mortgagee in possession.

(2) A tenant, who, on joining the Armed Forces of India, had given land for cultivation to a sub-tenant, shall be deemed to be a tenant for the purposes of this Act.

(3) Notwithstanding anything contained in sub-section (1), a person shall not be deemed to be a tenant under this section if such a person has been previously declared by a competent authority not to be a tenant.

5. Abolition of Barkhali tenure :-

On the commencement of this Act,¹[or on the date of the notification issued under clause (i) of Section 2 , as the case may be], all rights, title and interest of all the Barkhalidars in ²[agricultural lands comprised in Barkhali estate] shall cease and be vested in the ³[⁴ [State of Gujarat] free from all encumbrances, subject to the provisions of this Act.

1. These words, figures and brackets were inserted by Saurashtra Act, No. XX of 1953.

2. These words were substituted for the words "Barkhali agricultural lands" by Saurashtra Act No. XX of 1953.

3. These words were substituted for the word "State" by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

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

6. Application by Barkhalidars for allotment of land for

personal cultivation :-

(1) A Barkhalidar entitled to allotment of land under this Act may, ¹[at any time within ²[four months] from the date of the commencement of the Saurashtra Barkhali Abolition (Second Amendment) Ordinance, 1952] ³[or within ninety days from the date of the notification issued under clause (i) of Section 2 as the case may be;] apply to the Mamlatdar of the allotment to him of land for personal cultivation: ⁴[Provided that the Government may relax this time limit in the case of a Barkhalidar who is in service as a member of the Armed Forces: Provided further that an application by a Barkhalidar for being notified as a Girasdar under clause (1) of Section 2 of Saurashtra Land Reforms Act, 1951, shall be treated as an application under this section if he is not declared as a Girasdar].

(2) An application under sub-section (1) shall be in such form as may be prescribed and shall contain the following particulars:-

(a) the area and the location of the land in respect of which the allotment is prayed for;

(b) the right under which the Barkhalidar claims the land;

(c) the full particulars of his estate containing-

(i) the approximate area of the land in his estate,

(ii) the area and location of Gharkhed in his estate,

(iii) the area of agricultural land, bid land and cultivable waste in his estate; and

(iv) the area of non-cultivable waste in his estate;

(d) the names of tenants and description of land in their possession;

(e) the area of Khalsa land, if any, in his possession; and

(f) any other particulars which may be prescribed: ⁵ [Provided that the Settlement Commissioner may direct generally or in individual case that an application which is not in the prescribed form shall be accepted.]

(3) Where a Barkhalidar makes an application on his own behalf as also on behalf of other Barkhalidars who are jointly entitled with

him to allotment of land under this Act, the application under sub-section (1) shall further contain the names of persons on whose behalf the allotment is prayed for and full particulars of the joint estate and of Gharkhed of all such persons.

1. These words, figures and brackets were substituted for the words and figures "within 90 days from the date of the commencement of this Act by Saurashtra Act, No. XVI of 1952
2. These words were substituted for the words "30 days" by Saurashtra Act No. XX of 1953.
3. These words were Inserted by Saurashtra Act No. XX of 1953.
4. These Provisos were added by Saurashtra Act No. XVI of 1952.
5. This proviso was added by Saurashtra Act No. XVI of 1952.

7. Inquiry of Mamlatdar for order of allotment :-

(1) On receipt of any application under Section 6 , the Mamlatdar shall issue notice to the tenant or tenants concerned and after giving the parties an opportunity of being heard, shall make an inquiry in the prescribed manner.

(2) After making such inquiry as may be deemed necessary, the Mamlatdar may, having due regard to the provisions of this Act, pass an order making an allotment to the Barkhalidar of such land as may be specified in the order.

(3) After making an order under sub-section (2), the Mamlatdar shall issue an occupancy certificate, in such form as may be prescribed, to a Barkhalidar in respect of his Gharkhed and the land, if any, allotted to him under this section.

(4) No Barkhalidar shall obtain possession of any land held by a tenant except in accordance with such order.

8. Allotment of land for personal cultivation :-

¹[(1) A Barkhalidar in whose estate the agricultural land is equal to two economic holdings or less and who is not a Chakariyat, Dharmada institution, or Jivaidar for life, shall be allotted land for personal cultivation in the following manner :-

(a) each of his tenants shall first be given half an economic holding, including any khalsa land in possession of such tenant;

(b) if there remains any Barkhali land, the Barkhalidar shall be given land to make up half an economic holding, including Gharkhed and khalsa land in his possession, if any;

(c) if there still remains any Barkhali land, it shall be divided half and half between the Barkhalidar and the tenant: Provided that the maximum land so allotted shall not exceed one economic holding.]

(2)

(a) The Barkhalidar in respect of land allotted to him for personal cultivation under sub-section (1), and the tenant in respect of land allowed to remain in his possession under the said sub-section, shall have a mutual right of pre-emption for ten years for lease or sale at a price to be determined by the Mamlatdar under the rules made under this Act.

(b) The Barkhalidar and the tenant shall contribute to each other the expenses of the well sunk after 1st January, 1948, in proportion to the land allotted to the Barkhalidar or allowed to remain in possession of the tenant, if the well sunk by the Barkhalidar or the tenant goes to the tenant or the Barkhalidar respectively, as the case may be.

² [(3) Nothing contained in this section shall apply-

(a) to a Barkhalidar if any member of his family is an evacuee within the meaning of the term "Evacuee" as defined in the Administration of Evacuee Property Act, 1959 (No. XXXI of 1950) or

(b) to any land in respect of which a tenant has acquired chav or buta hak.]

Explanation. - For the purposes of this section, agricultural land shall not include sites of farm building or of dwellings, or wadas.

1. This sub-section was substituted for the original by Saurashtra Act No. II of 1952.

2. This sub-section was substituted for the original by Saurashtra Act No. II of 1952.

9. Provisions for allotment of land in certain cases :-

For the purposes of Section 8 , a Barkhalidar shall mean-

(a) in the case of an undivided family of a Barkhalidar, the head of the family;

(b) in the case of a family divided in interest, all the members of the family jointly;

(c) in the case of a Barkhalidar whose land was separate from that of the other members of his family by metes and bounds before the

1st February, 1961, such Barkhalidar;

(d) in the case of a Barkhalidar whose father has died after that date and whose land has been so separate after that date, such Barkhalidar; or

(e) in the case of a Barkhalidar who, before that date, has held his land separately with a tenant deriving title from him, such Barkhalidar.

Explanation I.-In the case of an undivided family, land shall be allotted to the head of the family on behalf of the family.

Explanation II. -Land allotted to an undivided family or to a family divided in interest only shall be in full satisfaction of the claims of all the Barkhalidars of such family.

10. Application of tenant for acquisition of occupancy rights
:-

(1) Any tenant may, at any time after commencement of this Act, apply in the prescribed form to the Mamlatdar for acquiring rights in respect of his holding.

(2) An application made under sub-section (1) shall be in such form as may be prescribed and shall contain the following particulars, namely-

(a) area and location of the holding in respect of which an application is made;

(b) the name of the Barkhalidar in respect of his holding;

(c) full particulars of the holding containing:-

(i) the approximate area of land in his possession;

(ii) the approximate area of agricultural land, bagayat, jirayat, bid land and cultivable waste separately; and

(iii) number and location of dwelling house in his possession;

(d) particulars whether any dwelling house was built at his cost or at the cost of his predecessor-in-title or of the Barkhalidars;

(e) Whether he holds khalasa lands and, if so, its area and location;

(f) such other particulars as may be prescribed: ¹ [Provided that the Settlement Commissioner may direct generally or in individual

case that an application which is not in the prescribed form shall be accepted.]

1. This proviso was added by Saurashtra Act N6. XVI of 1952.

11. Inquiry by Mamlatdar :-

On receipt of any application under Section 10 , the Mamlatdar shall issue notice to the Barkhalidar concerned and after giving the parties an opportunity of being heard, shall make an inquiry in the prescribed manner.

12. Issue of an occupancy certificate to a tenant :-

(1) After making such inquiry as may be deemed necessary, the Mamlatdar may, subject to any order of allotment under the provisions of this Act, pass an order specifying therein-

(a) the holding or the part thereof in respect of which the tenant may be declared to be an occupant, hereinafter referred to as an occupancy holding; and

(b) the assessment of such occupancy holding.

(2) After making an order under sub-section (1), the Mamlatdar shall issue an occupancy certificate in such form as may be prescribed in respect of the occupancy-holding, and the tenant shall become an occupant accordingly, subject to any conditions that may be imposed in the occupancy certificate in accordance with the provisions of clause (a) of sub-section Section 8 where applicable.

¹ [(3) the Government may pass such orders as it deems proper for the disposal of any land in respect of which occupancy certificate is not issued by the Mamlatdar under sub-section (2).]

1. This sub-section was inserted by Saurashtra Act No. XX of 1953.

13. Dwelling houses :-

(1) the dwelling house included in the occupancy holding, shall vest in the occupant: Provided that if such a dwelling house had been built otherwise than at the expense of the tenant or his predecessor-in-title, shall vest in the occupant free from all encumbrances, if any, made by the Barkhalidar on payment of such compensation to the Barkhalidar as may be determined by the Mamlatdar in this behalf in accordance with the principles laid down in the Land Acquisition Act, 1894 .

(2) If a Barkhalidar has purchased a village site from third person it

shall vest in the tenant paying an amount equal to the amount paid by the Barkhalidar.

14. Certain mortgages and charges not enforceable against occupancy holding :-

Notwithstanding anything contained in any contract or any law for the time being in force, no claim or liability, whether under any decree or order of a Civil Court, or otherwise enforceable against a Barkhalidar for any money which is charged on or is secured by a mortgage of any land in the possession of a tenant, shall be enforceable against the occupancy holding of an occupant, and every such claim or liability shall be deemed to be a charge on the payment to be made to a Barkhalidar under Section 18 of this Act.

15. Barkhalidar to be occupant :-

(1) A Barkhalidar shall become an occupant in respect of his Gharkhed and in respect of land allotted to him under Section 7 , subject to any conditions that may be imposed in the occupancy certificate in accordance with the provisions of clause (a) of sub-section (8) where applicable.

Explanation.-For the purposes of this section Gharkhed cultivated personally by a holder of religious and charitable institutions shall be deemed to be "land" and the religious or charitable institution shall be deemed to be an occupant of such land.

16. Liability to payment of land revenue :-

Subject to the provisions of Section 17 , all lands held, on the commencement of this Act, as Barkhali lands including Gharkhed, and land allotted under this Act, shall be liable to payment of land revenue under the provisions of the Code and the rules made thereunder.

17. Land revenue in certain cases :-

(1) A Barkhalidar in whose estate the agricultural land was more than 800 acres or who owned one village or more shall, in respect of his Gharkhed and land allotted to him for personal cultivation ¹[in accordance with the provisions of Section 6 , SECTION 7 , SECTION 8 and SECTION 9 of this Act] pay full assessment.

(2) A Barkhalidar in whose estate the agricultural land was more than 120 acres but less than 800 acres shall, in respect of his Gharkhed and land allotted to him for personal cultivation, ¹[in

accordance with the provisions of Section 6 , SECTION 7 , SECTION 8 and SECTION 9 of this Act] pay four annas per acre for the first three years, eight annas per acre for the next three years, half assessment for the next six years and full assessment thereafter.

(3) A Barkhalidar in whose estate the agricultural land was less than 120 acres shall, in respect of his Gharkhed and land allotted to him for personal cultivation ¹(in accordance with the provisions of Section 6 , SECTION 7 , SECTION 8 and SECTION 9 of this Act] pay four annas per acre for eighteen years and full assessment thereafter:] ⁴ [Provided that if any such land is transferred by sale, mortgage with possession or otherwise, such land shall, from the date of such transfer, be liable to payment of full assessment except where such land is transferred-

(i) to a Co-operative Farming Society,

(ii) by way of exchange to persons who are descendants of a common ancestor in the male line and are living in the same village or in their co-shared villages:

Explanation I . -For the purposes of this section, the assessment on any land for the time being shall be deemed to be the full assessment.

Explanation II .-The term "land" used in the provisos to this section shall mean the Gharkhed and land allotted to a Barkhalidar for personal cultivation.]

1. These words and figures shall be and shall be deemed always to have been substituted for the words "under the provisions of this Act" by Bombay XIII of 1957.

4. These provisos were Inserted by Sau. Act No. XLIX of 1955.

18. Payment to Barkhalidars :-

Consequent upon the abolition of the Barkhali tenure under this Act, Government ¹ [shall, subject to the provisions of Section 18A , pay to the Barkhalidars,] shown in column one of the Schedule, cash annuity, which shall be equal to one assessment in respect of land in possession of their tenants, for the period specified against them in column two thereof: Provided that-

(i) if the present holder is a widow or a Hathgarna grantee, the payment shall be continued beyond the period specified in column 2 for the lifetime of the holder:

(ii) if the present holder is a minor, the payment shall be made for the period specified in column 2, or until such time as the holder attains the age of 21, whichever is later;

(iii) if the present holder is a religious or charitable institution, the payment shall be continued in perpetuity.

1. These words were substituted for the words "shall pay to the Barkhalidars" by Saurashtra Act No.III of 1954.

18A. Claims of widow-jivaidar :-

*[. .-

(1) Every widow-Jivaidar. who is entitled to get any maintenance allowance in ascertained sum from any Barkhalidar during her life time may submit her claim for maintenance allowance to the Mamlatdar in the prescribed manner.

*This section was inserted by Saurashtra Act No. III of 1954.

(2) Every Jivaidar submitting her claim in compliance with the provisions of sub-section (1), shall furnish alongwith her written statement of claim, full particulars thereof and shall within such time as the Mamlatdar may appoint, produce all documents which are in her possession, power or control (including entries in books of accounts) on which she relies to support her claim, together with a true copy of every such document.

(3) After hearing the parties and making such inquiries as may be necessary, the Mamlatdar may. If he is satisfied that the amount of maintenance allowance was fixed;

(a) by a decree of a competent civil court, or

(b) by the order of a competent authority of the late Western India States Agency or the Western Indian States Region or any Covenanting State or merged Taluka, or

(c) by a written agreement of the parties,

(i) the amount which he may find as payable by the Barkhalidar to the jivaidar before the date of his order shall be paid, in such installments as may be fixed by him, from the amount of cash annuity payable to the Barkhalidar by the Government under Section 18 ;

(ii) the amount of maintenance allowance accruing due of the jivaidar after the date of his order shall be paid to her every year

from the amount of cash annuity payable to the Barkhalidar by the Government under Section 18 .

(4) The claim of the jiwaidar determined under sub-section (3), shall have priority over any secured debt of any creditor of the Barkhalidar.

(5) If in any case a Mamlatdar is satisfied that any person claiming maintenance allowance under this section is not "Jiwaidar" as defined in Explanation to this section, he may order that she may seek redress in competent civil court.

Explanation.-For the purposes of this section, Jiwaidar" means a widow of the family of a Barkhalidar, who is entitled to get from the Barkhalidar maintenance allowance fixed in the manner shown in clauses (a), (b) or (c) in sub-section (3) of this section.]

19. Assessment :-

(1) For the purposes of this Act, assessment shall mean in relation to any land, until the village in which such land is situate is surveyed and settled, assessment calculated on a arithmetic average of assessment leviable in the surrounding and adjoining khalsa ¹ [or assessed non-khalsa] lands or villages.

(2) For the purpose of determining the assessment on any land the Mamlatdar may hold an inquiry in the prescribed manner and fix the assessment on such land, and the assessment so determined shall be published in such manner as may be prescribed: Provided that where the assessment so calculated is manifestly unfair, the Government may modify it keeping in view the above principle.

1. These words were inserted by Saurashtra Act No. XVI of 1952.

20. Appointment of Settlement Commissioner and special officer :-

The Government may appoint-

(a) a Settlement Commissioner to perform such functions under this Act as may be prescribed, and

(b) as many special officers as may be necessary to exercise the powers and functions of a Collector under this Act in such local areas as may be specified.

21. Functions of Mamlatdar :-

For the purposes of this Act the following shall be the duties and

functions to be performed by the Mamlatdar, namely:-

- (a) to decide whether a person is a tenant or not,
- (b) to make inquiries under Section 7 and Section 11 ,
- (c) to issue an occupancy certificate under Section 7 and 12,
- (d) to determine the amount of compensation under Section 13 ,
- ¹ [(dd) to decide claims of the jiwaidars under Section 18A ,]
- (e) to make inquiry and fix assessment under Section 19 ,
- (f) to decide such other matters as may arise out of the provisions of this Act or as may be referred to him.

1. This clause was inserted by Saurashtra Act No. III of 1954.

22. Payment to be withheld :-

If any dispute arises between a Barkhalidar and any person as regards the payment of any amount under Section 18 the payment shall be withheld until the dispute is decided by a competent civil court.

23. Procedure of inquiry :-

In holding an inquiry under this Act, the Mamlatdar shall maintain a record of the proceeding before him containing material averments made by the parties interested, material facts of the evidence and his decision and the reasons thereof. The Mamlatdar shall, for the purpose of this inquiry, have all the powers of civil court under the Code of Civil Procedure, 1908, relating to-

- (a) proof of facts by affidavits,
- (b) the enforcing of the attendance of any person and his examination on oath,
- (c) the enforcing of production of documents, and
- (d) the issuing of commissions.

24. Commencement of Proceedings :-

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

- (a) The name, age, profession and place of residence of the applicant and of the opposite party;

- (b) a short description and situation of the property to 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 if any, and of his witnesses who are to be summoned to attend or whether the applicant will produce them on the day of hearing;
- (e) such other particulars as may be prescribed.

25. Procedure :-

In all inquiries and proceedings commenced on the presentation of applications under Section 24 , the Mamlatdar shall exercise the same power as the Mamlatdar's Court under the Saurashtra Mamlatdar's Court Ordinance, 1948 (Ordinance No. LII of 1948) and shall follow the provisions of the said Ordinance, as if the Mamlatdar were a Mamlatdar's Court under the said Ordinance, and the application were plaint presented under Section 7 of the Coal Mines (Taking Over of Management) Act, 1973 of the said Ordinance. In regard to matters which are not provided for in the said Ordinance, the Mamlatdar shall follow the procedure as may be prescribed by the Government. Every decision of the Mamlatdar shall be recorded in the form of an order which shall state the reasons for such decision.

26. Execution of 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 including an order awarding costs, shall be recoverable from the person ordered to pay the same in the same manner as an arrear of land revenue.

(2) An order of the Mamlatdar awarding possession, or restoring the possession or use of any land, shall be executed in the manner provided in section 20 of the Saurashtra Mamlatdar's Courts Ordinance, 1948, (Ordinance No. LII of 1948) as if it was the decision of the Mamlatdar under the said Ordinance.

27. Appeals :-

(1) An appeal shall lie to the Collector against any order of the Mamlatdar.

(2) Save as otherwise provided in this Act, the provisions of Chapter XIII of the Code shall apply to appeals to the Collector under this Act as if the Collector were the immediate superior of the Mamlatdar. The Collector shall have the power to award costs in any appeal heard by him.

28. Revision :-

(1) Notwithstanding anything contained in the Saurashtra Revenue Tribunal Ordinance, 1949, an application for revision may be made to the Tribunal against any order of the Collector on the following grounds only, namely:-

- (a) that the order of the Collector was contrary to law; or
- (b) that the Collector failed to determine some material issue of law; or
- (c) that there was a substantial defect in following the procedure provided by this Act which has resulted in miscarriage of justice.

(2) In deciding an application under this section, the Tribunal shall follow the procedure which may be prescribed by rules made under this Act after consultation, with the Tribunal.

29. Order in appeal or revision :-

(1) The Collector in appeal and the Tribunal in revision may confirm or modify or rescind the order in appeal or revision, as the case may be, or may pass such other as may seem legal and just in accordance with the provisions of this Act.

(2) The order of the Collector in appeal or of the Tribunal in revision shall be executed in the manner provided for execution of the orders of the Mamlatdar under Section 26 .

30. Court fees :-

Notwithstanding anything contained in the Court Fees Act, 1870 , as adopted and applied to the ¹[Saurashtra area of the ² [State of Gujarat]] every application or appeal made under this Act to the Mamlatdar, Collector or Tribunal shall have a court-fee of such value as may be prescribed.

1. These words were substituted for the word "State" by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

2. These words were substituted for the words "State of Bombay"

by the Gujarat Adaptation of Laws (State and concurrent Subjects) Order, 1960.

31. 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 or the Collector, as the case may be, and the provisions of S.4 of the income tax Act, 1961, Section 5 of the Limitation Act, 1963 , Section 12 of the Limitation Act, 1963 and 14 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to the filing of such appeal or application for revision.

32. Inquiries and proceedings to be judicial Proceedings :-

All inquiries and proceedings before the Mamlatdar, the Collector or the Tribunal shall be deemed to judicial proceedings within the meaning of S.192 of the Income tax Act, 1922, Section 219 of the Indian Penal Code, 1860 and Section 228 of the Indian Penal Code, 1860 .

33. Penalty for making false statements :-

(1) If during the course of any inquiry before the Mamlatdar, under the provisions of this Act, any person is found to have made a false declaration in an application made under Section 6 or Section 10 , the Mamlatdar may, while passing any order on such application, direct the person making such a false statement to pay a fine not exceeding one thousand rupees.

(2) The amount of the fine imposed under sub-section (1) shall be recoverable in the same manner as an arrear of land revenue.

34. Obstruction with the rights obtained under this Act :-

If any person wilfully obstructs the rights of any other person acquired under the provisions of this Act, or contravenes the provisions of sub-section (4) of Section 7 , the Mamlatdar may direct that the person so obstructing or contravening shall pay a fine not exceeding one thousand rupees.

35. Rules :-

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

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules provide for the following matters, namely:-

(a) prescribing the forms of applications under Section 6 and Section 10 .

(b) prescribing the form of occupancy certificate under Section 7 and Section 12 .

¹[(bb) prescribing the quantum of land in respect of which a tenant may be declared to be an occupant under sub-section (1) of Section 12 ,]

(c) prescribing the procedure to be followed by the Mamlatdar under Section 11 and Section 25 ,

² [(cc) the form and manner in which a jiwaidar may submit her claim under Section 18A .]

(d) prescribing the procedure which the Tribunal shall follow under Section 28 ,

(e) prescribing the value of court-fee stamps under Section 30 ,

(f) any other matter arising under the provisions of this Act.

1. This clause was Inserted by Saurashtra Act No. XX of 1953.

2. This clause was Inserted by Saurashtra Act No. III of 1954.

36. Delegation of powers :-

The 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 on it by this Act.

37. Restoration of possession :-

When a Barkhalidar has reserved any land for cultivating personally after 20th July, 1949, and an application disputing such reservation is made by the tenant within ninety days from the commencement of this Act, the Mamlatdar shall decide the dispute, and if he decides the reservation was made illegally, he shall direct that the possession of such land shall be restored to the tenant.

38. Summary eviction :-

Any person who is in unauthorised occupation or wrongful possession of any land or dwelling house, not being entitled to such occupation or possession under the provisions of this Act, may be summarily evicted by the Collector.

39. 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, the Collector or the Tribunal or by the Government in exercise of their powers or control.

(2) No order of the Mamlatdar, the Collector or the Tribunal 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 Saurashtra Mamlatdars' Courts Ordinance, 1948.

40. Governments power of control and revision :-

(1) In all matters connected with the Act, Government shall have the same authority and control over Mamlatdars and Collectors acting under this Act as they have and exercise over them in the general and revenue administration.

(2) The Government may call for and examine the record of any inquiry or proceeding of the Mamlatdar or the Collector acting under this Act, for the purpose of satisfying itself as to the legality or propriety of any decision or order .passed and as to the regularity of the proceedings of such officer, and, if in any case it shall appear to the Government that any decision or order or proceedings so called for should be modified, annulled or reversed, it may pass such order thereon as it deems fit: Provided that the Government shall not pass any order in the exercise of its powers under this sub-section-

(i) in any case in which an application for revision against any decision or order of the Collector has been made under this Act, to the Revenue Tribunal or until such application is barred by limitation.

(ii) in any case which an appeal against any decision or order of the Mamlatdar has been referred under this Act to the Collector or until such appeal is barred by limitation.

(3) The Government shall not pass any order under subsection (2) without giving to the parties concerned an opportunity to be heard before an officer not below the rank of the ¹ [Collector], who shall follow such procedure as may be prescribed].

1. This word was substituted for the words "Revenue

Commissioner" by Gujarat 15 of 1964.

41. Indemnity :-

No suit or legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

SCHEDULE 1

SCHEDULE

[Sec Section 18] \ \ \ \ TABLE	
Description of Barkhalidars Period of cash annuity.	
1. Barkhalidars holding one \15 years or more villages	2. Barkhalidrs holding less \18 years than one village.