

Bombay Tenancy And Agricultural Lands (Vidarbha Region) Act, 1958

99 of 1958

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Bombay Tenancy And Agricultural Lands (Vidarbha Region) Act, 1958

99 of 1958

¹1. For Statement of Objects and Reasons see Bombay Government Gazette, Part V, Pages 695, 699 An act of amend the law relating to tenancies of agricultural lands and sites used for allied pursuits in the Vidarbha Region and Kutch Area of the state of Bombay and to make certain other provisions in regard to those lands Whereas it is expedient to amend the law which governs the relations of landlord and tenant of agricultural lands and sites used for allied pursuits in the Vidarbha Region and Kutch Area of the State of

Bombay with a view to bringing the status and rights of tenants as far as possible in line with those prevailing in certain other part of the State; 2 And whereas it its expedient in the interest of the general public to regulate and impose restrictions on the transfer of agricultural lands and of dwelling housed and lands appurtenant thereto and sites used for allied pursuits belonging to or occupied by agriculturists, agricultural labourers, artisan a and persons carrying on allied pursuits in the Vidarbha Region and Kutch Area of the State of Bombay and to provide for the assumption of the management of agricultural lands in certain circumstances and to make provisions for certain other matters hereinafter appearing. It is hereby enacted in the Ninth Year of the Republic of India as follows:

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958.

(2) ¹[* * * * *]

(b) ² [This Act extends to the Kutch area of the State of Gujarat] subject to the modifications specified in Schedule III .

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

1. Clause (a) was deleted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

* Modifications specified in Schedule III have been incorporated through-out the Act.

2. Definitions :-

. .In this Act, unless the context requires otherwise,

(1) "agriculture" includes

(a) the raising of annual of periodical crops and garden produce,

(b) horticulture,

(c) the planting and upkeep of orchards,

(d) the reserving or using of land for fodder, or thatching grass, and

(e) the use by an agriculturist of the land held by him or a part thereof for grazing of his own cattle, but does not include allied

pursuits or the cutting of wood only;

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

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

(4) "allied pursuits" means 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;

(5) "appointed day" means the 20th day of August, 1958;

(6) "Collector" includes an Additional Collector and an Assistant or Deputy Collector performing the duties and exercising the powers of a Collector under the ¹[or any other officer specially empowered by the State Government to perform the functions of the Collector under this Act];

²(7) "Code" means the Bombay Land Revenue Code, 1879 as extended to the Kutch area of the ³[State of Gujarat];

(8) ⁴[* * * * *]

(9) "co-operative society" means a society registered under the provisions of ⁵[the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925)];

(10) "co-operative farming society" means a society registered as such under ⁵[the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925) ;]

(11) "to cultivate" means to carry on any agricultural operation;

(12) "to cultivate personally" means to cultivate 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 one self or of any member of one's family by hired labour or by servant of wages payable in cash or kind but not in crop share.

Explanation I. A widow or a minor, or a person who is subject to any physical or mental disability or a serving member of the armed forces shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour;

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;

(13) "family holding" in relation of any local area constituted under section 3 means a family holding determined under section 4 in respect of lands situate in that local area;

(14) "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);

(15) "improvement" means, with reference to a holding, any work which adds to the letting value of the holding which is suitable thereto and consistent with the purpose for which it is held and which, is not executed on the holding, is either executed directly for its benefit or is, after execution, made directly beneficial to it. and subject to the foregoing provisions includes

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

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

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

(d) the erection of buildings on or in the vicinity of the holding, elsewhere than in the abadi or urban area, required for the convenient or profitable use or occupation of the holding; and

(e) the renewal or reconstruction of any of the foregoing works, or alterations therein or addition thereto; but does not include

(i) temporary wells and such water-channels, embankments, levellings, enclosures or other works, or petty alterations in, or repairs to, such works, as are commonly made by cultivators of the locality in the ordinary course of agriculture; or

(ii) any work which substantially diminishes the value of any land, wherever situated, in the occupation of any other person, whether as ⁷[owner] or tenant;

Explanation. A work which benefits several holdings may be deemed to be an improvement with respect to each of such holdings.

(16) "joint family" means an undivided Hindu family and in the case of other persons a group or unit the members of which by custom or usage are joint in estate or residence;

(17) "land" means

(a) land which is used or capable of being used for agricultural purposes and includes the sites of farm building appurtenant to such land; and

(b) for the purposes of sections 16, 22, 23, 24, 25, 26, 32, 34, 36, 37, 55, 89, 91, 121 and 122.

(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;;

(18) "landholder" means ⁸[an occupant or a superior holder] 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 purposes of this Act;

(19) "landless person" means a person who holding no land for agricultural purposes, whether as ⁹[an owner] or tenant earns his livelihood principally by manual labour and intends to take to the profession of agricultur and is capable of cultivating land personally;

¹⁰[(19A) "owner" means a person who holds as coccupant or superior holder land which is in his actual possession;]

¹¹[(20) "permanent tenant" means a person deemed to be a permanent tenant under section 7;]

(21) "person" includes joint family;

(22) "physical or mental disability" means physical or mental disability by reason of which the person subject to such disability is incable of cultivating land by personal labour or supervision;

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

(24) "profits of agriculture" in respect of any land means the balance remaining with the holder after deducting from the gross produce the cost of culitivation estimated by taking into account the following elements, namely :

(a) the depreciation of stock and buildings,

(b) the money equivalent of the holders and his familys labour and supervision,

(c) all other expenses usually incurred in cultivation on the land, and

(d) interest on the cost of buildings and stock and on expenditure for seed and manure, and on cost of agricultural operations paid for in cash;

(25) ¹²[* * * * *]

(26) "rent" means any consideration, in money or kind of 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;

(27) "scheduled area" means an area declared to be a scheduled area under paragraph 6 of the Fifth Schedule to the Constitution of India;

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

(29) "small-holder" means an agriculturist cultivating land, less in area than a family holding who earns his livelihood principally by agriculture or by agricultural labour;

¹³[(30) "Mamlatdar" includes a Mahalkari and any other person whom the State Government may appoint to perform the duties of a Mamlatdar under this Act:]

Provided that the State Government may by notification in the Official Gazette direct that in the areas specified therein the powers of the ¹⁴[Mamlatdar] under this Act shall be exercised by the Sub-Divisional Officer;

(31) "tenancy" means the relationship of landlord and tenant;

(32) "tenant" means a person who holds land on lease and includes (a) a person who is deemed to be a tenant under section 6, ¹⁵[*] or 8.

¹⁶[(b) a person who is a permanent tenant;]

(33) "Tribunal" means the Agricultural Lands Tribunal constituted under section 97;

(34) words and expressions used in this Act but not defined shall have the meanings assigned to them in the Code and the Transfer of Property Act, 1882 (IV of 1882), as the case may be;

¹⁷[(35) References to the Bombay Co-operative Societies Act, 1955 (Bom. VII of 1925) and the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVII of 1947) shall be construed as references to those Acts as extended to the Kutch area of the ¹⁸ [State of Gujarat].

1. These words were added by Bom. 4 of 1960, s. 2.

2. Clause 7 was substituted for the original by Schedule III clause 2(1).

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

4. Clause (8) was deleted by Guj. 15 of 1964, s. 4, Schedule.

5. These words and figures were substituted for the words "the Co-operative Societies Act, 1912" by Sch. III, clause 2(2).

7. This word was substituted for the word "tenure-holder" by Schedule III, Clause 2 (3).
8. These words were substituted for the words "a tenure-holder" *ibid.*
9. These words were substituted for the words "a tenure-holder", *ibid.*, clause 2 (5).
10. Clause (19A) was inserted, by Sch. III, clause 2 (6).
11. Clause (20) was substituted for the original, *ibid.*, clause 2 (7).
12. Clause 25 was deleted, *ibid.*, clause 2 (8).
13. Clause (30) was substituted for the original, Sch. III, Clause 2 (9).
14. This word was substituted for the word "Tahsildar" *ibid.*, clause 1.
15. Figure "7" was deleted, *ibid.*, clause 2 (10)(1).
16. Sub-clause (b) was substituted for the original, *ibid.*, clause 2 (10)(2).
17. Clause (35) was added, *ibid.*, clause 2(11).
18. These words were substituted for the words "State of Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3. Delimitation of local areas :-

. The State Government may by notification in the Official Gazette specify and delimit areas each of which shall constitute a local area for the purposes of this Act.

4. Determination of family holding :-

.

(1) The State Government shall determine for all or any class of land in each local area the area of a family holding on the following basis in the prescribed manner :

(a) The extent of land which a family of five persons including the agriculturist himself would normally cultivate under the existing conditions of agricultural technique and practice with the aid of bullocks shall first be determined for all or any class of land in each

local area.

(b) The extent of land so determined may be varied having regard to the following factors :

(i) the situation of land ;

(ii) its productive capacity;

(iii) the soil and climate characteristics;

(iv) the fact that the land is located in the scheduled area;

(v) such minimum limit of net annual income from the land as may be prescribed;

(vi) any other factors which may be prescribed.

(c) The area so determined shall be the family holding.

(2) The area of a family holding determined under sub-section (1) shall be notified in the Official Gazette.

CHAPTER 2 GENERAL PROVISIONS REGARDING TENANCIES

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

6. Persons deemed to be tenants :-

.

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

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

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

(c) a mortgagor in possession.

¹[(2) *****]

¹ [(3) *****]

Explanation. A person to whom only the right to cut grass or to graze cattle or to grow singhara (*Trapa bipinosa*) or to propagate or collect lac is granted in any land shall not be deemed to be a tenant for the purposes of this Act.

1. Section 7 was substituted for the original by Sch. III, clause 4.

7. Permanent tenants :-

[.

(1) For the purposes of this Act, a person shall be deemed to be a permanent tenant on the date of the commencement of this Act, if his name has been recorded in the record of rights or other public or revenue record as a permanent tenant in respect of any land

(a) on the date of the commencement of this Act, or

(b) in pursuance of orders issued during the course of any proceedings under the Code,

(i) before the commencement of this Act, or

(ii) after the commencement of this Act in cases in which inquiries were pending at the commencement of this Act, or

(c) in pursuance of an order issued by the Mamlatdar under sub-section (3).

(2) For the purposes of this Act, a person

(a) who on the date of the commencement of this Act, was holding any land and cultivating it personally, and

(b) who and whose predecessors-in-title, if any, were immediately before that date for such continuous period aggregating to a total continuous period of twelve years or more, holding the same land or any other land as a tenant under the same landlord and cultivating it personally, shall, unless it is proved by the landlord that he would not have been a permanent tenant on the basis of continued possession of the land under clause (b), be also deemed to be a permanent tenant of the land.

(3) The rights of a permanent tenant under this section shall be entered in the record of rights unless the landlord applies in writing to the Mamlatdar within six months from the date of the commencement of this Act for a declaration that any tenant under him is not a permanent tenant, and the application is allowed.]

8. Record of rights of ordinary tenants :-

.

(1) As soon as may be after this act comes into force the ¹[Mamlatdar] shall cause a list of persons, other than ²[permanent tenants,] who are deemed to be tenants under sub-section (1) of section 6 to be prepared for entry in the Record of Rights in accordance with the provisions of ³[Chapter X-A] of the Code.

(2) After such list is prepared it shall be published in the prescribed manner and if no application is made by the landlord or the tenant

or any other person interested within a period of six months of the date of such publication disputing the correctness or omission of any entry, such list shall be final.

(3) If an application is made to the ¹[Mamlatdar] by the landlord or the tenant or any other person interested in the prescribed manner within the aforesaid period, disputing the correctness or omission of such entry, the ¹[Mamlatdar] shall decide the dispute in accordance with the provisions of sub-section (2) of section 100 of this Act and such decision subject to appeal or revision under this Act shall, ⁶[* * * *] be final.

(4) In deciding the question referred to in sub-section (3), the ¹[Mamlatdar] shall, notwithstanding anything contained in section 92 of the Indian Evidence Act, 1872 (I of 1872. XVI of 1908), or in section 49 of the Indian Registration Act, 1908, or in any other law for the time being in force, have power to inquire into and determine the real nature of the transaction and shall be at liberty, notwithstanding anything contained in any law as aforesaid, to admit evidence of any oral agreement or a statement or unregistered document with a view to such determination.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

2. these words were substituted for the words "occupancy tenants and protected lessees" *ibid.*, Clause 5(1)(a).

3. The word, figure and letter were substituted for the word and figures "Chapter IX" *ibid.*, Clause 5(1)(b).

6. The words "notwithstanding section 106 of the Code" were deleted, *ibid.*, Clause 5 (2).

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

. No tenancy of any land ¹ [(other than a tenancy created with the previous sanction of the collector under section 73AA of the Bombay Land Revenue Code, 1879)] shall be terminated merely on the ground that the period fixed for its duration whether by agreement or otherwise has expired.

1. Ins. by Guj. 37 of 1980 [1-2-1981].

10. Restoration of possession to tenants dispossessed after 1st January 1953 in certain circumstances :-

.

(1) A person who or whose predecessor-in-title held land as ¹[tenant or protected tenant within the meaning of the Bombay Tenancy and Agricultural Lands Act, 1948 Bom. LXV II of 1948, as extended to the Kutch area of the ²[State of Gujarat] on the 1st day of January, 1953], and who has subsequently been dispossessed by a surrender of tenancy before the date of the commencement of this Act ³[* * * *] may, within a period of one year from the date of such commencement apply to the ⁴[Mamlatdar] for the restoration of his tenancy on the same terms and conditions on which he held the land before such surrender unless the land has been put to a non-agricultural use on or before the appointed day.

(2) On receipt of such application the ⁴[Mamlatdar] shall enquire into the circumstances in which and the procedure under which such dispossession took place and if he is satisfied that such dispossession took place as a result of surrender and the consent of the tenant was procured by fraud, deceit, false representation or undue influence or pressure of any kind whatsoever or was otherwise in contravention of the provisions of the law applicable for the time being, he shall order the restoration of the possession of the land and the tenancy thereof to the tenant.

(3) Sub-sections (1) and (2) shall have effect notwithstanding that another person may be in possession of the land as ⁶ [* * *] a tenant or otherwise, and where such other person is so in possession he shall be liable to be evicted.

1. These words were substituted for the words "tenant or protected lessee on the 1st day of January 1953", *ibid.*, Clause 6 (1).

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

3. The words "and such surrender has not been verified in the manner prescribed in sub-section (2) of section 6 of the Berar Regulation of Agricultural Leases Act, 1951 or sub-section (2) of section 177 of the Code", *ibid.*, Clause 6 (1).

4. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

6. The words "a protected lessee or" were deleted, *ibid.*, Clause 6(2).

11. Maximum Rent :-

. Notwithstanding any agreement, or usage or any decree or order of a court or any law, the maximum rent payable by a tenant shall not exceed

¹[(a) four times the full assessment levied or leviable under the code in respect of the land; or

(b) the existing rent in respect of the land; whichever is less]

²[Explanation. For the purpose of this section existing rent means the rent which was payable by the tenant in respect of the land immediately before the commencement of this Act, whether by custom, usage, agreement of the decree or order of a court or under the Bombay Tenancy and Agricultural Lands Act, 1948 Bom. LXV II of 1948, as extended to the Kutch area of the ³ [State of Gujarat].

1. Clauses (a) and (b) were substituted for the original, *ibid.*, Clause 7(1).

2. The Explanation was added, *ibid.*, Clause 7 (2).

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

12. Rent :-

. The rent payable by a tenant shall, subject to the maximum fixed under section 11, be the rent agreed upon between such tenant and his landlord or in the absence of any such agreement the rent payable according to the usage of the locality or if there is no such agreement or usage, or where there is a dispute as regards the reasonableness of the rent payable according to such agreement or usage, the reasonable rent determined by the ¹[Mamlatdar] in the prescribed manner having regard to the rents prevalent in the locality, the productivity of the land, the prices of commodities and such other factors as may be prescribed :

Provided that the ²[Mamlatdar] may after inquiry on an application by the tenant or landlord at any time during the currency of the tenancy:

(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) subject to the provisions of ³ [clause (a) of section 11,] 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.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

2. The word "Mamlatdar" was substituted for the word "Tahsildar" by Sch. III, Clause 1.

3. These words, brackets and letter and figures were substituted for word and figures "section 11", *ibid.*, Clause 8.

13. Communication of rent in crop share into cash rent :-

.

(1) ¹[Save as otherwise provided in sub-section (3), a tenant] who pays rent in crop share or a landlord to whom the rent is so payable may at any time apply to the ²[Mamlatdar] for commuting the same into cash rent. Such application shall be made in such form as may be prescribed.

(2) On receipt of an application under sub-section (1), the ²[Mamlatdar] shall after holding an inquiry commute such rent into cash, subject to the provisions of section 11, by an order in writing and after such commutation no rent shall be recoverable in crop share.

⁴[(3)

(a) If a tenant, who pays rent in crop share, is willing to pay rent in cash at the relevant maximum rate specified in section 11, he may, after giving to the landlord an intimation in writing in that behalf and sending a copy of such intimation to the ² [Mamlatdar], pay to the landlord rent in cash at the relevant maximum rate, in lieu of rent in crop share.

(b) Once a tenant pays rent in cash under clause (a), the rent in crop share shall be deemed to have been commuted into cash rent and no rent shall thereafter be recoverable in crop share.]

1. These words, brackets and figure were substituted for the words "A tenant" by Bom. 4 of 1960, s.3(1).

2. The word "Mamlatdar" was substituted for the word "Tahsildar"

by Sch. III, Clause 1.

4. Sub-section (3) was inserted, *ibid.*, s. 3(2).

14. Prohibition for receiving rent in terms of service of labour :-

.

(1) Any landlord receiving rent from any tenant in terms of service or labour shall within twelve months from the date of the coming into force of this Act apply to ¹[Mamlatdar] for commuting such rent into cash. Such application shall be made in such form as may be prescribed.

(2) On receipt of an application under sub-section (1), the ²[Mamlatdar] shall after holding an inquiry by order in writing commute such rent into cash rent subject to the provisions of section 11.

(3) Notwithstanding anything contained in any agreement, usage, decree or order of a court or any law no landlord or person on behalf of the landlord shall recover or receive rent in terms of service or labour after a period of twelve months from the date of the coming into force of the Act.

1. The word "Mamlatdar" was substituted for the word "Tahsildar" by Sch. III, Clause I.

2. This word was substituted for the word "Tahsildar" by Sch. III, Clause I.

15. Refund of rent recovered on contravention of provisions of the Act and other penalties :-

. If any landlord or any person on his behalf recovers rent from any tenant in contravention of the provisions of section 11, 12, 13 or 14 the landlord 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 ¹[Mamlatdar] in this behalf and shall also be liable to such penalty as may be prescribed by rules made under this Act.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause I.

16. Abolition of all cesses etc :-

. 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.

17. Liability of tenants to pay land and canal revenue and cesses :-

.
(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 tenant
(a) the land revenue in accordance with the provisions of the Code:
¹[(b * * * * *)]
²[(c) the cess levied under section 93 of the Bombay Local Boards Act, 1923 as extended to the Kutch area of the ³[State of Gujarat];]
⁴ [(d) the cess levied under section 127 of the Bombay Village Panchayats Act, 1958];
(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 12, 13 or 14 as the case may be, for any year exceeds the value of one-sixth of the produce of such land in that year as determined in the prescribed manner 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 deductions.
(3) Nothing in sub-sections (1) and (2) shall apply to any lands held by a tenant in a scheduled area.

1. Clause (b) was deleted, *ibid.*, Clause 9 (i).

2. Clause (c) was substituted *ibid.*, Clause 9 (ii).

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

4. Clause (d) was substituted for the original by Bom. 4 of 1960, s.

4.

18. Suspensions or remissions of rent :-

.

(1) Notwithstanding anything contained in ¹[section 84-A] of the Code 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 land in the same proportion.

(2) If no land revenue is payable to Government in respect of such land and if from any cause, the payment of the whole or any part of the land revenue payable to Government in respect of any other land in the neighbourhood of such land has been suspended or remitted, the Collector shall, subject to the general or special orders of Government, in the manner provided in sub- section (1) suspend or remit as the case may be, the payment to the landlord of the rent or part of it due in respect of such land.

(3) ²[No application for assistance under section 86 and 87 of the Code 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 proceedings for the recovery of such rent.

³[(3A) Notwithstanding anything contained in sections 86 and 87 of the code, the Collector shall in passing an order under sub- section (2) of section 87 of the 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 84-A of the 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 proceeding of the date the application made under section 86 of the Code.]

(4) If the 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 ⁴[Mamlatdar] for the recovery of the amount and the ⁴ [Mamlatdar] may after making an inquiry make an order for the refund.

1. These words, figures and letter were substituted for the word and figures "section 132" by Sch. III, Clause 10(1).

2. These words were substituted for the words "No suit shall lie", *ibid.*, Clause 10(2).

3. Sub-section (3A) was inserted, *ibid.*, Clause 10(3).

4. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

19. Termination of tenancy :-

. Notwithstanding any agreement, usage, decree or order of a court of law, the tenancy of any land held by a tenant shall not be terminated

(I) unless such tenant

(a)

(i) has failed to pay in any year, before the 31st day of March of that year, the rent of such land for that year, or

(ii) if an application for the determination of reasonable rent is pending before the ¹[Mamlatdar] under section 12, has failed to deposit within thirty days from the aforesaid date with the ¹[Mamlatdar], a sum equal to the amount of rent which he would have been liable to pay for that year if no such application had been made, or

(iii) in case the reasonable rent determined under section 12 is higher than the sum deposited by him, has failed to pay the balance due from him within two months from the date of the decisions of the ¹[Mamlatdar]:

(b) has done any act which is destructive or permanently injurious to the land;

(c) had sub-divided the land in contravention of section 33;

(d) has sub-let ⁴[or assigned] the land or failed to cultivate it personally; or

(e) has used such land for a purpose other than agriculture ⁵[or allied pursuits;] and

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

(2) Notwithstanding anything contained in sub-section (1), the tenancy of any land held by a tenant who is a widow or a minor or who is subject to physical or mental disability or who is a serving member of the armed forces shall not be liable to be terminated under the said sub-section only on the ground that such land had been sub-let on behalf of the said tenant.

⁶ [(3) Nothing in sub-section (1) shall apply to the tenant 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.]

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

4. These words were inserted by Bom. 4 of 1960, s. 5(i).

5. These words were inserted, *ibid.*, s. 5(ii).

6. Sub-section (3) was inserted by Sch. III, Clause 11.

20. Termination of tenancy by surrender thereof :-

. A tenant may terminate the tenancy at any time by surrendering his interest as a tenant in favour of the landlord:

Provided that such surrender shall be in writing and shall be verified before the ¹ [Mamlatdar] in the prescribed manner.]

1. This word was substituted for the word "Tahsildar", *ibid.*, Clause 1.

21. Land or portion thereof which landlord is not entitled to retain on surrender to be declared as surplus :-

(1) Subject to the provisions of this section, where a tenancy is terminated by surrender under section 20, the landlord shall be entitled to retain so much only of such land as will prevent the total area which he cultivates personally, whether as tenure-holder or tenant, or both from exceeding three family holdings.

(2) The ¹[Mamlatdar] shall hold an inquiry and declare whether the whole or what part (if any) of the land surrendered the landlord is entitled to retain under suo-section (1), and Notwithstanding anything in that sub-section, he may adjust by reduction or increase the area of any such part to be retained, but only so as to ensure that such part is not a fragment. The ¹[Mamlatdar] shall declare any land

(3) In respect of a surrender made by a tenant any time during the period commencing from the first day of August, 1957, and ending on the date of the commencement of this Act, the landlord who had obtained possession of the land as a result of such surrender shall within three months from the date of the commencement of this Act, intimate the fact of such surrender in the prescribed manner and in the prescribed form to the ¹[Mamlatdar].

(4) On receipt of such intimation the ¹[Mamlatdar] shall, Notwithstanding anything contained in section 10, hold an inquiry and decide whether the surrender has been made validly in accordance with the law then applicable to such surrender and where the surrender is found to have been made validly, the ⁵[Mamlatdar] shall decide the extent of land which the landlord shall be allowed to retain in his possession in accordance with the provisions of sub-section (2) as if the surrender had taken place after the commencement of this Act and shall declare any land surrendered, which the landlord is not entitled to retain under the provisions aforesaid, to be surplus land.

(5) Where the landlord fails to give intimation as required under sub-section (3) or where the surrender is found to be invalid as a result of the inquiry held under sub-section (4), the ² [Mamlatdar] shall order the restoration of the possession of the land and the tenancy thereof to the tenant.

1. This word was substituted for the word "Tahsildar", ibid., Clause 1.

5. This word was substituted for the word "Tahsildar", by Sch. III, Clause 1.

22. 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 three defaults in the payment of rent, if any, which he has been paying for the use and occupation of such site.

(2) The Provisions of sub-section (1) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture from which the tenant has been evicted under section 38¹ [*].

1. The word and figures "or 39" were deleted, *ibid.*, Clause 12.

23. 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 22 belongs intends to sell such site, the tenant at the expense of whom or whose predecessor-in-title, a dwelling house is built thereon shall be given in the manner provided in sub-section (2) 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. The Tribunal may, by an order in writing, require the tenant to deposit the amount of value of such site within three months 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 unless he expresses such willingness before the ¹ [Mamlatdar] under section 36 and deposits with him the amount of the value within the prescribed period 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 invalid.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

24. Power to apply section 22 and 23 to dwelling houses occupied by agricultural labourers etc :-

. The State Government may, by notification in the Official Gazette, direct that the provisions of section 22 and 23 shall apply

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

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

25. 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 ¹ [Mamlatdar]:

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

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

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

26. Right to produce of naturally growing trees :-

.

(1) If the landlord had any right to the trees naturally growing on the land held by his tenant, the tenant shall during the continuance of his tenancy be entitled to two-thirds of the total produce of such trees, 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 ¹[Mamlatdar]. Such application shall be made in such form as may be prescribed.

(3) On receipt of such application, the ¹ [Mamlatdar] shall, after holding an inquiry, pass such order thereon as he deems fit.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

27. Tenants responsible for maintenance of boundary marks :-

.

. Notwithstanding anything contained in ¹ [section 123] of the Code, the responsibility for the maintenance and good repair of the boundary marks of the land land held by tenant and any charges reasonably incurred on account of service revenue officers in case of alteration, removal or disrepair of such boundry mark shall be upon the tenant.

1. These word and figures were substituted for the word and figures "section 119", ibid., Clause 13.

28. 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 by an order

in writing direct that the construction, maintenance or repairs shall be carried out by such persons as may be specified in the order and the costs 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 ¹ [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 tenants 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.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

29. 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 had 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.

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

.
(1) Where any tenancy of any land held by any tenant is terminated for non-payment of rent and the landlord files any proceeding to eject the tenant, the ¹[Mamlatdar] shall call upon the tenant to tender to the landlord the rent in arrears together with the costs of the proceeding, within three months from the date of the order, and if the tenant complies with such order, the

¹[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 ¹[Mamlatdar] is satisfied that in consequence of total or partial failure of crops or similar calamity the tenant has been unable to pay the ¹ [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 has been terminated for non-payment of rent, if such tenant 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.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

31. 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.

32. 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 is received in respect of any land by a landlord or by a person on behalf of such landlord or, at 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.

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

- .
- (1) No subdivision or sub-letting of the land held by a tenant or assignment of any interest therein shall be valid :
Provided 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, namely:
 - (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 shares, it shall be decided by the ¹[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 ² [or in consideration of a loan advanced
- (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.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

2. These words were added by Sch. III, Clause 14.

34. Bar to attachment, seizure or sale by process of court :-

. Save as expressly provided in this Act or as provided in ¹ [the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925) or the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVIII of 1947)], for the recovery of loans permitted under section 33, 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.

1. These words and figures were substituted for the words and figures "the Co-operative Societies Act, 1912" by Sch. III, Clause 15.

35. Where land is sold for recovery of loan advanced under any law the right of tenant to stand extinguished :-

. Notwithstanding anything contained in this Act where any land is attached and sold for the recovery of any loan advanced before the commencement of ¹ [the Bombay Tenancy and Agricultural Lands Act, 1948 as extended to the Kutch area of the ² [State of Gujarat]] under the Land Improvement Loans Act, 1883 (XIX of 1883) or the Agriculturists Loans Act, 1884 (XII of 1884), the right of any person as a tenant of such land shall stand extinguished.

1. These words and figures were substituted for the words and figures beginning with the words "the Berar Regulation" and ending with the word "Bhandra", *ibid.*, Clause 16.
2. These words were substituted for the words "State of Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

36. Procedure of taking possession :-

.

(1) A tenant or an agricultural labourer or artisen entitled to possession of any land or dwelling house or site used for any allied pursuit under any of the provisions of this Act or as a result of eviction in contravention of sub-section (2) may apply in writing for such possession to the ¹[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, dwelling house or site is deemed to have accrued to the tenant, agricultural labourer or artisan, as the case may be.

(2) ²[Save as otherwise provided in sub-section (3-A), no landlord] shall obtain possession of any land, dwelling house or site used for any allied pursuit held by a tenant except under as order of the ³[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, dwelling house or site, as the case may be, is deemed to have accrued to him :

Provided that in cases where a notice has been given under section 38, such application shall be made within two months from the date of the expiry of such notice.

(3) On receipt of an application under sub-section (1) or (2), the ³[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 38, the ³[Mamlatdar] may first decide as preliminary issues, whether the conditions specified in clauses (c) and (d) of sub-section (3) and clauses (b), (c) and (d) of sub-section (4) of that section are satisfied. If the ³[Mamlatdar] finds that any of the said conditions are not satisfied, he shall reject the application forthwith.

⁷[(3A) Where a landlord proceeds for termination of the tenancy

under sub-section (1) of section 57B, 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, dwelling house or site used for any allied pursuit except in accordance with the provisions of ⁸[sub-section (1), (2), or as the case may be (3A)] shall be liable to forfeiture of crops, if any, grown in the land in addition to payment of costs as may be directed by the ⁹[Mamlatdar] or by the Collector and also to the penalty prescribed in section 117.

1. This word was substituted for the word "Tahsildar", ibid., Clause 1.

2. These words, brackets, figures and letter were substituted for the words "No landlord" by Guj. 24 of 1965, s. 13(1).

3. This word was substituted for the word "Tahsildar", by Sch. III, Clause 1.

7. Sub-section (3A) was inserted by Guj. 24 of 1965, s. 13 (2).

8. These words brackets, figures and letter were substituted for words, brackets and figures "sub-section (1) or (2), as the case may be" ibid., s. 13(3).

9. This word was substituted for the word "Tahsildar", by Sch. III, Clause 1.

37. Rights and privileges of tenants not to be affected :-

. Save as provided in this Act, the rights and privileges of any tenant under any 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 TERMINATION OF TENANCIES BY LANDLORDS AND SPECIAL RIGHTS OF TENANTS

38. Termination of tenancy by landlord for cultivating land personally :-

.

(1) Notwithstanding anything contained in section 9 or 19 but

subject to the provisions of sub-sections (2) to (5), a ¹[landlord (not being a landlord within the meaning of Chapter III-A) may] after giving to the tenant one years notice in writing at any time within two years from the commencement of this Act and making an application for possession as provided in sub-section (2) of section 36 terminate the tenancy of the land held by a tenant other than ²[a permanent tenant] if he bonafide requires the land for cultivating it personally.

(2) Where the landlord is of the following category, namely :

(a) a minor,

(b) a widow, ³[* * * * *], or

(d) a person subject to any physical or mental disability, then, if he has not given a notice and made an application as required by sub-section (1), 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; ⁴[* * * * *]

(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 widows 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 that sub-section unless the share of such person in the joint family has been separated by metes and bounds before the prescribed date and the ⁵[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 :

Provided further that where land is held by two or more joint landlords, the provisions of this sub-section shall not apply if at least one joint holder is outside the categories specified in clauses (a) to (d) of this sub-section.

(3) The right of a landlord to terminate a tenancy under sub-section (1) shall be subject to the following conditions, namely:

(a) If the landlord at the date on which the notice is given and on the date on which it expires has no other land of his own or has not been cultivating personally any other land, he shall be entitled to

take possession of the land leased to the extent of three family holdings.

(b) If the land cultivated by him personally is less than three family holdings, 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 three family holdings.

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

(d) The land leased stands in the record of rights or in any public record or similar revenue record on the 1st day of August, 1957 and thereafter during the period between the said date and the date of the commencement of this Act in the name of the landlord himself or any of his ancestors ⁶[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 member of a joint family, in the name of a member of such family.

(e) If more tenancies than one are held under the same landlord, then the landlord shall be competent to terminate only the tenancy or tenancies which the entire land leased by him,

(4) In no case a tenancy shall be terminated

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

Provided that where the land held by a landlord as ⁷[owner] does not exceed one-third of a family holding, and the landlord does not cultivate personally any other land as a tenant or cultivates personally only so much land as would not alongwith the land held by him as ⁷[owner] exceed one-third of a family holding, he shall be entitled to resume for personal cultivation, the entire land leased by him.

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

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

(d) if the tenant is a co-operative farming society.

(5) 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 bonafide requires that land for personal cultivation.

(6) 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. ⁹ [* * * * *]

1. These words, brackets, figures and letter were substituted for the words "landlord may", by Guj. 24 of 1965, s. 14(1).

2. These words were substituted for the words "an occupancy tenant" by Sch. III, Clause 17.

3. Clause (c) was deleted by Guj. 24 of 1965, s. 14(2)(i).

4. Item (ii) of paragraph (A) was deleted, ibid., s. 14(2)(ii).

5. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

6. These words shall be and shall be deemed always to have been inserted by Bom. 4 of 1960, s.6.

7. This word was substituted for the words "tenure-holder", by Sch. III, Clause 17.

9. Sub-section (7) was deleted by Sch. III, Clause 17.

39. . :-

¹ [*****]

1. Section 39 was deleted, ibid., Clause 18.

40. Provisions of section 38 not to affect right of tenant to purchase land :-

.

(1) Nothing in section 38 shall be deemed to affect the right of a tenant to purchase under section 41 land held-by him as tenant: Provided that where the tenant makes an offer to the landlord under section 43 in respect of such land, the landlord may, within three months from the date of receipt of such offer, select the land for cultivating personally and give an intimation in writing to the tenant of his intention to terminate the tenancy of such land :

Provided further that the landlords right to terminate the tenancy shall be subject to the provisions of section 38.

(2) The question whether the landlord is entitled to terminate the tenancy of the land in preference to the right of the tenant to

purchase such land shall be decided by the ¹ [Mamlatdar].

1. This word was substituted for the word "Tahsildar", ibid., Clause 1.

41. Right of tenant to purchase land :-

.

(1) Notwithstanding anything to the contrary in any law, usage or contract but subject to the provisions of sections 42 to 44 (both inclusive) a tenant ¹[****] shall, in the case of land held by him as a tenant, be entitled to purchase from the landlord the land held by him as a tenant and cultivated by him personally ²[unless the land is held by him as a tenant from a landlord to whom the provisions of Chapter III-A are applicable.]

(2) Where the landlord is of the following category, namely :

(a) a minor,

(b) a widow, ³[* * * * *,] or

(d) a person subject to any physical or mental disability, such tenant shall be entitled to purchase the landlords interest under this section after the expiry of two years from the date on which

(i) the landlord of category (a) attains majority,

(ii) ⁴[* * * * *]

(iii) the landlord of category (d) ceases to be subject to such disability, and

(iv) the interest of the landlord of category (b) in the land ceases to exist:

Provided that where land is held by the tenant under two or more joint landlords, this sub-section shall not apply if at least one joint landlord is outside the categories specified in ⁵[clauses (a), (b) and (d)] of this sub-section :

Provided further that where a person of any such category is a member of a joint family this sub-section shall not apply, if at least one member of the joint family is outside such categories, unless the share of such person in the joint family has been separated by metes and bounds before the prescribed date and the ⁶ [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 larger proportion.

(3) Nothing in section 91 shall affect the right of a tenant to

purchase under this section the land held by him on lease.

1. The words "other than an occupancy tenant" were deleted, *ibid.*, Clause 19.
2. These words, figure and letters were inserted by Guj. 24 of 1965, s. 15(1).
3. Clause (c) and item (ii) were deleted by Guj. 24 of 1965, s. 15 (2) (a).
4. Clause (c) and item (ii) were deleted by Guj. 24 of 1965, s. 15 (2) (a).
5. These words, brackets and letters were substituted for the words, brackets and letters, "clauses (a) to (d)" *ibid.*, s. 15(2)(b).
6. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

42. Extent of land which tenant may purchase under section 41 :-

. The right of a tenant under section 41 to purchase from his landlord the land held by him as a tenant shall be subject to the following conditions, namely :

- (a) if the tenant does not hold and cultivate personally any land, as ¹[an owner] the purchase of the land by him shall be limited to the extent of three family holdings;
- (b) if the tenant holds and cultivates personally any land as ¹[an owner] the purchase of the land by him shall be limited to such area as will be sufficient to make up the area of the land held by him as ¹ [an owner] to the extent of three family holdings;
- (c) the extent of the land remaining with the landlord after the purchase of the land by the tenant whether to cultivate personally or otherwise shall not be less than one family holding.

1. These words were substituted for the words "a tenure-holder" *ibid.*, Clause 20.

43. Tenant to make an offer, determination of purchase price, mode of payment, etc :-

.

(1) ¹[

(a) A tenant who desires to exercise the right conferred

(i) in the case of a permanent tenant an amount equal to six times the rent and in the case of any other tenant an amount not exceeding twelve times the rent, payable by the tenant; and
(ii) the depreciated value of any structures, wells and embankments constructed and permanent fixtures made and the value of any trees planted on the land by the landlord during the period of thirty years before the commencement of this Act, if the purchase is by a tenant other than a permanent tenant, and
(iii) the amount of the arrears of rent, if any, lawfully due on the day on which the offer is made.]

(b) Where the tenant is entitled to purchase a part of the land held by him as tenant, he shall, subject to the rules made by the State Government in this behalf, choose the area and location of the land to be purchased from the landlord and state in the offer the part which he has so chosen for being purchased :

Provided that the land so chosen shall not, as far as may be practicable, be other than a survey number of a sub-division of a survey number.

(2) If the landlord refuses or fails to accept the offer and to execute the sale deed within three months from the date of offer, the tenant may apply to the Tribunal for the determination of the reasonable price of the land.

²[(3) The Tribunal shall, after giving an opportunity to the tenant and the landlord and all other persons interested in such land to be heard and after holding an inquiry, determine the purchase price of such land, which shall consist of

³[(a) in the case of a permanent tenant an amount equal to six times the rent and in the case of any other other tenant an amount not exceeding twelve times the rent, payable by the tenant,

(aa) the depreciated value of any structures, wells and embankments constructed and permanent fixtures made and the value of any trees planted on the land by the landlord during the period of thirty years before the commencement of this Act, if the purchase is by a tenant other than a permanent tenant, and]

(b) the amount of the arrears of rent, if any, determined by the Tribunal as lawfully due on the date on which the tenant has made an application under sub-section (2).]

⁴[(4) On the determination of the purchase price under sub-section (3) 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 instalments not exceeding twelve with simple interest, at the rate of 4-1/2 per cent, per annum on or before such date, as may be fixed by the Tribunal; and the Tribunal shall direct that the amount deposited in lump sum or the amount of instalments deposited shall subject to the provisions of section 44 be paid to the landlord.]

(5) ⁵[If a tenant referred to in clause (ii) of sub-section (4)] is unable to deposit with the Tribunal ⁶[the purchase price] in lump sum within the period fixed by the Tribunal, the tenant may deposit with the Tribunal within the said period an amount equal to one-twelfth of ⁶[the purchase price] and the interest for one year at the rate of 4-12 per cent, per annum on the balance amount of the ⁶[the purchase price] and apply to the Tribunal for the facility of payment of ⁶[the purchase price] in instalments. On such deposit being made the facility shall be granted by the Tribunal.

(6) During any period for which payment of rent is suspended or remitted under section 18, 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.

(7) Where a tenant is in arrears of four instalments, he may within in period of three months from the date of the default of the last instalment apply to the Tribunal to condone the default on the ground that he, for reasons, beyond his control was incapable of paying the instalments and if the Tribunal, after holding such inquiry as it may think fit, is so satisfied, the Tribunal may allow further time for the payment of the arrears and may for that purpose increase the number of instalments to sixteen.

(8) On the deposit of ⁶[the purchase 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.

(9) If the tenant fails to pay ¹¹[the entire amount of the purchase price] within the period fixed under sub-section (4) or (7) or is in

arrears of four instalments under sub-section (4) or (7) the amount of the purchase price remaining unpaid and the amount of the interest thereon, if any, shall be recoverable as arrears of land revenue and on such recovery the Tribunal shall issue the aforesaid certificate.

(10) In the event of failure of recovery as arrears of land revenue under sub-section (9) the purchase shall not be effective and the amount deposited by the tenant shall be refunded to him after deducting the rent due from him for the period :

Provided that if the land is situated in a scheduled area the tenant shall also be refunded the amounts of land revenue and the cesses referred to in clauses (c) and (d) of sub-section (1) of section 17 paid by him.

(11) Until the deposit of the entire amount is made in lump sum or until the year in which the first instalment becomes payable in liability of the tenant to pay the rent due in respect of the land shall continue and shall not be affected. The tenant holding land in a Scheduled area shall be liable to pay the land revenue, ¹²[* *] and other cesses referred to in section 17 due in respect of the land on deposit of the entire amount or from the year in which the first instalment thereof becomes payable.

(12) 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.

(13) If within three months from the date of which the purchase of any land has become ineffective or such further period not exceeding one year as may be allowed by the Tribunal having regard to the total amount refundable to the tenant the landlord fails to refund to the tenant the amount paid after deducting any rent due to him, it shall be recoverable from him as an arrear of land revenue and paid to the tenant.

¹³ [(14) * * * * *]

(15) If at any time after the purchase of land under this section 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 declared as surplus land.

1. Clause (a) of sub-section (1) of section 43 was substituted for the original, *ibid.*, Clause 21(1)

2. Sub-section (3) was substituted for the original by Bom. 4 of

1960, s. 7(1).

3. Clauses (a) and (aa) were substituted by Bom. 4 of 1960, sec. 21(2)(ii).

4. Sub-section (4) was substituted for the original by Sch. III, Clause 21(2).

5. These words, brackets and figures were substituted for the words "If such tenant" *ibid.*, Clause 21 (3).

6. These words were substituted for the words "the price" by Bom. 4 of 1960, s. 7 (3).

11. These words were substituted for the words "the entire amount of the price and the arrears of rent" *ibid.*, s. 7(4).

12. The words "canal revenue" were deleted by Sch. III, Clause 21(4).

13. Sub-section (14) was deleted by Sch. III, Clause 21 (5).

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

.

(1) During an inquiry held under sub-section (3) of section 43, the Tribunal shall determine any encumbrances lawfully subsisting on the land on the date of the application made by the tenant under sub-section (2) of that section

(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 towards the payment of the encumbrances :

Provided that where under any agreement, award, the decree or order of a court or any law, the amount of the encumbrances is recoverable in instalments, the Tribunal shall deduct such amount as it deems reasonable from the instalments so payable.

(b) If the total amount of the encumbrances is more than the amount so determined, the purchase price in lump sum or the instalments, as the case may be, shall be distributed in the order of

priority. If any person has a right to receive maintenance or alimony from the profits of the land, the Tribunal shall also make deductions for payment out of the purchase price.

(3) If such question involves any question of law regarding the validity of the encumbrance or the claim of the holder of the encumbrance or any question regarding the amount due in respect of the encumbrances, then notwithstanding anything contained in section 124, the Tribunal shall in the manner prescribed refer the question for decision to the ¹ [Subordinate 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 by 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.

1. These words were substituted for the words "Civil Judge" by Sch. III, Clause 22.

45. . :-

1 [* * * * *].

1. Section 45 was deleted ibid., Clause 23.

46. Transfer of ownership of land to tenants from specified date :-

.

(1) Notwithstanding anything in this Chapter or any law for the time being in force or any custom, usage, decree, contract, or grant to the contrary, with effect on and from the first day of April 1961, the ownership of all lands held by tenants which they are entitled to purchase from their landlords under any of the provisions of this Chapter shall stand transferred to and vest in, such tenants and from such date such tenants shall be deemed to be the full owners of such lands :

Provided that if no such date any such tenant is of the following category, namely:

(a) a minor,

- (b) a widow,
- (c) a serving member of the armed forces, or
- (d) a person subject to any physical or mental disability, the ownership of the land shall stand transferred
- (i) to the tenant on the expiry of one year from the date on which the tenant of category (a) attains majority, the tenant of category (c) ceases to serve in such force, the tenant of category (d) ceases to be subject to such disability; and
- (ii) in the case of a widow to her successor-in-title on the expiry of one year from the date on which the widow's interest in the land ceases to exist:

Provided further that where in respect of any such land, any proceeding under section 19, 20, 21, 36 or 38 is pending on the date specified in sub-section (1) the transfer of ownership of such land shall take effect on the date on which such proceeding is finally decided and the tenant retain possession of the land in accordance with the decision in such proceeding.

(2) In respect of the land the ownership of which stands transferred to and vests in a tenant under sub-section (1) the tenant shall continue to be liable to pay to the landlord the rent of such land until the amount of the purchase price payable by the tenant to the landlord is determined under section 48.

47. Purchase price :-

. In respect of any land, the ownership of which stands transferred to or vests in the tenant under section 46, the tenant shall pay to the landlord the price of the land which shall be reckoned as follows :

¹ [(1) The aggregate shall be taken of the following amounts, that is to say,

- (i) an amount equal to six times the rent of the land in the case of a permanent tenant and not exceeding twelve times the rent in the case of any other tenant;
- (ii) the amount of the arrears of rent, if any, lawfully due on the date on which the ownership of the land stands transferred to the tenant under section 46;
- (iii) the depreciated value of any structures, wells and embankments constructed and other permanent fixtures made and trees planted by the landlord on the land during the period of thirty years before the commencement of this Act, if the purchase is by a tenant other than a permanent tenant;

(iv) the amounts, if any, paid by or recovered from the landlord as land revenue and cesses referred to in sub-section 91) of section 17 in the event of the failure on the part of the tenant to pay the same.]

(2) Where a tenant to whom sub-section (3) of section 17 applies, has after the commencement of this Act, 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 amounts so paid by the tenant until the date of the determination of the purchase price shall be deducted from the aggregate of the amount determined under clause (1).

(3)

(a) On the aggregate amount arrived at in accordance with the provisions of clauses (1) and (2) there shall be calculated interest at 4-1/2 per cent, per annum for the period between the the date on which the ownership of the land stands transferred to and vests in the tenant under section 46 and the date of the determination of the purchase price.

(b)

(i) The amount of interest so calculated shall be added to the aggregate amount so arrived at, 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 aggregate amount so arrived at.

1. Sub-section (1) was substituted for the original by Sch. III, Clause 24.

48. Tribunal to determine the extent of land transferred to tenant and purchase price thereof :-

.

(1) As soon as may be after the date specified in

(a) all tenants to whom the ownership of land stands transferred under section 46.

(b) all landlords of such land, and

(c) all other persons interested therein; to appear before it on the date specified in the notice. The Tribunal shall also 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 thereupon hold an inquiry and determine in respect of each tenant

(a) the land which stands transferred to and vests in him under section 46, and

(b) the purchase price thereof, in accordance with section 47 :

Provided that where the purchase price in accordance with the provisions of section 47 is mutually agreed upon by the landlord and the tenant, the Tribunal after satisfying itself in such manner as may be prescribed that the tenants consent to the agreement is voluntary may make an order determining the purchase price and providing for its payment in accordance with such agreement.

49. Provisions of sections 43, 44 and 45, to apply to transfer of ownership under section 46 :-

. Save as provided in sub-section (2) of section 46, the provisions ¹ [of sub-sections (4) to (15) of section 43 as amended by clause 21 of Schedule III and section 44] shall mutatis mutandis apply to the transfer to ownership of land under section 46.

1. These words, brackets and figures were substituted for the words, brackets and figures beginning with the words "of sub-sections" and ending with the word and figures "section 45" by Sch. III, Clause 25.

50. Right of tenant holding land under tenancy created after specified date to purchase land :-

. In the case of a ¹ [tenancy created by the landlord (not being a landlord within the meaning of Chapter III-A)] in any area after the date specified in sub-section (1) of section 46, every tenant holding land under such tenancy and cultivating it personally shall be entitled to purchase within one year from the commencement of the tenancy so much of such land as he may be entitled to purchase under section 41 and the provisions of sections 41 to 44 (both inclusive) shall mutatis mutandis apply to such purchase.

1. These words, brackets, figure and letter were substituted for the words "tenancy created" by Guj. 24 of 1965, s. 16.

51. Rights 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 ¹[Mamlatdar] in the prescribed form for the exchange of their tenancies in respect of the lands held by them as tenants.

(2) On receipt of the application, the ¹[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 :

Provided that where as a result of the exchange the rights under this Act of the landlords of the lands to be exchanged are likely to be adversely affected the ¹[Mamlatdar] shall not sanction the exchange except with the consent of the respective landlords.

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

(4) Each of the two 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 ¹ [Mamlatdar].

(5) Nothing in the foregoing provisions of this section shall be deemed to authorise the exchange of tenancies between tenants who do not belong to the same class.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

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

.

(1) Where after terminating the tenancy of any land under ¹[section 34 of the Bombay Tenancy and Agricultural Lands Act, 1948 as extended to the Kutch area of the State of Bombay,] or under section 38 ²[* *] of this Act, the landlord has taken possession of such land and he fails to use the land for the purpose specified in the notice given under the said ³[section 34] or as the case may be, section 38 ²[* *] 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,

Provided that no refusal of the tenant shall be valid unless it has been verified before the ⁵[Mamlatdar] in the prescribed manner.

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

(3) If the landlord has failed to restore possession of the land to the tenant as provided in sub-section (1) he shall be liable to pay such compensation to the tenant as may be determined by the ⁴[Mamlatdar] for the loss suffered by the tenant on account of eviction.

(4) If at any time the tenant makes an application to the ⁴[Mamlatdar] and satisfied him that the landlord has failed to comply within a reasonable time with the provisions of sub-section (1), the tenant shall be entitled on a direction by the ⁴[Mamlatdar] to obtain immediate possession of the land and to such compensation as may be awarded by the ⁴[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 sub-section (1).

¹⁰ [(5) 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 the purpose specified in the notice referred to in sub-section (1) and within the period specified in that sub-section.]

1. These words and figures were substituted for the words and figures "section 9 of the Berar Regulation of Agricultural Leases Act, 1951" by Sch. III, Clause 26.

2. The figures and word "or 39" were deleted by Sch. III, Clause 26.

3. These word and figures were substituted for the word and figure "section 9", *ibid.*, Clause 26.

5. This word was substituted for the word "Tahsildar" *ibid.*, Clause 1.

10. Sub-section (5) was added by Guj. 24 of 1965, s. 17.

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

. If a landlord after taking possession of the land after the termination of the tenancy under ¹[section 34] of the Bombay Tenancy and Agricultural Lands Act, 1948 as extended to the Kutch area of the ²[State of Gujarat] or under ³[section 38] ⁴ [* *] of this Act dies leaving as his heir a widow or a minor or a person who is subject to physical or mental disability such heir shall be deemed to cultivate the land personally, if such land is cultivated by her or his servants or by hired labour.

1. These words and figures were substituted for the words and figures "section 9 of the Berar Regulation of Agricultural Leases Act, 1951" by Sch. III, Clause 27.

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

3. These words and figures were substituted for the word and figures "section 38" by Bom. 4 of 1960, s. 8.

4. The word and figures "or 39" were deleted by Sch. III, Clause 27.

54. Rights of tenants to be heritable :-

.
(1) Where a tenant dies, the landlord shall be deemed to have continued the tenancy

(a) if such tenant was a member of an undivided Hindu family, to the surviving members of the said family, and

(b) if such tenant was not a member of an undivided Hindu family, to his heirs, on the same terms and conditions on which such tenant was holding at the time of his death.

(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.

(3) The interest of a ¹ [a permanent tenant] in his holding shall on his death pass by inheritance or survivorship in accordance with his personal law.

1. These words were substituted for the words "an occupancy tenant, ibid., Clause 28.

55. Compensation for improvement made by tenants :-

.

(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 ¹ [Mamlatdar] in the prescribed form.

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

1. This word was substituted for the word "Tahsildar", *ibid.*, Clause 1.

56. 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.

57. Restriction on transfers of land purchased or sold under this Act :-

.

(1) ¹[No land or any interest therein] purchased by a tenant under section 41 or 46 ²[or 57D] or 130 or sold to any person under section 91 or 122 ¹[shall be transferred or agreed by an instrument in writing to be transferred] by sale gift, exchange, mortgage, lease or assignment or partitioned without the previous sanction of the Collector. Such sanction shall be given by the Collector in such circumstances and subject to such conditions as may be prescribed

by the State Government.

⁴[(1A) 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 a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883 (19 of 1883), the 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 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 purposes 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, 1963 (10 of 1963).]

(2) ⁵ [Any transfer or partition, or any agreement of transfer of any land or interest therein] in contravention of sub-section (1) shall be invalid: Provided that nothing in this section shall apply to the lands purchased by an occupancy tenant:

1. Subs. by Guj. 30 of 1977.

2. Ins. by Guj. 24 of 1965.

4. Ins. by Prei. Act 37 of 1976.

5. Subs. by Guj. 30 of 1977.

CHAPTER 3A SPECIAL PROVISIONS FOR TERMINATION OF TENANCY BY LANDLORDS WHO ARE OR HAVE BEEN SERVING MEMBERS OF THE ARMED FORCES : AND FOR PURCHASE OF THEIR LANDS BY TENANTS

57A. Definition :-

. In this Chapter, unless the context requires otherwise "landlord" means a landlord 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, sons son, unmarried daughter, father or mother.

57B. Right of landlord to terminate 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 anytime after the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965, to terminate the tenancy of any land and obtain possession thereof, but

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

(b) where the landlord is a member of a joint family, only to the extent of his share in the land (not exceeding three family holdings) 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 36 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 Tenancy Law (Defence Personnel) (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 serving member of the armed forces; but the provisions of section 50 shall apply to such tenancy as they apply in relation to a tenancy created after the date referred to in sub-section (1) of section 46;

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

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

57C. Transfer of pending proceedings to Collector and State Government :-

. All proceedings for recovery or restoration of possession of land filed under section 38 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 57B or as the case may be, pending in revision before the State Government under section 106A and be disposed of accordingly.

57D. 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 42, be entitled to purchase from the landlord

(a) where the landlord fails to make an application as required by section 57B, 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 57B.

(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 57B; 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 57B; 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 section 43 and 44 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 41.

57E. Saving :-

. 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. 24 of 1965) is purchased by any tenant under the provisions of this Act.]

CHAPTER 4 SPECIAL PROVISIONS FOR LANDS HELD ON LEASE BY INDUSTRIAL OR COMMERCIAL UNDERTAKINGS AND BY CERTAIN PERSONS FOR THE CULTIVATION OF SUGARCANE AND OTHER NOTIFIED AGRICULTURAL PRODUCE

58. Some of the provisions not to apply to leases of land obtained by industrial or commercial undertakings, certain co-operative societies or for cultivation of sugarcane, fruits, flowers, etc :-

(1) The provisions of sections 9, 10, 11, 12, 13, 19, 22, 23, 24, 33, 38, ¹[*] 40, 41, to 50 (both inclusive), 57, 81 to 88, (both inclusive), 89, 90, 91, and 92 shall not apply to

(a) lands leased to or held by any industrial or commercial undertaking (other than a co-operative society) which in the opinion of the State Government bonafide carries on any industrial or commercial operations and which is approved by the State Government;

(b) land lease to or held by bodies or persons for coffee plantation approved by the State Government;

(c) leases of land granted to any bodies or persons other than those mentioned in clause (a) or (b) for the cultivation of sugarcane

or the growing of fruit trees or fruits or flowers or vegetable or betal leaves or for the breeding of livestock;

(d) 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 notification, the State Government shall direct an inquiry to be made by an officer authorised in this behalf by the State Government and shall give all persons who are likely to be affected by such notification, an opportunity to submit their objections.

(3) Notwithstanding anything contained in sub-section (1) and (2) it shall be lawful for the State Government to direct, by notification in the Official Gazette that the lease or lands, as the case may be, to which the provisions of sub-section (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 ² [* *], 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).

1. The figures "39" were deleted by Sch. III, Clause 29.

2. The words "Canal revenue" were deleted by Bom. 4 of 1960, s. 20(5).

59. Reasonable rent of land to which section 58 applies :-

. Notwithstanding any agreement usage, decree or order of a court or any other authority, in the case of any land to which section 58 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 ¹[Mamlatdar] for the determination of the reasonable rent in respect of such land.

(2) On receipt of such application, the ¹[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 ³[Mamlatdar] under clause (2) shall, with effect from the date specified by the ²[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.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

3. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

CHAPTER 5 SPECIAL PROVISIONS IN RESPECT OF AREAS WITHIN THE LIMITS OF A MUNICIPALITY

60. Certain provisions not to apply to municipal areas :-

. ¹[Nothing in sections 38 to 50 (both inclusive) and section 57 shall apply to lands in the areas within the limits of a municipal borough constituted under the Bombay Municipal Boroughs Act, 1925 as extended to the Kutch area of the ²[State of Gujarat]

Provided that, if any person has acquired any right under the Bombay Tenancy and Agricultural Lands Act, 1948 (Bom. LXVII of

1948) as extended to the Kutch area of the ² [State of Gujarat on or after the 10th May 1950, the said right shall not be deemed to have been affected by this section, save as provided in section 61.]

1. Section 60 was substituted for the original Sch. III, Clause 30.

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

61. Termination of tenancy :-

.

(1) In the areas specified in section 60 notwithstanding anything contained in section 38, a landlord may terminate the tenancy of a tenant other than ¹[a permanent tenant] 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 if the landlord bona fide 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 36 and 52 shall mutatis mutandis apply to the termination of the tenancy of a tenant in respect of any land under sub-section (1):

Provided that the tenant shall be entitled to get from the landlord a solatium equal to the difference between the market value of the land for agricultural purpose as may be determined by ² [Mamlatdar] having regard to the provisions of the Land Acquisition Act, 1894 (I of 1894), and the reasonable price of the land as may be determined by him under section 90.

1. These words were substituted for the words "an occupancy tenant" by Sch. III, Clause 31.

2. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

CHAPTER 6 MANAGEMENT OF HOLDINGS HELD BY LANDHOLDERS

62. Power to assume management of land holders holding :-

. Notwithstanding any law for the time being in force, usage 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 holding has seriously suffered, or when it appears to the State Government that in the public interest it is necessary for the purpose of improving the cultivation or ensuring the full and efficient use of land for agriculture to assume management of any landholders holding for such period as it may think fit, a notification announcing such intention and stating such period 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 holding is situated. Such notification shall be conclusive.

63. Vesting of holding in management :-

.

(1) On the publication of the notification under section 62, the holding 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 holding.

(2) Notwithstanding the vesting of the holding in the State Government under sub-section (1), the tenants holding on lease the lands comprised in the holding shall, save as otherwise provided in this Chapter, continue to have the same rights 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.

64. Effect of declaration of management :-

. On the publication of the notification under section 62, the following consequences shall ensue :

(1) All proceedings then pending in any civil court in respect to the debts and liabilities enforceable against the holding 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 attachment shall be instituted 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 holding shall be incompetent

(a) to enter into any contract involving the holding in pecuniary liability.

(b) to mortgage, charge, lease or alienate the property under management of 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 holding 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 holding or any part thereof.

65. Managers powers :-

.

(1) The Manager shall during the management of the holding 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.

66. Manager to pay costs of management, etc :-

.

(1) From the sums received or recovered under section 65, the Manager shall pay

(i) the costs of management including the costs of necessary repairs;

(ii) the Government revenue and all debts and liabilities for the time being due or incurred to the Government in respect of the property under management;

(iii) the rent, if any due to any superior holder in respect of the said holding;

(iv) such periodical allowance as the Collector may from time to

time fix for the maintenance and other expenses of the holder and of such members of his family as the Collector directs;

(v) the costs of such improvements of the said holding as he thinks necessary and as approved by the Collector.

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

67. 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 holding under management to notify the same in writing to such Manager within two months from the date of the publication of such notice. He shall also cause copies of such notice to be exhibited at such several places as he thinks fit.

68. Claim to contain full particulars :-

.

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

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

(3) If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of 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 alongwith the claim, the Manager may refuse to receive such document in evidence on the claimants behalf at the investigation of the case.

69. Claim not duly notified to be barred :-

. Every such claim other than the claim of the Government not

communicated 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 67, the Manager may receive such claim within the further period of two months from the expiration of the original period of two months.

70. Determination of debts and liabilities :-

. The Manager shall inquire into the history and merits of every claim received under the 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.

71. 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.

72. 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 a scheme (hereinafter called the liquidation scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

73. 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 holding under management either from the said income or

with the aid of the funds raised as aforesaid or partly in one of such ways and partly in the other.

74. 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 attachments stayed or suspended under section 64 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, if any, finally awarded to him under the preceding sections in respect of such debt or liability.

75. Power to remove mortgagee in possession :-

.

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

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

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

76. 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 holding under the management:

Provided that the holding 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 holding or unless such sale is in favour of a tenant under section 41 or 91. The decision of the Collector shall be final.

77. Managers receipt for a discharge :-

. The Managers 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.

78. Death of landholder not to affect management :-

- .
- (1) If the landholder 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 holding under management shall, while such management continues, be subject in respect of such holding 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 holding under management for or in respect of any debt or liability incurred by any such person either before or after his said succession.

79. Termination of management :-

- .
- (1) If, before the expiry of the period specified in the notification published under section 62, the State Government is of opinion that it is not necessary to continue the management of the estate, it may by order published in the Official Gazette direct that the said management shall be terminated.
- (2) On the expiry of the said period or as the case may be on the termination of management under sub-section (1) the holding shall be delivered into the possession of the holder, or, if he is dead, of any person entitled to the said holding 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 holding shall be binding on the holder or on

any person to whom the possession of the holding has been delivered.

80. 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).

80A. 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.

(2) On the assumption of the management, such land shall vest in the State Government during the continuance of the management and the foregoing provisions of this Chapter shall mutatis mutandis apply to the said land :

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

Provided further that, if the management of the land has been assumed under sub-section (1) of 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 maybe, in respect of such land, with effect from the date on and from which such management has been assumed.]

CHAPTER 7 ASSUMPTION OF MANAGEMENT OF SURPLUS LANDS

81. Assumption of management of surplus land and payment of compensation therefor :-

[.

(1) Where any land has been declared to be surplus land under any of the provisions of this Act, the State Government shall be deemed to have assumed the management of such land for a public purpose from the date of the declaration.

(2) In this section "public purpose" includes settlement of landless cultivators, development of co-operative organisations and increasing the efficiency of cultivation and management.

(3) The amount of compensation payable for the assumption of management of a surplus land, shall consist of a recurring payment of a sum equal to the reasonable rent to be determined in accordance with the provisions of section 12 and of a further sum equal to one-half of such reasonable rent to compensate the holder of surplus land for all or any of the following matters, namely :

(i) Preliminary loss due to assumption of management;

(ii) expenses on account of vacating the land, the management of which has been assumed;

(iii) expenses on account of reoccupying the land on the termination of the management;

(iv) damage if any, caused to the land during the period of management including the expenses that may have to be incurred for resorting the land to the condition in which it was at the time of the assumption of management:

Provided that where such surplus land was held by the holder as a tenant, one-third of the compensation shall be paid to such holder and the balance shall be paid to the person from whom the land was held as tenant by such holder.]

82. Appointment of manager :-

. **1** [* * * * *] The Collector shall appoint a manager to be in charge of the land assumed under management:

Provided that in any village or group of villages, the State Government may appoint a village panchayat or a co-operative farming society to be the manager in charge of surplus lands in such village or group of villages.

1. The words, brackets and figures "On the publication of an order under sub-section (8) of section 81" were deleted by Guj. 27 of 1961, Sch.III, entry 2.

83. Provisions which shall have effect during management :-

. During the period of management of any surplus land, that is to say, the period commencing **1** [with the declaration as surplus land] in respect of such land and ending with the termination of the management, the following provisions shall have effect, namely:

- (a) all legal proceedings pending and all processes, executions or attachments in force in respect of debts and liabilities enforceable against the land shall be suspended and no fresh proceedings, processes, executions or attachments shall be instituted, enforced, executed in respect thereof;
- (b) the holder of the land shall be incompetent and the manager shall be competent
 - (i) to enter into any contract with respect to the land;
 - (ii) to mortgage, charge, lease or alienate the land or part thereof;
 - (iii) to grant valid receipts for rents or profits accruing from the land;
- (c) all powers, which if the management had not been assumed would have been exercisable by the holder of the land, shall be exercisable by the manager who shall receive and recover all rents and profits due in respect of the land and for the purpose of recovering the same may exercise in addition to the powers exercisable by the holder the powers exercisable by a Collector for the recovery of land revenue;
- (d) from the sums received on account of the land, the manager shall pay,
 - (i) the costs of management including the cost of necessary repairs;
 - (ii) the Government revenue and all sums due to Government in respect of the land;
 - (iii) the compensation payable to the holder of the land in accordance with the provisions of [sub-section (4)] of section 81;
 - (iv) the cost of such improvement of the land as he thinks necessary and is approved by Collector;
- (e) if any proceedings in respect of debts and liabilities enforceable against the land have been suspended under clause (a), the manager may deposit an amount, not exceeding the amount estimated to be required for meeting such debts and liabilities with the Court in which the proceedings were pending.
- (f) the managers 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.

1. These words were substituted for the words, brackets and figures, "with the publication of an order under sub-section (8) of section 81", *ibid.*, entry 3(i).

84. Order of priority for leasing out surplus lands :-

. Where any surplus land is to be leased, it shall be leased to persons in the following order of priority:

(i) a person from whom any land held by him as tenant has been resumed by the landlord under [section 34 of the Bombay Tenancy and Agricultural Lands Act, 1948 (Bom LXVII of 1948) as extended to the Kutch area of the ¹[State of Gujarat] or under section 38 of this Act and as a consequence thereof whose total holding whether as ²[owner] or tenant or partly as ²[owner] and partly as tenant has been reduced to an area less than one family holding.

(ii) co-operative farming society, the members of which are agricultural labourers, landless persons or small holders or a combination of such persons;

(iii) agricultural labourers;

(iv) landless persons;

(v) small holders;

(vi) co-operative farming society of agriculturists (other than small holders) who hold either as ²[owner] or tenant or partly as ²[owner] and partly as tenant landless in area than a family holding and who are artisans;

(vii) an agriculturist (other than a small holder) who holds either as ⁶[owner] or tenant or partly as ³[owner] and partly as tenant landless in area than a family holding and who is an artisan;

(viii) any other co-operative farming society;

(ix) any agriculturist who holds either as ³[owner] or as tenant or partly as ³ [owner] and partly as tenant land larger in area than a family holding but less in area than three family holdings;

(x) any person, not being an agriculturist who intends to take to the profession of agriculture.

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

2. This word was substituted for the word "tenure holder" by Sch. III Clause 34 (2).

6. This word was substituted, for the word "tenure-holder" by Sch. III, Clause 34 (2).

85. Termination of management and the consequences thereof :-

.

(1) On the termination of management of any land, the possession of the land shall be delivered to the holder from whom the management was assumed or if such person is dead, to any person entitled to the land, together with any balances which may be due to the credit of such holder.

(2) All acts done by the manager during the period of such management shall be binding on the holder or on the person to whom the possession of the land has been delivered.

86. Period of management to be excluded in computing period of limitation :-

. The period during which the institution of any proceeding remained suspended under clause (a) of section 83 shall be excluded from the computation of the period of limitation for the institution of such proceeding.

87. Manager 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).

88. [Provisions of Chapter VII to apply to lands declared surplus under section 21 or 43] :-

Deleted by Guj. XXVII of 1961 Sch. III, thereto

CHAPTER 8 RESTRICTIONS ON TRANSFER OF AGRICULTURAL LANDS AND ACQUISITION OF HOLDINGS AND LANDS

89. 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 revenue or for sums recoverable as arrears of land revenue), gift, exchange or lease of any land or interest therein, or

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

¹[(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 three family holdings whether as tenure-holder or tenant or partly as ²[owner] or partly as tenant 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 ³[or for such agreement] in such circumstances as may be prescribed.

⁴[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 ⁵ [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.

(3) Nothing in this section shall apply to a mortgage of any land or interest therein effected in favour of a co-operative society as security for the loan advanced by such society.

(4) Nothing in section 90 shall apply to any sale made under sub-section (1).

1. Ins. by Guj.30 of 1977.

2. This word was substituted for the words "tenure-holder" by Sch. III, Clause 35.

3. Ins. by Guj. 30 of 1977.

4. This proviso was added by Guj. 17 of 1973, s. 2.

5. Subs. by Guj. 30 of 1977.

90. Reasonable price of land for the purpose of its sale or 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 exceeding twelve times the rent of the land as payable under section 12, 13 or 14;

(b) the depreciated value of any structures, wells and embankments constructed and permanent fixtures made and the value of any trees planted on the land by the landlord or the tenant after the period of the last settlement or where no such settlement is made, during the period of thirty years before the commencement of this Act.

(2) Where in the case of a sale or purchase of any land under this Act, the Tribunal or the ¹[Mamlatdar] or any other officer has to fix the price of such land under this Act, the Tribunal or the ¹[Mamlatdar] or such other officer, 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 structures and wells constructed and permanent fixtures made and trees planted, on the land by the landlord or tenant;
- (b) the profits of agriculture of similar lands in the locality;
- (c) the prices of crops and commodities in the locality;
- (d) the improvements made in the land by the landlord or the tenant;
- (e) the tenure on which the land is held; and
- (f) such other factors as may be prescribed.

1. This word was substituted for the word "Tahsildar by Sch. III, Clause 1.

91. Sale of agricultural land to particular person :-

.

(1) Where a landlord intends to sell any land, leased to tenant 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

(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 to

(i) the tenant in actual possession of the land, and

(ii) all persons and bodies mentioned in the priority list in section 84;

(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 and

(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 by a notice in writing in the prescribed form, call upon 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 in the manner provided in sub-section (4) call upon 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 90.

(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 :

Provided that no refusal of the tenant shall be valid unless it has been verified before the [Mamlatdar] in the prescribed manner.

92. Acquisition of holding or land under management or interest therein :-

.

(1) If at any time it appears to the State Government that any holding or land, the management of which has been assumed under the provisions of this Act or the interest of any other person in such holding 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 holding or interest needs to be acquired in the public interest.

(2) For the purposes of this section public interest means the grant of land to persons to whom it is leased under section 84, the settlement of landless cultivators, development of co- operative

organisations and increasing the efficiency of cultivation and such other purposes connected with village community life as may be prescribed by the State Government in this behalf.

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

(4) The Collector shall then make an inquiry in the prescribed manner to determine the value of the holding, land or interest which has been acquired. For the said purpose the Collector shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying of 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.

(5) In determining the value the Collector shall take into consideration

(a) the assessment payable in respect of the holding;

(b) the profits of agriculture and cultivation of the holding and of similar holdings in the locality;

(c) the prices of crops and commodities in the locality;

(d) the tenure on which the land is held;

(e) any other matter which may be prescribed.

(6) After determining the value of the holding, land or interest, the Collector shall make an award which shall contain

(a) the particulars of the holding, land or interest,

(b) the compensation which in his opinion should be allowed for the holding, land, or interest, and

(c) the apportionment of the compensation among all persons known or believed to be interested.

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

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

CHAPTER9 CONSTRUCTION OF WATERCOURSE THROUGH LAND OF ANOTHER

93. 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 ¹[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 ¹[Mamlatdar], after making an inquiry and after giving to the neighbouring holder and all other persons interested in the land an opportunity of stating any objection to the application, is satisfied that for ensuring the full and efficient use for agriculture of the land belonging to the applicant it is necessary to construct the water course, he may by order in writing direct the neighbouring holder to permit the applicant to construct the water course on the following conditions :

(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 ¹[Mamlatdar] so as to cause as little damage to the land through which it is construed, as may be possible;

(ii) where the water course consists of pipes, the pipes shall be laid at a depth not less than one and a half feet 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 pay 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 ¹[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 ¹ [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.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

94. 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 93 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 application being made to the ¹[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 ¹ [Mamlatdar] for any damage caused on account of such failure.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

95. Removal or discontinuance of waer course :-

.

(1) If a person intends to remove or discontinue the water course

constructed under the authority conferred on him under section 93, he may do so after giving notice to the ¹[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 ¹ [Mamlatdar] who shall require such person to fill in and reinstate the land.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

96. 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 ¹[Mamlatdar]. If a dispute arises whether there is or is no surplus water in the water course, it shall be determined by the ¹ [Mamlatdar] and his decision shall be final.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

CHAPTER 10 2[PROCEDURE AND JURISDICTION OF TRIBUNAL, MAMLATDAR AND COLLECTOR : APPEALS AND REVISION]

97. Tribunal :-

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

(2) The State Government may appoint an officer not below the rank of a ¹[Mamlatdar] to be the Tribunal and to exercise the powers and perform the duties and functions of the Tribunal under this Act in a tahsil or taluka 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 or who is qualified to practise as a lawyer in the ²[State of Gujarat], and
(b) one shall be appointed to be the President of the Tribunal and the Tribunal so constituted shall exercise the powers and perform the duties and functions of the Tribunal under this Act.

Explanation. In this section lawyer means any person entitled to appear and plead for another in Court in the State and includes an advocate, a vakil and an attorney of the High Court of ³ [Gujarat].

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

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 were substituted for the words "Bombay" ibid.

98. Duties of Tribunal :-

. It shall be the duty of the Tribunal

(a) to determine the value of the site of a dwelling house under section 23;

(b) to decide any dispute as to the particular area of land to be purchased under sections 41 and 46;

(c) to determine the reasonable price of the land under section 43 and section 91;

(d) to determine in the prescribed manner dispute regarding

(i) the priority or any other right in relation to the purchase of land under section 41 among tenants inter se or between the tenant and the landlord, or

(ii) the kind, extent or location of any particular area of land to be purchased or the amount of the price or any instalment thereof to be deposited;

(e) to perform such other functions as are imposed on it by the provisions of this Act or as may be prescribed or as may be directed by the State Government.

99. Powers of 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 106.

100. Duties off 1[Mamlatdar.] :-

For the purposes of this Act, the following shall be the duties and functions to be performed by the ¹[Mamlatdar]:

- (1) to decide whether a person is an agriculturist;
- (2) to decide whether a person is a tenant ² [or a permanent tenant];
- (3) to decide a dispute regarding rent under section 12;
- (4) to commute rent in crop share into cash rent;
- (5) to commute rent in terms of service or labour into cash rent under section 14;
- (6) to determine the amount of compensation under section 15;
- (7) to determine the amount to be refunded to a tenant under section 18(4);
- (8) to decide whether any land should be declared as surplus under section 21;
- (9) to determine the amount of compensation for trees under section 25;
- (10) to determine any dispute regarding the right to produce of trees under section 26;
- (11) to determine the costs of repairing protective bunds under section 28;
- (12) to decide an application for possession under section 36;
- (13) to sanction exchange of tenancies under section 51;
- (14) to determine compensation to be paid under section 52;
- (15) to fix the price of land under section 90;
- (16) to decide whether the transfer or acquisition is or is not invalid under section 122;
- (17) to dispose of land under section 122;
- (18) to take measures for putting the tenant or the landlord or the agricultural labourer or artisan or person, carrying on allied pursuit into the possession of the land or dwelling house or site under this

Act; and

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

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

2. These words were substituted for the words "a protected lessee or an occupancy tenant" *ibid.*, Clause 36.

101. Commencement of proceedings :-

. Save as expressly provided by or under this Act, all inquiries and other proceedings before the ¹ [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 opponent;

(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.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

102. Procedure :-

. In all inquiries and proceedings commenced on the presentation of applications under section 101, the ¹[Mamlatdar] or the Tribunal shall exercise the same powers as the Mamlatdars Court under the Mamlatdars Court Act, 1906 (Bom. VI of 1905), and shall save as provided in section 36 follow the provisions of the said Act, as if the ¹[Mamlatdar] or the Tribunal were a Mamlatdars 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 ¹[Mamlatdar] or the Tribunal shall follow such procedure as may be prescribed by the State Government. Every decision of the ¹ [Mamlatdar] or the Tribunal

shall be recorded in the form of an order which shall state the reasons for such decision.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

103. 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 ¹[Mamlatdar] in his district from such ¹[Mamlatdar] to any other ¹[Mamlatdar] in his district and the ¹[Mamlatdar] to whom the proceeding is so transferred shall thereupon exercise jurisdiction under this Act in such proceeding;

Provided that any order issued to village officers under sub- section (2) of section 106 shall be issued by the ¹ [Mamlatdar] to whom such village officers are subordinate.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

104. Application for possession of land made to different ¹[Mamlatdars] to be heard by designated ¹[Mamlatdar] :-

.

(1) If in the course of the hearing of an application for possession of any land made by a landlord under section 38, the ¹[Mamlatdar] of one area finds that the landlord had made a similar application to the ¹[Mamlatdar] of another area for possession of other land held by him in that area, then the ¹[Mamlatdar] shall refer the case to the Collector if the other land is in the same district, and to the ⁴[State Government] if the other land is in another district.

(2) On receipt of the reference the Collector or the ⁵[State Government], as the case may be, shall

(a) call for the proceedings of the other application from the ⁶[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 applications and proceedings to one of the ⁴[Mamlatdars] for hearing and disposal; and

(c) give an intimation of the transfer to the ⁴[Mamlatdar], the landlord and the tenants concerned.

(3) The ⁴[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 the village officers, under sub-section (2) of section 106 shall be issued by or through the ⁴ [Mamlatdar] to whom such village officers are subordinate.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

4. These words were substituted for the word "Commissioner" by Guj. 15 of 1964, s. 4 Sch.

5. These words were substituted for the word "Commissioner" by Guj. 15 of 1964, s. 4 Sch.

6. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

105. Distribution of business amongst Mamlatdars :-

[. Where in any taluka or mahal in addition to the Mamlatdar appointed under section 12 of the Code, 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 or as the case may be, the Mahalkari, subject to the control of the Collector, may by general or special order, refer to him.]

106. 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 ¹[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 ¹[Mamlatdar] or the Tribunal awarding possession or restoring the possession or use of any land shall be executed in the manner provided in section 21 of the Mamlatdars Courts Act, 1906 (Bom. II of 1906), as if it was the decision of the ¹ [Mamlatdar] under the said Act :

Provided that such order shall not be executed till the expiry of the period of appeal as provided in section 114.

1. This word was substituted for the word "Tahsildar" by Sch. III,

Clause 1.

106A. Powers of Collector in inquiries under sub-section (3A) of section 36. Provision as respects revision and execution of orders :-

[.

(1) For the purposes of an inquiry under sub-section (3A) of section 36, 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, 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 36 shall, subject to revision under sub-section (3), be final.

(3) The State Government may, suo motu or on an application from any person interested in the land, call for the record of any such inquiry, for the purpose of satisfying itself as to the legality or property of the order passed by the Collector and pass such order thereon as it deems fit:

Provided that no such order shall be modified, annulled or reversed, unless an opportunity has been given to the interested parties to 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 Tribunal under section 106.]

107. Appeals :-

.

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

- (a) an order under section 7,
- (b) an order under section 8 or 10,
- (c) an order under section 12,
- (d) an order under section 13,
- (e) an order under section 14,
- (f) an order under section 15,

- (g) an order under section 18,
- (h) an order under section 20,
- (i) an order under section 21,
- (j) an order under section 23,
- (k) an order under section 25,
- (l) an order under section 26,
- (m) an order under section 28,
- (n) an order under section 30,
- (o) an order under section 36,
- (p) an order under section 38 or 39,
- (q) an order under section 40,
- (r) an order under section 43 or 48,
- (s) an order under section 44 or 45,
- (t) an order under section 51,
- (u) an order under section 52,
- (v) an order under section 55,
- (w) an order made pursuant to a notification issued under sub-section (3) of section 58, or an order under section 59,
- (x) an order under section 61,
- (y) an order under section 91,
- (ya) ²[*****]
- (z) an order under Chapter IX,
- (za) an order under section 122, and
- (zb) an order under section 125:

Provided that where an order has been passed by a Sub-Divisional Officer exercising the powers of a ³ [Mamlatdar] under a notification issued under sub-section (30) of section 2, an appeal against such order shall lie to the Collector in charge of the District.

(2) Every petition for an appeal under sub-section (1) shall be in the prescribed form and shall be accompanied by a certified copy of the order to which objection is made unless the production of such copy is dispensed with.

(3) On the filing of an appeal under sub-section (1), the Collector may either admit it or, after calling for the record and giving the appellant an opportunity to be heard, may summarily reject it:

Provided that the Collector shall not be bound to call for the record where the appeal is time-barred or does not lie.

(4) If the appeal is admitted, a date shall be fixed for hearing and notice thereof shall be served on the respondent in the prescribed manner.

(5) After hearing the parties if they appear, the Collector may confirm, vary or reverse the order appealed against or may direct

such further investigation to be made, or such additional evidence to be taken as he may think necessary or may himself take such additional evidence or may amend the case for disposal with such directions as he may think fit. The Collector shall also have power to award costs.

(6) The Collector may, pending decision of the appeal, direct the execution of the order appealed against to be stayed for such time as he may think fit and subject to compliance with such conditions (including a condition of furnishing security) as he may think fit to impose.

(7) The Collector may set aside or modify any direction made under sub-section (6).

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

2. Clause (ya) was inserted by Sch. III, Clause 38. The said Clause 38 was deleted by Bom. 4 of 1960, s. 20(8).

3. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

108. 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.

109. Appeal against award of Collector :-

.

(1) An appeal against the award of the Collector made under section 92 may be filed to the ¹[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 ¹ [Gujarat Revenue Tribunal] shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of a original court under the Code of Civil Procedure, 1908 (V of 1908).

1. These words were substituted for the words "Bombay Revenue Tribunal" by Guj. 22 of 1968, s. 2.

110. Revisional powers of Collector :-

(1) 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 ¹[* *] the State Government, at any time,

(a) call for the record of any inquiry or the proceedings of the ²[Mamlatdar] or Tribunal or the purpose of satisfyig himself as to the legality or propriety of any order passed by, and as to the regularity of the ³[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 ³[Mamlatdar] or Tribunal shall be modified, annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.

(2) Where any order under section 81 is made by an Assistant or Deputy Collector performing the duties or execising the powers of the Collector or by an officer specially empowered by the State Goverment to perform the functions of the Collector under this Act, such order shall be subject to revision by the Collector and the provisions of sub-section (1) shall apply to the proceedigs of the Assistant or Deputy Collector or officer concerned, as they apply to the proceedings of a ³ [Mamlatdar] or Tribunal.

1. The words "the Commissioner or" were deleted by Guj. 15 of 1964, s. 4 Sch.

2. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

3. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

111. Revision :-

.

(1) Notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1957 (Bom. XXXI of 1958) an application for revision may be made to the ¹[Gujarat Revenue Tribunal] constituted under the said Act against any order of the Collector 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, which has resulted in the miscarriage of justice.

(2) In deciding application under this section the ¹[Gujarat Revenue Tribunal] shall follow the procedure which may be prescribed by rules made under this Act after consultation with the ¹ [Gujarat Revenue Tribunal].

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

112. Court-fees :-

. Notwithstanding anything contained in the Court-fees Act, 1870 (VII of 1870), every application or appeal made under this Act to the ¹[Mamlatdar] Tribunal, ²[Collector, the State Government] or ³ [Gujarat Revenue Tribunal] shall bear a court-fee stamp of such value as may be prescribed.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

2. These words were substituted for the word "Collector" by Guj. 22 of 1968, s. 3.

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

113. Orders in appeal or revision :-

.

(1) The ¹[Gujarat Revenue Tribunal] in appeal under section 109

and in revision under section 111 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 the¹[Gujarat Revenue Tribunal]³[or of the State Government] in appeal or revisions shall be executed in the manner provided for the execution of the orders of the⁴ [Mamlatdar] ad Tribunal under section 106.

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

3. These words were inserted by Guj. 22 of 1968, s. 4.

4. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

114. 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 the¹ [Mamlatdar] Tribunal or Collector as the case may be. The provisions of sections 4,5,12 and 14 of the Indian Limitation Act, 1908 (XI of 1908), shall apply to the filing of such appeal or application for revision.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

115. Inquiries and proceedings to be judicial proceedings :-

. All inquiries and proceedings before the¹[Mamlatdar], the Tribunal, ² [the Collector the Gujarat Revenue Tribunal and the State Government] shall be deemed to be judicial proceedings within the meaning of sections 193, 219 ad 228 of the Indian Penal Code (XLV of 1860).

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

2. These words were substituted for the words "the Collector and the Gujarat Revenue Tribunal" ibid., s. 5.

116. 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 ¹[Mamlatdar], the Tribunal or the Collector :

Provided that the ¹[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 pleaders fee shall not be allowed as part of the costs of 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 ¹ [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 purpose of this section the expression "pleader" includes an advocate, attorney, vakil or any other legal practitioner.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

CHAPTER 11 OFFENCES AND PENALTIES

117. Offences and penalties :-

.

(1) Whoever contravenes any provision of any of the sections, sub-section 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.

	TABLE	
Section, sub-section or clause	Subject	Fine which may be imposed
1	2	3
		Rs.
Section 13	Recovery of rent by way of crop-share or in excess of commuted cash-rent.	1,000
Section 14	Receipt of rent in form of labour service.	1,000
Section 16	Levy of cess, rate, vero, huk, tax or service which has been abolished.	1,000
Section 32	Failure to give written receipt for the amount of rent received.	100
Section 36	Taking possession of land or dwellinghouse contrary to section 36	1,000
Section 93	Failure on the part of the neighbouring holder to comply with the order made under section 93.	100

(2) An offence for the contravention of the provisions of section ¹ [14, 16 or 36] shall be cognizable.

1. These figures and word were substituted for the figures and word "14 or 16" by Bom. 4 of 1960, s. 14.

CHAPTER 12 MISCELLANEOUS

118. Rules :-

.

(1) The State Government may make rules for carrying out the purposes of this Act.

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

- (i) the other factors to be prescribed under section 4;
- (ii) the manner in which the value of produce shall be determined under section 11;
- (iii) the other factors to be prescribed under section 12;

- (iv) the form of application to be made under section 13;
- (v) the pealty to be recovered under section 15;
- (vi) the manner of verifying the surrender of a tenancy under section 20;
- (vii) the fees to be paid for the grant of a certificate and the form of such certificate under section 23;
- (viii) the form of application under section 26;
- (ix) the form of application to be made under section 36;
- (x) the manner of apportioning rent under section 38;
- (xi) the manner in which the Tribunal shall refer a question for decision to the ¹[Subordinate Judge] under section 44;
- (xii) the form of public notice under section 48;
- (xiii) the form of application to be made under section 51;
- (xiv) the terms and conditions subject to which exchange of tenancies may be sanctioned and the form in which certficates may be issued under section 51;
- (xv) the form of application to be made under section 55;
- (xvi) the manner of determination of debts and liabilities under section 70;
- (xvii) the place at which and the manner in which the Collector shall notify the fact of sanction under section 74;
- (xviii) the sale or grant of lease of land under management under section 76.
- (xix) the circumstances in which permission for sale, etc., of land may be granted under section 89;
- (xx) the other factors to be taken into consideration in fixing price of land under section 90;
- (xxi) the manner in which a landlord shall make an offer of land under section 91;
- (xxii) the form of notice to be given by a landlord under section 91;
- (xxiii) the manner in which inquiry shall be made by the Collector under section 92;
- (xxiv) the other matter to be taken into consideration by the Collector in determining value of land, acquired under section 92;
- (xxv) the other functios of the Tribunal under section 98;
- (xxvi) the other powers of the Tribunal under section 99;
- (xxvii) the other particulars which an application made under section 101 shall contain;
- (xxviii) the procedure to be followed by the ²[Gujarat] Revenue Tribunal under section 111;
- (xxix) the value of court-fee stamp under section 112;
- (xxx) the manner in which land shall be granted under 122;

(xxxii) the manner in which an order under section 131 shall be published;

(xxxii) any other matter which is or may be prescribed under this Act.

(3) Rules made under this section shall be subject to the condition of previous publication in the Official Gazette.

(4) All rules made under this section shall be laid before ³ [* * *] 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.

1. These words were substituted for the words "Civil Judge" by Sch. III, Clause 39.

2. This word was substituted for the word "Bombay" by Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3. The words "each house of" were deleted by Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

119. Delegation of powers :-

. 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 on it by this Act.

119A. Holders of land to furnish particulars of land to 6[Mamlatdar] :-

[.

(1) Every person holding land in the charge of more than one ¹[Village-Accountant] whether as ²[owner] or tenant or partly as ²[owner] and partly as tenant on the 31st day of March 1960 shall within the prescribed period furnish in the prescribed manner true particulars of all the land so held by him to each of the ⁴[Mamlatdar] within whose jurisdiction any piece of such land is situate.

(2) If any person liable to furnish particulars of land under subsection (1) fails to furnish the particulars or furnishes such particulars as he knows to be false, he

1. These words were substituted for the word "Patwari" by Sch. III, Clause 39A.
2. This word was substituted for word the "tenure-holder" ibid., Clause 39A.
4. This word was substituted for this word "Tahsildar" ibid., Clause I.

119B. Acquisition of land under invalid transfer or partition to be invalid :-

.--Where any transfer of land or of any interest therein, whether by sale, gift, exchange, mortgage, lease or otherwise, or partition of land is invalid under any of provisions of this Act, the acquisition of such land under such transfer or partition shall also be invalid and the person acquiring the land shall be liable to the consequences in section 120 or 122, as the case may be.]

120. Summary eviction :-

. Any person unauthorisedly occupying or wrongfully in possession of any land

- (a) the transfer of which either by the act of parties or by the operation of law is invalid under the provisions of this Act,
- (b) the management of which has been assumed under the said provisions, or
- (c) to the use and occupation of which he is not entitled under the said provisions and the said provisions do not provide for the eviction of such persons, may be summarily evicted by the Collector after such inquiry as he deems fit.

121. Validation of transfers made in contravention of Bom. LXVII of 1948 as extended to Kutch :-

[.

(1) A transfer of any land in contravention of section 63 or 64 of the Bombay Tenancy and Agricultural Lands Act, 1948, as extended to the Kutch Area of the ¹ [State of Gujarat], made after the 10th May, 1950 and before the commencement of this Act shall not be declared to be invalid merely on the ground that such transfer was made in contravention of the said section 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 the law for the time being in force within six months 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-section (3) to (5) of section 122 shall apply.]

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

122. Disposal of land, transfer, or acquisition of which is invalid :-

.

(1) Where in respect of the transfer or acquisition of any land ¹[made on or after the commencement of this Act] the ²[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 ²[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.

(2) If after holding such inquiry, the ²[Mamlatdar] comes to a conclusion that the transfer or acquisition of land is invalid, he shall make an order declaring the transfer or acquisition to be invalid :

Provided that where the transfer of land was made by the landlord to 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 three family holdings, the

²[Mamlatdar] shall not declare such transfer to be invalid if

(i) the price of the land received by the landlord does not exceed the reasonable price thereof under section 90 and the transferee pays to the State Government a penalty of one rupee within such period not exceeding three months as the ²[Mamlatdar] may fix, or
(ii) the price of the land received by the landlord exceeds the reasonable price thereof under section 90 and the transfer as well as the transferee pays to the State Government each a penalty equal to one-tenth of the reasonable price within such period as the ²[Mamlatdar] may fix.

(3) On the declaration made by the ²[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 44 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 transfer 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 ⁹[Mamlatdar] shall, in accordance with the provisions of section 90, determine the reasonable price of the land.

(4) After determining the reasonable price, the ³[Mamlatdar] shall dispose of the land by sale at a 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 section 84 :

Provided that where the transfer of land was made by the landlord to 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 three family holdings, then

(a) if the price of the land received by the transfer does not exceed the reasonable price, the amount forfeited under sub-section (3)

shall be returned to the transferor and the land restored to the transfer on payment to the State Government of a penalty of one rupee; and

(b) if the price of the land received by the transferor exceeds the reasonable price the ³ [Mamlatdar] shall grant the land to the transferee on payment of 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 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 gift or bequest, the amount of the 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.

1. These words were inserted by Bom. 4 of 1960, s. 17.

2. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

9. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

123. Leases of land liable to be disposed of under section 122 :-

.

(1) Where any land has become liable to be disposed of under section 122 the ¹[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 three family holding subject to the following conditions:

(i) the lease shall be for a period of one year;

(ii) the lease shall pay rent at the rate fixed by the ¹[Mamlatdar] subject to the provisions of section 11;

(iii) the lessee shall be liable to pay the land revenue and the other cesses 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 ¹ [Mamlatdar].

(2) The person holding land on lease under sub-section (1) shall not be deemed to be a tenant within the meaning of this Act.

(3) The amount of rent realised under sub-section (1) shall be forfeited to Government.

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

124. 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 ¹[Mamlatdar] or Tribunal, a Manager, ²[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 ¹[Mamlatdar], the Tribunal, the Manager, the Collector or the ⁴ [Gujarat Revenue Tribunal] or the State Government made under this Act shall be questioned in any civil or criminal court.

Explanation. For the purpose of this section, a Civil Court shall include a Mamlatdars Court constituted under the Mamlatdars Courts Act, 1906 (Bom. II of 1906).

1. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

2. These words were substituted for the words "the collector or the Gujarat Revenue Tribunal" by Guj. 22 of 1968, s. 6.

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

125. Suits involving issues required to be decided under this Act :-

.

(1) If any suit instituted in any Civil Court, involves any issues which are required to be settled, decided or dealt with by any

authority Competent to settle, decide or dealt 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 referece from the Civil Court, the competent authority shall deal with and decide such issues in accordance with the provisions of the 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.

Explanantion. For the purpose of this section a Civil Court shall include Mamlatdars Court constituted under the Mamlatdars Courts Act, 1906 (Bom. II of 1906).

126. Control :-

. In all matters connected with this Act, the State Government ¹[* * *] shall have the same authority and control over the ²[Mamlatdar] and the Collectors acting under this Act as ³ [it has and exercises] over them in the general and revenue administration.

1. The words "and the Commissioner" were deleted by Guj. 15 of 1964, s. 4, Sch.

2. This word was substituted for the word "Tahsildar" by Sch. III, Clause 1.

3. These words were substituted for the words "they have and exercise" ibid., s. 4, Sch.

127. 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.

128. Act not to apply to certain lands and areas :-

. Nothing in the foregoing provisions of this Act shall apply
(a) to lands belonging to or held to lease from the Government;
(b) to any area which the State Government may from time to time, by notification in the official Gazette, specify as being reserved for non- agricultural or industrial development. ¹[* * * * *].

²[(d) to lands transferred to, or by, a Bhoodan Samiti recognised by State Government];

(e) to a holding 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 ³[*****].

⁴ [Provided further that with effect from the date on which the management of a holding referred to in clause(e) is terminated, the foregoing provisions of this Act shall apply to such holding subject to the following modifications, namely :-

(a) if on the date of the termination of the management any land comprised in such holding is in the possession of a tenant holding it from the landlord immediately before the assumption of the management or where such tenant is dead, in the possession of the successor-in-title, and if the management had been assumed before the landlord could exercise the right to terminate the tenancy under section 38, then the landlord shall be entitled to terminate such tenancy under section 38 within two years from such date;

(b) if on the date of the termination of the management any land comprised in such holding is in the possession of a lessee holding it under a lease granted by the Court of Wards, Government Officer, Civil, Revenue or Criminal Court or as the case may be the receiver, the lessee shall be deemed to be a tenant of such land under section 6 and the landlord shall be entitled to terminate such tenancy under section 38 within two years from such date.]

1. Clause (c) was deleted by Sch. III, Clause 41 (1).

2. Clause (d) was substituted for the original *ibid.*, Clause 41(2).

3. The first proviso was deleted by Sch. *ibid.*, 4 Clause 41 (3).

4. This proviso was substituted for the original by Bom. 4 of 1960, s. 18.

129. Exemption from certain provisions to lands held by local authorities, Universities, trusts, etc :-

. Nothing in the foregoing provisions except section 2, the provisions of Chapter II (excluding sections 21, 22, 23 24 and 37) and section 91 and the provisions of Chapter X and XII in so far as the provisions of the said Chapters are applicable to any of the

matters referred to in sections mentioned above, shall apply

(a) to lands held or leased by a local authority, or University established by law in the State;

(b) to lands which are the property of a trust for an educational purpose, hospital, Panjrapole, Gaushala, or a institution for public religious worship, provided the entire income of such lands is appropriated for the purposes of such trust; and

(c) to lands assigned or donated by any person before the commencement of this Act 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 cattle.

Explanation. For the purpose of clause (b), a certificate granted by the Collector, after holding an inquiry that the conditions mentioned in the said clause are satisfied by a trust shall be the conclusive evidence in that behalf.

130. Certain provisions of the Act not to apply to holdings and lands assumed under management under Chapter VI or VII :-

.

(1) In the case of any holding or surplus land, the management of which has been assumed under Chapter VI or Chapter VII, the foregoing Provisions of this Act, except those of Chapter VI or as the case may be Chapter VII and of sections 92, 116, 118, 119, 120, 124, 126 and 127 shall not apply to such holding or land so long as such management continues.

(2) On the termination of management, the foregoing provisions of this Act shall apply to such holding or as the case may be, to such surplus land subject to the following modifications namely :

(a) if on the date of the termination of the management, any land comprised in such holding is in the possession of a tenant holding it from the landlord immediately before the assumption of the management or where such tenant is dead, in the possession of his successor-in-title ¹[and if the management had been assumed before the landlord could exercise the right to terminate the tenancy under section 38], the landlord shall be entitled to terminate the tenancy under section 38 within two years from the date of the termination of the management;

(b) if on the date of the termination of the management, any land comprised in such holding or, as the case may be, the surplus land is in the possession of a lessee holding it under a lease granted by

the Manager, then on the expiry of the period of the lease the person, to whom the possession of such holding or surplus land is delivered under section 79 or 85, shall be entitled to take possession of such land unless the said lessee within a period of three months from the expiry of the lease offers to purchase the land. Such offer shall be made in the manner provided in section 43 and thereupon the provisions of that section shall mutatis mutandis apply to such purchase as if the said lessee were a tenant applying under section 43:

Provided that where by such purchase, the interest of the ²[owner] as well as the interest of the tenant if any, holding from the ²[owner] is acquired by the lessee, the amount payable to the landlord under sub-section (4) of section 41 shall be apportioned by the Tribunal between the ² [owner] and the tenant and paid accordingly.

1. These words and figures were inserted by Bom. 4 of 1960, s. 19.
2. This word was substituted for the word "tenure-holder" by Sch. III, Clause 42.

130A. 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 landlord under this Act any land leased to him with the previous sanction of the Collector under section 73AA of the Bombay Land Revenue Code, 1879. (Bom. V of 1879).

Explanation: For the purpose of this section "Scheduled 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.]

131. Power of Government to withdraw exemptions :-

.

(1) Notwithstanding anything contained in section 128, if the State Government is satisfied

(i) in the case of an area referred to in clause (b) of section 128, 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.

¹ [(ii) that the lands transferred by the Bhoodan Samiti are not cultivated personally by the transferees or are alienated by them, and]

(iii) in the case of lands referred to in clause (b) of section 129, that the trustee is unable to look after the property or has mis-managed it or that there are disputes between the trust and the tenants, 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 lands or area, as the case may be, shall cease to be exempted from all or any of the provisions of this Act from which it was exempted under section 128.

(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 38 within one year from such date and the tenant shall have a right to purchase the land. The provisions of sections 38, 40 and 41 to 45 (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.

1. Clause (ii) was substituted for the original, *ibid.*, Clause 43.

132. Repeal :-

[.

(1) The Bombay Tenancy and Agricultural Lands Act, 1948 (Bom. LXVII of 1947), as extended to the Kutch Area of the ¹ [State of Gujarat] is hereby repealed.]

(2) Nothing in sub-section (1) 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 under the Act so repealed 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 proceeding shall be instituted, continued and disposed of, as if this Act had not been passed.

(3) Notwithstanding anything contained in sub-section (2)

(a) all proceedings for the termination of the tenancy and ejectment of a tenant or for the recovery or restoration of the possession of the lands under the provisions of the Act so repealed pending on the date of the commencement of this Act before a Revenue Officer or in appeal or revision before any appellate or revising authority shall be deemed to have been instituted and pending before the corresponding authority under this Act and shall be disposed of in accordance with the provisions of this Act, and

(b) in the case of any proceedings under any of the provisions of the Act so repealed, pending before a civil court on such date, the provisions of section 125 of this Act shall apply.

(4) Any appointment, notification, notice, order, rule or form made or issued under the Act so repealed shall be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act or rules made thereunder and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act.

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