

## **Goa, Daman And Diu Agricultural Tenancy Act, 1964**

**7 of 1964**

**[16 December 1964]**

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### **Goa, Daman And Diu Agricultural Tenancy Act, 1964**

**7 of 1964**

**[16 December 1964]**

An Act to provide for the regulation of the terms of tenancy with respect to agricultural lands in the Union Territory of Goa, Daman and Diu and for matters connected therewith. Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Fifteenth Year of the Republic of India as follows:-

#### CHAPTER 1 PRELIMINARY

#### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Goa, Daman and Diu Agricultural Tenancy Act, 1964.
- (2) It extends in the first instance to the Goa area of the Union Territory of Goa, Daman and Diu, but the Government may, by notification, extend it to the other areas with such modifications as

may be necessary.

(3) It shall, unless otherwise specifically provided in this Act, come into force on such date<sup>1</sup> as may be fixed by notification by the Government.

1. 8th February, 1965 See Notification No. TNC/NTF-1/65 dated 3-2-1965, on page 65, (Govt. Gazette Series I No. 5 dated 5-2-65 P. 101)

## **2. Section 2 :-**

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

1[(1) "Administrative Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965.

2[(1A) "agriculture" includes horticulture and raising of food crops grass or garden produce, but does not include allied pursuits;"]

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

(3) "allied pursuits" means rearing or maintaining plough bulls, breeding of livestock, dairy farming poultry farming, grazing on grounds reserved for the purpose and such other pursuits connected with agriculture as may be prescribed;

\*(4) "Collector", means any person appointed by the Government to perform the functions of the Collector under this Act;

(5) "Co-operative Society" means a society registered under the provisions of any law relating to co-operative societies for the time being in force in the particular area;

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

(7) "to cultivate personally" means to cultivate land on ones own account--

(i) by ones own labour, or

(ii) by the labour of any member of ones family, or

(iii) under the personal supervision of oneself or any member of ones family, by hired labour or by servants on wages payable in cash or kind but not in crop share;

Explanation 1 -- For the purpose of clause (iii) personal supervision shall not be deemed to exist unless the person or member resides

in the village in which land is situated or in any nearby village within 7 kilometers thereof, during the major part of an agricultural season.

Explanation 2 -- A widow or a minor or a person who is subject to physical or mental disability or a serving member of the Defence Forces shall, notwithstanding anything contained in Explanation 1, be deemed to cultivate any land personally if such land is cultivated by servants or by hired labour or through tenants.

Explanation 3 -- Notwithstanding anything as aforesaid, in the case of a joint family, land shall be deemed to be cultivated personally, if it is so cultivated by any member of such family otherwise than by virtue of Explanation 2.

Explanation 4 -- In the case of a company, association or other body of individuals, whether incorporated or not, or a religious, charitable or other institution capable of holding property, any land shall be deemed to be cultivated personally, if such land is cultivated by hired labour or by servants under the personal supervision of an employee or agent of such company, association, body or institution;

3[(7A) "garden" means land used primarily for growing coconut trees, arecanut trees, cashewnut trees or mango trees;

(7B) "garden produce" means any produce from a garden;';]

(8) "Government" means the Government of Goa, Daman and Diu.

(9) "improvement", means, with reference to any land, any work which adds to the value of the land, and which is suitable thereto as also consistent with the purpose for which it is held, and includes--

(a) the construction of tanks, wells, water channels, embankments and other 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 reclaiming, clearing enclosing, levelling or terracing of land;

(d) the erection of buildings on the land reasonably required for the convenient or profitable use of such land for agricultural purpose; and

(e) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto as are not of the nature of ordinary repairs; but does not include such clearance, embankment, levellings, enclosures, temporary wells, water channels and other works as are commonly made by the tenants in

the ordinary course of agriculture;

(10) "joint family" means an undivided Hindu family for a group or unit of persons the members of which are, by custom, joint in estate or residence;

(11) 4["(i) "land" means land which is used for agriculture or which is capable of being so used, but is left fallow, and includes farm buildings appurtenant to such land:

Provided that nothing in this clause shall apply to land which is in the possession of a Mundkar, otherwise than as a tenant.

Explanation.-- For the purposes of this clause, the expression "Mundkar" shall have the meaning assigned to it in clause (p) of section 2 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (1 of 1976);;]

(ii) "Khajan land" means low land situated near creeks or riversides;

(iii) "Ker land" means land having adequate irrigation or drainage facilities;

(iv) "Morod land" means any other land:

Provided that in case of doubt as to the category of any particular land, the matter shall be referred to the Tribunal whose decision shall be final;

(12) "landlord" means a person from whom a tenant holds land on lease;

(13) "lease" means a transfer of a right to enjoy land, made orally or in writing, for a specified, or unspecified period, and in consideration of rent;

(14) "legal representative" means a person who represents the state of a deceased person;

5["(15) "Mamlatdar" means any person appointed by the Government to perform the duties of a Mamlatdar under this Act;"]

(16) "notification" means notification published in the Official Gazette;

(17) "Official Gazette" means the Goa, Daman and Diu Government Gazette;

(18) "person" includes a joint family, comunidade, temple, church, mosque or any other religious or charitable institution;

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

6["(19A) "purchase price" means the price determined by the Mamlatdar under section 18C;']

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

service or labour;

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

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

(23) "tenant" means a person who on or after the date of commencement of this Act holds land on lease and cultivates it personally and includes a person who is 7[or was] deemed to be a tenant under this Act;

8[(23A) "tillers day" means the date of introduction of the Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Bill, 1976, in the Legislative Assembly;.]

(24) "Tribunal" means the Tribunal constituted under this Act; and

(25) "year" means the year ending on the 31st day of March or on such other date as the Government may, by notification, appoint for any area.

1. Inserted by G D D 13 of 1968 S. 2. See G D D Govt Gazette Sr. I No. 42 dated 16-1-1969.

2. Clause (1) has been renumbered as clause (1A) by G D D 13 of 1968 (Govt. Gazette Series I No. 42 dated 16-1-1969) and substituted by G D D 17 of 1976 w.e.f. 8-10-1976 [Govt. Gazette (Extraordinary) Series I No. 29 dated 14-10-1976].

Vide Notification No. RD/TNC/12/65 dated 28-8-89 published in the Official Gazette, Series II No. 25 dated 21-9-89, at page 198.

3. Inserted by G D D 17 of 1976 S. 2 w.e.f. 8-10-1976 [Official Gazette (Extraordinary) Series I No. 29, dated 14-10-1976] ... known as Fifth Amendment.

4. Substituted by GDD 17 of 1976, S. 2, w.e.f. 8-10-1976 [Official Gazette (Extraordinary) Series I No. 29 dated 14-10-1976], known as Fifth Amendment.

5. Clause (15) has been substituted by (Amendment) Act (29 of 2001) w.e.f. 3-5-2001 (Official Gazette Series I No. 5 dated 3-5-2001-Extraordinary). The original clause reads as follows:

"(15) "Mamlatdar" means any officer appointed by Government to perform the duties of a Mamlatdar under this Act."

6. Clause (19A) inserted by G D D (17 of 1976) S. 2 w.e.f. 8-10-1976 (O.G. 8, Series I No 29 dated 14-10-1976) - known as Fifth Amendment.

7. The words "or was" have been inserted by Goa Act No. 4 of 1991 w.e.f. 21-11-1990 (Official Gazette, Series I No. 3 dated 23-4-

1991.)

8. Clause (23-A) inserted by G D D 17 of 1976 S. 2 w.e.f. 8-10-1976 [Official Gazette (Extraordinary) Series I, No. 29 dated 14-10-1976] known as Fifth Amendment.

### **3. Extent Of Application :-**

(1) Where it is made to appear to the Government that any land, which was used immediately before the 1st of July, 1962 for an agricultural purpose, was subsequently converted to other uses, such as for raising crops of coconut, arecanut, cashew or mangoes or for any other non agricultural purpose, either for defeating and after giving to the landlord and the tenant a reasonable opportunity of being heard and after considering the objections, if any, direct that all or any of the provisions of this Act and the rules made thereunder shall apply to the land, and thereupon the land shall be deemed to be agricultural land in relation to the provisions made applicable thereto, notwithstanding anything contained in clause (1) of Section 2\*.

1["(1-A) When it is made to appear to Government that any land used for agriculture on or after the 1st July, 1962 is sought to be converted or used for any non-agricultural purpose, it may, if it considers such action necessary in the interest of agricultural production, the furtherance of the objects of this Act, or the public interest, after giving to the landlord and the tenant a reasonable opportunity of showing cause, by order prohibit such use or conversion, or permit such use or conversion, on such terms and condition, as it may specify:

Provided; however, that when it appears to Government that the object in View would otherwise be defeated by delay it may issue an order prohibiting such conversion or use till the completion of the enquiry (except on such terms and conditions as may be specified), or such other order as the circumstances of the case may require, and may from time to time modify or vary such order.

(1-B) Notwithstanding anything contained in sub-sections (1) and (1-A), Government may, when it is satisfied for reasons to be recorded, that it is in the interest of agricultural production, prohibit in any local area, either absolutely or except upon such terms and conditions as may be specified, the conversion of any land used for agriculture, for any non-agricultural purpose including the raisings of crops of coconut, arecanut cashew or mangoes. Every such order shall be published in the official Gazette and in



such other manner as may be prescribed:

Provided, however, that except when the object of the order would be defeated by delay, Government shall, in the prescribed manner give the persons affected an opportunity of showing cause against the proposed order.

(1-C) Any person who contravenes an order passed under sub-section (1-A) or sub-section (1-B) shall be guilty of an offence under sections 188 of the Indian Penal Code.

(1-D) Government may take such action as is necessary for enforcing an order passed under sub-section (1-A) or (1-B)."]

(2) [The provisions of sub-section (1); (1-A) and (1-B)] shall not apply to land converted to non-agricultural use for the purpose of any industry 2[house construction] or other schemes of development approved by the Government,

(3) Save as otherwise provided in this Act expressly or by necessary implication, the provisions of this Act shall apply to all tenancies of agricultural land notwithstanding any other law, custom, usage, decree or order of a court or tribunal, or any agreement or contract to the contrary.

(4) The provisions of any other law for the time being in force relating to leases of immovable property shall in so far as they are not inconsistent with the provisions of this Act, apply to the tenancies and leases of land to which this Act applies.

Vide Notification No. RD/TNC/SO/206/66 dated 15-9-66, at page 195.

1. Sub-Sections (1-A to 1-D) inserted by G D D 10 of 1966 S. 2 w.e.f. 28-10-1966 (Govt. Gazette, Series I No. 32 dated 10-11-1966).

2. These words have been inserted, Ibid.

## CHAPTER 2

### Security of Tenure

#### **4. Persons Deemed To Be Tenants :-**

A person lawfully cultivating any land belonging to another person (hereinafter in this section referred to as the owner) on or after the 1st of July, 1962 but before the commencement of this Act, shall be deemed to be a tenant if such land is not cultivated personally by the owner and if such person is not--

(i) a member of the owners family, or

(ii) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal

supervision of the owner or of any members of the owners family,  
or

(iii) a mortgagee in possession:

Provided that if upon an application made by the landlord within one year from the commencement of this Act to the Mamlatdar within whose jurisdiction the land is situated:--

(a) the Mamlatdar declares that such person is not a tenant and his decision is not reversed on appeal or revision, or

(b) the Mamlatdar refuses to make such declaration but his decision is reversed on appeal or revision, such person shall not be deemed to be a tenant under this section:

Provided further that a sub-tenant cultivating any land belonging to, another person ["on or after the 1st of July, 1962, but before the commencement of this Act"] shall, notwithstanding the fact that the creation of the sub-tenancy might have been prohibited by any law for the time being in force, be deemed to be lawfully cultivating the land as a tenant for the purposes of this section; and in such cases, the intermediary tenant or tenants prior to the creation of the sub-tenancy shall not be deemed to be tenant or tenants for the purposes of this Act;

1["Provided further that in the case of a person claiming to be a tenant on the ground that he was a sub-tenant cultivating any land after the 1st July, 1962 but before the commencement of this Act, the application by the landlord for a declaration that such person is not a tenant may be made within three months of the commencement of the Goa, Daman and Diu Agricultural Tenancy (Amendment) Act, 1966"].

1. This proviso was inserted by GOA 10 of 1996 S. 3 (Govt. Gazette, Series I No. 32 dated 10-11-1996).

## **5. Right Of Persons Holding On The Date Of Liberation :-**

A person who lawfully cultivated as a tenant or sub-tenant any land belonging to another person (hereinafter in this section referred to as the owner) on or after the 19th of December, 1961 but before the 1st July, 1962 shall be deemed to be a tenant for all the purposes of this Act.--

(i) if such person cultivated it personally for any period immediately preceding the latter date,

(ii) if such land was not cultivated personally by the owner,

(iii) if such person was not one of the persons mentioned in clauses (i) to (iii) of section A, and

(iv) if such person is restored to possession of such land in pursuance of sub-section (3) of section 8.

## **6. Explanations :-**

For the purposes of sections 4 and 5 --

(i) where the person who lawfully cultivated the land on the relevant date is, on or before the date of coming into force of this Act, dead, his legal representative, or where there are more than one legal representative all of them jointly shall be entitled to the same rights and subject to the same obligations as the deceased person:

(ii) where any land is held by two or more persons jointly as tenants, all such persons shall, if any one of them cultivated and continues to- cultivate such land personally, be deemed to be tenants in respects of such land;

(iii) when any land is cultivated by a widow or minor or a person who is subject to physical or mental disability or a serving member of the Defence Forces, through a tenant then notwithstanding anything contained in 1[Explanation (2) to clause (7) of section 2], such tenant shall be deemed to be a tenant.

1. These words, brackets and figures were substituted and were always deemed to have been substituted for the words, brackets and figures "Explanation (1) to clause (7) of section 2" by G.D.D. 10 of 1966 S. 4 (Govt. Gazette, Series I No. 32 dated 10-11-1966).

## **7. Question Of Tenancy :-**

If any question arises whether any person is a 1[or was] tenant or should be deemed to be a tenant under this Act the Mamlatdar shall, after holding an inquiry, decide such question. 2["In any such enquiry, the Mamlatdar shall presume that any statement as to the existence of a right of tenancy in a record of rights prepared in the prescribed manner under and in accordance with the provisions of this Act, is true"].

1. The words "or was" inserted by Goa Act (No. 4 of 1991), w.e.f. of 21-11-1990. [Official Gazette, Series II No. 3 dated 23-4-1991 (Extraordinary No.2)].

2. These words were added by (Amendment) Act (10 of 1966), S. 5 (O.G. Series I No. 32 dated 10-11-1990).

## **7A. Question As To Nature Of Land :-**

1[If any question arises as to whether any land is or is used for agricultural purposes the Mamlatdar shall, after holding an inquiry, decide such question."].

1. Section 7A inserted by G.D.D. 18 of 1975 S. 2. (Official Gazette, Series I No. 32 dated 6-11-1975).

## **8. Bar To Eviction And Restoration Of Possession :-**

(1) No tenancy of any land shall be terminated and no person holding land as a tenant shall be liable to be evicted therefrom save as provided under this Act.

(2) Where any such person as is referred to in section 4 has been evicted from the land on or after the 1st July, 1962 such person shall be entitled to recover immediate possession of the land in the manner prescribed by or under this Act unless the landlord proves that the termination of tenancy was in the manner authorised under section 9.

(3) Where any such person as is referred to in section 5 was evicted from such land on or after the 19th of December, 1961 but before the 1st of July, 1962, such person shall, in the manner prescribed by or under this Act, be entitled to recover possession of the land if--

(i) he applies to the Mamlatdar within six months from the date of coming into force of this Act stating that he agrees to become a tenant on the same terms and conditions as existed before, and as modified by the provisions of this Act;

(ii) he proves that the eviction was mala fide and was intended to defeat the purposes of this Act; and

(iii) he pays to the landlord the arrears of rent, if any, due from him under the terms of his tenancy or gives sufficient security therefore:

Provided that where the land from which such person was evicted had been leased out by the landlord to another person for any period after the said date, the evicted person shall not be entitled to recover possession before the first day of the year immediately following the year in which this Act comes into force.

(4) Notwithstanding anything contained in the foregoing provisions, where the Government is satisfied that a tenant has for reasons beyond his control omitted to take step for restoration of possession within the time prescribed therefor, it may on its own motion, direct the Mamlatdar to entertain and dispose of an application.

(5) Notwithstanding anything contained in the other provisions of this Act, where a person who was holding land on lease from a

landlord has, in cases coming under section 4, on or after the 1st July, 1962, and in cases coming under section 5, on or after the 19th December, 1961, surrendered his right of tenancy to the landlord on or before the 28th July, 1964, he shall not be entitled to restoration of possession under this Act, if such surrender was voluntary and was made before the Administrator of the Concelho, in accordance with the rules and orders, if any, in that behalf or is found to be genuine by the Mamlatdar after holding an enquiry.

### **8A. Relief In Certain Cases Of Threatened Wrongful Dispossession :-**

1[(1) Any tenant in possession of any land or dwelling house who apprehends that he may be dispossessed contrary to the provisions of this Act, may apply in the prescribed manner to the Mamlatdar for an order safe guarding his right to possession.

(2) On such application, the Mamlatdar if he is satisfied on holding such enquiry as may be prescribed, that the applicant is entitled to continue in possession, shall, by order, direct the landlord or any person claiming through him to refrain from disturbing it otherwise than in accordance with law.

(3) In any proceeding under this section, if it is proved to the satisfaction of the Mamlatdar by affidavit or otherwise that the opponent threatens to dispossess the applicant, he may by order grant a temporary injunction restraining such dispossession or otherwise causing injury until the final disposal of the proceeding or until further orders. In all such cases the Mamlatdar shall, except where it appears that the object of granting the injunction would be defeated by delay, issue notice of the application to the opponent before granting an injunction.

(4) Any person dispossessing a tenant in contravention of an order made under sub-section (2) or (3), in addition to any other penalty to which he is subject, on application made by the tenant within thirty days of such dispossession, and notwithstanding anything to the contrary in any other provision of this Act, be summarily evicted by the Mamlatdar who shall thereupon restore possession to the tenant"].

1. Section 8-A inserted by G D D 10 of 1966 (Govt. Gazette, Series I No.32 dated 10-11-1966).

### **9. Modes Of Termination Of Tenancy :-**

The tenancy of any land may be terminated-

- (a) by the tenant by surrender of his right to the landlord in the manner provided in section 10; or
- (b) by the landlord on the grounds specified in section 11; or
- (c) under any other specific provision of this Act.

### **10. Surrender By Tenant :-**

(1) Any tenant may surrender his right of tenancy in respect of any land to the landlord and thereupon the tenancy in respect of that land shall stand terminated if the following conditions are satisfied:

- (i) the surrender is made at least one month before the

commencement of the year;

(ii) it is made by the tenant in writing and is admitted by him before the Mamlatdar;

(iii) it is made voluntarily and in good faith to the satisfaction of the Mamlatdar;

(iv) it is approved by the Mamlatdar; and

(v) the conditions in clauses (a) to (d) of sub-section (4) of section 20 are satisfied.

(2) Where the land is cultivated jointly by joint tenants or members of joint family, the surrender, unless it is made by all of them shall be ineffective in respect of such joint tenants or members, as the case may be, as have not joined in the application for surrender.

(3) Where the Mamlatdar is of opinion that the conditions mentioned in sub-section (1) are not satisfied, he may, after giving a reasonable opportunity to the landlord to show cause against taking action under this subsection, and holding such enquiry as he may,-

(i) refuse to approve the surrender, or

(ii) Submit the case to the Government for orders under the next sub-section.

(4) Where a case is submitted under the preceding sub-section, the Government may, by order, transfer the tenancy right to any other person, including a Comunidade, a Co-operative Society or a Panchayat, who, in its opinion, is a fit and proper person to be a tenant, and thereupon such other person shall be deemed to be a tenant for the purposes of this Act.

## **11. Termination Of Tenancy By Landlord :-**

(1) The Landlord may terminate a tenancy on the ground that the tenant:

(a) has failed to pay the rent for any period on or before the date or dates fixed by or under this Act, or

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

(c) has sub-divided, sub-let, or assigned any interest in the land, otherwise than as permitted under sections 14 and 15, or

(d) has failed to cultivate the land personally, or

(e) has used such land for a purpose other than agriculture.

(2) No tenancy of any land held by a tenant shall be terminated on any of the grounds mentioned in this section unless the landlord gives at least ninety days notice in writing to the tenant intimating

his decision to terminate the tenancy and the ground for such termination and unless within that period the tenant has failed to remedy the breach for which the tenancy is liable to be terminated: Provided that where the said breach occurs for the second time the tenant shall be liable to pay to the landlord by way of penalty a sum equal to 50 per cent of the rent payable for that season for the land in relation to which the breach has occurred:

Provided further, that where a breach of the same kind occurs on more than two consecutive occasions no such notice as is referred to above shall be necessary and the landlord shall be entitled to straightaway make an application to the Mamlatdar under sub-section (4).

(3) The tenancy of a tenant who is a minor, or is subject to physical or mental disability, or is a serving Member of the Defence Forces shall not be terminated on the ground only that the land comprised in the tenancy has been sub-let by or on behalf of such tenant.

(4) Where the landlord after the expiry of the period of notice, if any, mentioned in sub-section (2) decides to terminate the tenancy under this section, he shall within such time as may be prescribed apply to the Mamlatdar for permission to do so and the Mamlatdar may accord permission or, if he considers it necessary for reasons to be recorded in writing and after considering the objections, if any, of the landlord, submit the case to the Government for orders sub-section (4) of section 10.

## **12. Special Provisions Regarding Termination For Non-Payment Of Rent :-**

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

Provided that nothing in this section shall apply to any tenant whose tenancy is terminated for non-payment of rent if he has failed for any three years to pay rent within the period fixed by or under this Act and the landlord has complied with the requirements, if any, of any notice to the tenant by or under this

Act.

(2) The landlord may apply to the Mamlatdar in the prescribed form for recovery of arrears of rent for any period not exceeding three years. The Mamlatdar may, after such enquiry as he considers necessary, pass such order as he deems fit. The Mamlatdar in passing an order shall allow the tenant, to set off the sum, if any, paid by him to the landlord within the period of three years immediately preceding the date of application made under sub-section (1) in excess of the rent due from him:

Provided that if the Mamlatdar is satisfied that in consequence of a total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Mamlatdar may, for reasons to be recorded in writing,

(i) direct, after hearing the landlord, that no rent shall be payable for the period of such failure of crops by the tenant, or

(ii) direct, after hearing the tenant and the landlord, that the arrears of rent, or such part thereof as may be considered reasonable by the Mamlatdar, together with the cost of proceedings, if awarded, shall be paid within one year from the date of the order and that if before 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.

(3) When a tenant tenders an amount on account of rent to the landlord for any period and if the-landlord refuses to receive it or refuses to grant a receipt for it, the tenant may present to the Mamlatdar an application in writing for permission to deposit in his office the full amount of rent. The Mamlatdar may receive the amount in deposit and give a receipt for it. Notice of the amount so deposited shall be given to the landlord and if the Mamlatdar is satisfied that the payment by the tenant was bona fide it shall be paid to the landlord, and thereupon it shall constitute a discharge of the tenants liability in respect of the rent for such period and no claim or application by a landlord for rent shall be maintainable in respect of the period for which the rent has been so deposited by the tenant.

### **13. Tenancy During Usufructory Mortgage :-**

If any land is mortgaged by a landlord by way of usufructory 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 for the tenant to continue to hold the land on the terms and conditions on which he held it before the mortgage was created.

### **13A. Tenants Right Of First Purchase :-**

1[(1) When a landlord intends to sell any land cultivated by a tenant he shall give notice of his intention to the tenant in the prescribed manner and shall specify the price at which the sale is to take place and call upon him to state within 90 days of receipt of the notice whether he is willing to buy the land at the price specified.

(2) The tenant may within 90 days of receipt of the notice signify in the prescribed manner his readiness to purchase the land at the price specified in the notice and there upon a contract to purchase the land at the said price shall be deemed to have been concluded between the landlord and the tenant.

(3) If the tenant is willing to purchase the land but contends that the price specified in the notice is excessive he may apply to the

Collector in the prescribed manner within 30 days of receipt of notice under sub-section (1) for determining the price whereupon the Collector shall determine the same in the prescribed manner in accordance with the principles laid down in the Land Acquisition Act, 1894 and the price so determined by the Collector shall be deemed to be the price specified in the notice under sub-section (1). But the tenant shall in such an event exercise the option conferred by sub-section (2) within 60 days the receipt of notice of the price fixed by the Collector.

(4) If the tenant fails within the period specified in sub-section (1) to signify his acceptance as provided in subsection (2), the landlord shall be free to sell the land in question to any person at a price not lower than that set out in the notice or the price determined by the Collector under sub-section (3) as the case may be.

(5) Any sale by a landlord to a person other than a tenant without giving the notice required by sub-section (1), or before the expiry of the period of the said notice or at price lower than that set out in the notice or the price determined by the Collector under sub-section (3) as the case may be, shall be void.

(6) Notwithstanding anything in this section, a tenant who fails to avail himself of the offer of first purchase made under sub-section (1) shall not, by reason thereof, cease to be a tenant, but shall continue as a tenant under the new owner on the same terms and conditions as before.

(7) Government may, subject to due appropriation being made in this behalf, grant on such terms as may be prescribed, a loan to a tenant for the purchase of any land in respect of which a notice has been served upon him under sub-section (1)".]

1. Section 13-A inserted by G.D.D. 10 of 1966. (Govt. Gazette Series I, No. 32 dated 10-11-1966).

### **14. Rights Of Tenants Are Heritable :-**

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

(a) if such tenant was a member of a joint family, to the surviving member or members of the said family, and

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

(2) The surviving members, or as the case may be, the heirs to

whom the tenancy is continued under subsection (1) shall be entitled to partition and sub-division of the land leased subject to the following conditions:

- (a) each sharer shall hold his share as a separate tenant;
- (b) the rent payable in respect of the land leased shall be apportioned among the shares according to share allotted to them; and if any question arises regarding the shares or the apportionment of the rent payable by the sharers, it shall be decided by the Mamlatdar whose decision shall be final.

Explanation.-- The allotment of a separate number to any portion of the land for the purposes of land records or land survey under any law for the time being in force shall not, by itself amount to a subdivision or partition for the purpose of this sub-section".]

(3) Where any question arises as to the person or persons in whose favour tenancy is deemed to have been continued under the foregoing provisions, such question shall be determined by the Mamlatdar after hearing the landlord and other persons interested in the matter:

Provided that nothing in this sub-section shall preclude the rights of parties being determined by a court of law.

### **15. Sub-Division, Sub-Letting And Assignment Prohibited :-**

(1) Save as otherwise provided in this Act, no sub-division or sub-letting of the land held by a tenant or assignment of any interest therein shall be valid.

(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 Defence Forces to sub-let such land held by her or him as a tenant, or

(b) who is a member of a Co-operative 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.

(3) Notwithstanding anything contained on 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 Government or of a Co-operative Society, [or corresponding new Bank] in consideration of a loan advanced to him by the Government or the Co-operative Society, [or corresponding new Bank] as the case may be and without prejudice to any other remedy open to the Government or the Co-operative Society, 1[or corresponding new Bank] 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 Government or the Co-operative Society, [or corresponding new Bank] 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. These words inserted by G.D.D. 2 of 1982 S. 2 w.e.f. 25-2-1982. (Official Gazette, Series No. 5 dated 29-4-1982).

### **15A. Lands Mortgaged To Government And Co-Operative Societies :-**

1[ When a tenant has mortgaged his interest in the land in favour of Government or a co-operative society [or corresponding new Bank] with the permission of Government, in consideration of a loan advanced to him, then notwithstanding anything contained in any other provision of this Act, the landlord shall not, while the mortgage subsists, without the prior permission of Government, be entitled to resume the land for personal cultivation, or to terminate the tenancy on any of the grounds mentioned in section 11 or otherwise, nor shall the tenant be entitled without such permission to surrender his interest to the landlord and any such surrender shall be void:

Provided, however, that for the period during which such permission has been sought but has not been granted, the obligations of the tenant under this Act to the landlord shall devolve upon Government or the co-operative society [or corresponding new Bank] as the case may be".]

2[Explanation.-- For the purposes of section 15 and 15 A, the expression "corresponding new Bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970.)]

1. See 15-A was inserted by G.D.D. 10 of 1966 S. 9. (Govt. Gazette, Series I, No. 2, dated 10-11-1966).

2 Explanation inserted by G.D.D. 2 of 1982, S. 3 (Official Gazette, Series I No. 5 dated 29-4-1982).

### **16. Bar To Attachment, Seizure Or Sale By Process Of Court :-**

Save as expressly provided in this Act any interest in the land held by a tenant as such shall not be liable to be attached, seized or sold in execution of a decree or order of a Civil Court.

### **17. Repealed :-**

1[[Repealed]

1 Section 17 has been repealed by G.D.D. Mundkars (Protection from Eviction) Act, 1975 (10 of 1976) S. 41(b) [Official Gazette (Extraordinary) Series I No. 46 dated 18-2-1976]. The repealed Section 17 is reproduced below, for information:

"17. Dwelling house of tenant in landlords site.--

(1) If in any village, a tenant of any agricultural land is in occupation of a dwelling house 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 as a dwelling house).

(2) The provisions of sub-section (1) shall not apply to a dwelling house which is situate on any land used for the purpose of agriculture the tenancy of which has been terminated for personal cultivation by the landlord.

### **18. Procedure For Taking Possession :-**

(1) A tenant entitled to possession of any land or dwelling house under any of the provisions of this Act may apply in writing for such possession to the Mamlatdar. The application shall be made in such form and within such period as may be prescribed by or under this Act.

(2) No landlord shall obtain possession of any land or dwelling house held by a tenant except under an order of the Mamlatdar, for which he shall make an application in such form and within such period as may be prescribed by or under this Act.

(3) On receipt of an application under sub-section (1) or (2) the Mamlatdar shall, after holding an enquiry, pass such orders thereon as he deems fit, with due regard to the other provisions of this Act and the Rules.

(4) Any tenant or landlord taking possession of any land or dwelling house except in accordance with the provisions of sub-section (1) or (2), shall be liable to forfeiture of crops, if any, grown in the land in favour of the landlord or the tenant, as the case may be, in addition to payment

(3) If the landlord of a site referred to in sub-section (1) intends to sell such site, such 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 (4) the first option of purchasing the site at a value determined by the Tribunal.

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

(5) If within the said period 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 market value of the site. On receipt of such application the Tribunal shall, after giving notice in the prescribed manner and after holding enquiry, determine the market value of the site and shall, by an order in writing, require the tenant to deposit the amount so determined within ninety days 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 the tenant specifying therein the particulars of the site so transferred and the name of the tenant. of such costs as may be awarded by the Mamlatdar or by the Collector on appeal and also to the penalty, if any, prescribed by or under this Act.

(5) The Government may, by notification, direct that the provisions of the foregoing sub-sections shall apply to sites used for allied pursuits as they apply to sites of dwelling houses of an agriculturist and thereupon the provisions shall so apply.

Provided that where the Tribunal is satisfied that the tenant is unable to make the deposit of the said amount within the period mentioned above it may permit the tenant to make the deposit in three equal annual installments, or, where the tenancy is terminated earlier, in suitable installments before the termination; in such cases the site shall be deemed to have been transferred to the tenant on payment of last installment.

(6) If in respect of a site which a landlord offers to sell to the tenant under the provisions of sub-section (3), the value payable therefor by the tenant is agreed to between him and the landlord, either the landlord or the tenant or both jointly may apply to the Tribunal and thereupon the Tribunal shall, on payment of the prescribed fees, grant a certificate in the prescribed form; the value that is so agreed upon shall be deemed to be the market value determined by the Tribunal for the purposes of sub-section (5).

(7) If the tenant fails to intimate his willingness to purchase the site within the period referred to in sub-section (4) or fails to deposit the amount of the value within the time specified in sub-section (5), the tenant shall be deemed to have relinquished his right of first option to purchase the site:

Provided that no tenant of agricultural land shall, so long as he remains such tenant, be liable to be evicted from the site by the purchaser of such site unless any nearby site is offered to him by the landlord or by the Government.

Provided further that the tenant shall be entitled to such compensation as may be determined by the Tribunal, for any loss caused to him on account of the eviction.

(8) Any sale of a site effected in contravention of this section shall be void.

(9) The Government may, by notification direct that the foregoing provisions of this section shall, in any area specified in the notification, apply also in respect of dwelling houses and the sites thereof occupied by agricultural labourers or artisans or in respect of land held or lease by persons carrying on allied pursuits for the purpose of such pursuit."

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|--|
| Chapter : IIA - SPECIAL RIGHTS AND PRIVILEGES OF TENANTS |
|--|

### **18A. Tenants Deemed To Have Purchased Lands On Tillers Day :-**

1[(1) On the tillers day, every tenant shall, subject to the other provisions of this Act, be deemed to have purchased from his landlord the land held by him as a tenant and such land shall vest in him free from all encumbrances subsisting on the said day.

(2) Where a tenant, on account of his eviction from the land by the landlord before the tillers day, is not in possession of the land on the said day, but has made or makes an application for possession of the land under section 18 within the period specified therein, then, if the application is allowed by the Mamlatdar or, as the case may be, in appeal by the Collector or in revision by the Administrative Tribunal, he shall be deemed to have purchased the land on the day on which the final order allowing the application is passed.

(3) Where a tenant referred to in sub-section (2) has not made an application for possession within the period specified under section 18 or the application made by him is finally rejected under this Act, and the land is held by any other person as tenant on the expiry of the said period or on the date of the final rejection of the application, such other person shall be deemed to have purchased the land on the date of the expiry of the said period or, as the case may be, on the date of the final rejection of application.

(4) If a tenant is not in possession of the land on the tillers day on account of his being dispossessed otherwise than in the manner provided in section 11 and the land is,

(a) in possession of the landlord or his successor in interest; and

(b) not put to a non-agricultural use, the Mamlatdar shall notwithstanding anything contained in this Act, either suo motu or on the application of the tenant, hold an inquiry and direct that such land shall be taken from the possession of the landlord or, as the case may be, his successor in interest and shall be restored to the tenant and the provisions of this Chapter shall, in so far as they may be applicable, apply thereto, subject to the modification that the tenant shall be deemed to have purchased the land on the date on which the land is restored to him:

Provided that the tenant shall not be entitled to restoration under this sub-section unless he undertakes to cultivate the land personally.

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

(5) In respect of the land deemed to have been purchased by a tenant under sub-section (1),--

(a) the tenant-purchaser shall be liable to pay to the former landlord the purchase price; and

(b) the tenant-purchaser shall be liable to pay to the Government, the dues, if any, from the tillers day.

1. Chapter IIA inserted by G.D.D. 17 of 1976 S. 3.w.e.f. 8-10-1976 [Official Gazette (Extraordinary) Series I No. 29 dated 14-10-1976]-known as Fifth Amendment.

### **18B. Right Of Tenant To Purchase Land Where He Is A Minor, Etc. :-**

(1) Notwithstanding anything contained in section 18A, where the tenant is a minor or a widow or a person subject to mental or physical disability or a serving member of the Defence Forces, the right to purchase land under that section may be exercised--

(a) by the minor within one year from the date on which he attains majority;

(b) by the successor in title of the widow within one year from the date on which her interest in the land ceases to exist;

(c) within one year from the date on which the mental or physical disability of the tenant ceases to exist;

(d) within one year from the date on which the tenant ceases to be a serving member of the Defence Forces:

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

(2) A tenant desirous of exercising the right conferred on him under sub-section (1) shall give an intimation in that behalf to the land lord and the Mamlatdar within whose jurisdiction the land is situated in the prescribed manner within the period specified in that sub-section.

(3) The provisions of section 18A and sections 18C to 181 shall, so far as may be applicable apply to such purchase.

### **18C. Mamlatdar To Issue Notices And Determine Price Of Land To Be Paid By Tenants :-**

(1) As soon as may be after the tillers day, the Mamlatdar shall publish or cause to be published a public notice in the prescribed form in the Official Gazette and also in such other manner as may be prescribed calling upon--

(a) all tenants who under section 18A are deemed to have purchased the lands;

(b) all landlords of such land and

(c) all other persons interested therein, to appear before him on the date specified in the notice.

1["(2) Notwithstanding anything contained in sub-section (1), the Mamlatdar may, on his own motion or on an application from any person who has been called upon to appear before him under sub-section (1), give an opportunity to appear before him on any subsequent day, time and place other than that specified in the public notice under sub-section (1), to --

(a) such tenants or such persons claiming to be tenants;

(b) such landlords and other interested parties, who had appeared before the Mamlatdar in response to notice published under sub-section (1)";]

(3) The Mamlatdar shall record in the prescribed manner the statement of the

tenant whether he is or is not willing to purchase the land held by him as a tenant.  
(4) Where any tenant 2[...] makes a statement that he is not willing to purchase the land, the Mamlatdar shall, by an order in writing declare that such tenant is not willing to purchase the land and that the purchase is ineffective.

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

(5) If a tenant is willing to purchase, the Mamlatdar 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 for such land in accordance with the provisions of section 18D.

(6) In the case of a tenant who is deemed to have purchased the land on a date subsequent to the tillers day, the Mamlatdar shall, as soon as may be after such day, determine the price of the land.

1. Substituted by Act No. 23 of 1993 w.e.f. 16-4-1993 (Official Gazette, Series I, No. 30 (Extraordinary) dt. 21-10-1993. The para (2) is reproduced below for information:--

"(2) The Mamlatdar shall issue a notice individually to each such Tenant, landlord and also to the other persons referred to in clause (C) of sub-section (1), calling upon each of them to appear before him on the date specified in the public notice.

2. The words "fails to appear or" have been omitted Ibid.

### **18D. Purchase Price Payable To The Landlords :-**

(1) The purchase price payable by a tenant to the landlord in relation to the land which has been deemed to have been purchased by the tenant under section 18A shall be 1[...] the amount indicated in column 2 of the Table below in respect of the categories of land specified in the corresponding entry in column 1 thereof 2[...].

TABLE

| Category of land                               | Purchase price (in rupees) per hectare |
|--|--|
| Garden consisting primarily of:                |  |
| (a) Coconut trees                              | 4,000                                  |
| (b) Arecanut trees                             | 3,000                                  |
| (c) Mango trees                                | 2,500                                  |
| (d) Cashew tree                                | 1,600                                  |
| Rice Land:                                     |  |
| (a) Kher                                       | 4,000                                  |
| (b) Khazan                                     | 3,600                                  |
| (c) Morod                                      | 1,600                                  |
| Wet land where sugarcane is cultivated: [...]. | 2,500                                  |

1. The words "an amount equivalent to fifteen times the net average annual income of one land for the three years immediately preceding the tillers day or" have been omitted by Act No. 23 of 1993.

2. The words "whichever is lower" have been omitted Ibid.

### **18E. Mode Of Payment Of Purchase Price By Tenant :-**

(1) On the determination of the purchase price by the Mamlatdar under section



18C, the tenant shall deposit the purchase price with the Mamlatdar in the manner provided in this section.

(2) The tenant shall have the option to deposit the purchase price either in lumpsum or in ten equal annual installments.

(3) The first installment of the purchase price or where the purchase price is payable in a lumpsum under subsection (2), the lumpsum, shall be paid by the tenant within a period of six months from the date of passing of the order of the Mamlatdar under section 18C.

(4) The second or subsequent installments of the purchase price shall be paid within a period of one year from the date on which the previous instalment was due.

(5) Where the lumpsum payment or any installment of the purchase price has not been deposited on the due date, the amount in default shall carry interest at the rate of six per cent per annum.

### **18F. Amount Of Purchase Price To Be Applied Towards Satisfaction Of Debts :-**

(1) The Mamlatdar shall in an inquiry held under section 18C, determine any encumbrances lawfully subsisting on the land on the tillers day.

(2) If the total amount of the encumbrances is less than the purchase price determined under that section,-

(i) where the purchase price is paid in lumpsum, it shall be deducted from the purchase price and the balance paid to the former landlord;

(ii) where the purchase price made payable in installments, the Mamlatdar shall deduct such amount from such installments towards the payment of such encumbrances:

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

(3) If the total amount of the encumbrances is more than the amount so determined, the purchase price in lumpsum or the installments, as the case may be, shall be distributed in the order of priority and if any person has a right to receive maintenance or alimony from the profits of the land the Mamlatdar shall also make deductions for payment out of the purchase price.

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

### **18G. Recovery Of Purchase Price As Arrears Of Land Revenue :-**

If the tenant-purchaser makes a default in the payment of the whole or part of the purchase price, the Mamlatdar shall, on an application made in this behalf by the landlord proceed to recover such sum which is in arrears on the date of application, together with any interest due as arrears of land revenue.

### **18H. Purchase To Be Ineffective On Tenant-Purchasers Failure To Pay Purchase Price :-**

(1) On the deposit of the purchase price in lumpsum or of the first installment of such price, the Mamlatdar shall issue a certificate of purchase in the prescribed form to the tenant-purchaser in respect of the land and such certificate shall, subject to sub-section (2), be conclusive evidence of the purchase.

(2) In the event of failure of recovery of purchase price as arrears of land revenue under section 18G, the purchase shall be ineffective and the land shall be at the disposal of the Mamlatdar under section 18J and any amount deposited by such tenant-purchaser towards the price of the land shall be refunded to him.

### **18I. Right Of Tenant Whose Tenancy Has Been Created After Tillers Day :-**

(1) Notwithstanding any agreement or usage to the contrary, in respect of any tenancy created after the tillers day, a tenant shall be entitled within one year from the commencement of such tenancy to purchase from the landlord the land held by him.

(2) The provisions of this Chapter shall in so far as may be applicable, apply to the purchase of the land by a tenant under sub-section (1).

### **18J. Power Of Mamlatdar To Resume And Dispose Of Land Not Purchased By The Tenant :-**

(1) Where the purchase of any land by the tenant under section 18A becomes ineffective under section 18C or section 18H or where a tenant fails to exercise the right to purchase the land held by him within the specified period under section 18B, the Mamlatdar may, suo motu or on an application made in this behalf, and in cases other than those cases in which the purchase has become ineffective by reason of section 18C or section 18H, after holding a formal inquiry direct that the land or part thereof shall be disposed of in the manner provided in sub-section (2).

(2) The Mamlatdar shall make an order directing that the land or part thereof referred to in sub-section (1) shall be disposed of by sale to any person in the following order of priority:

(i) 75 per cent of such land shall be disposed of by sale to persons belonging to the Scheduled Castes and Scheduled Tribes;

(ii) the land remaining after disposal in the manner provided in clause (i) shall be disposed of by sale in the following order of priority, namely:--

(a) serving member of the Defence Forces or an ex-serviceman or a freedom fighter, who agrees to cultivate the land personally;

(b) agricultural labourers;

(c) landless persons;

(d) a co-operative farming society registered as such under the Maharashtra Co-operative Societies Act, 1960, as in force in the Union Territory of Goa, Daman and Diu.

Explanation I. -- Where the Mamlatdar has to select under this sub-section one or more persons having the same order of priority, preference shall be given to a person residing in the village in which the land is situated. In the event of there being more than one applicant having the same priority, the land shall be disposed of by sale, by drawing lots. The maximum area of the land that shall be sold to an individual shall be equivalent to one "economic holding" as defined in clause (e) of rule 2 of the Goa, Daman and Diu Land Revenue (Disposal of Government Lands) Rules, 1971.

Explanation II. -- For the purposes of this sub-section, "freedom fighter" means a person who has,--

(a) suffered imprisonment or detention for a period of not less than six months; or

(b) become permanently incapacitated as a result of any firing or lathi charge; or

(c) lost his job or means of livelihood or the whole or part of any of his property, by reason of his participation in the national movement for the liberation of Goa, Daman and Diu.

(3) Where any land is disposed of under sub-section (2), the Mamlatdar shall determine the price of the land in accordance with the provisions of section 18C

and the price so determined shall be paid in accordance with the provisions of section 18E.

(4) Where any land or portion thereof is offered for sale under sub-section (2), but no person comes forward to purchase such land or portion, as the case may be, it shall vest in the Government free from all encumbrances subsisting on the tillers day and the purchase price payable by the Government to the landlord in respect of the land so vested in the Government shall be paid in cash.

### **18K. Restrictions On Transfers Of Land Purchased Under This Chapter :-**

No land purchased by a tenant under this Chapter shall be transferred by sale, gift, exchange, mortgage, lease or assignment without the previous sanction of the Mamlatdar:

Provided that no such sanction shall be necessary where the land is to be mortgaged in favour of the Government or a co-operative society for the purpose of a loan for effecting any improvement of such land.

### **18L. Power To Make Rules :-**

(1) The Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for--

(a) the manner in which the tenant should intimate the land lord and the Mamlatdar under sub-section (2) of section 18B;

(b) the form of public notice and the manner in which it is so be published under sub-section (1) of section 18C;

(c) any other matter which is required to be prescribed".]

## **CHAPTER 3**

### **RESUMPTION BY LANDLORD**

### **19. Application Of This Chapter :-**

The provisions of this Chapter shall come into force only on a date to be fixed specially by notification, which shall not be earlier (2)

For the purposes of sub-section (1) gross produce means.--

(i) such quantity may be agreed to between the landlord and the tenant as representing the total produce of the land;

(ii) where there is no such agreement, such quantity as is ascertained by actual measurement of the produce immediately after harvest in the presence of the Sarpanch, the Gram Sevak, the Escrivao or any other respectable person; and

(iii) where the Government has, in relation to any village or area prepared and published any Record of rights or other data based on crop cutting experiment or otherwise, the produce shall be ascertained with reference to such principles, if any, as may be prescribed. than the date of completion of survey and settlement of agricultural land in the particular area, in pursuance of the

provisions of this Act or any other law.

Provided that where the landlord is able to furnish adequate proof to the satisfaction of the Mamlatdar as to his ownership and the extent, identity and other relevant particulars of the land and where the other conditions prescribed by or under this Act for resumption of land for personal cultivation are satisfied, the Mamlatdar may authorise resumption.

## **20. Resumption Of Land For Personal Cultivation :-**

(1) Notwithstanding anything contained in the other provisions of this Act, but subject to the provisions of this chapter, a landlord may, in the manner provided in sub-section (2), terminate the tenancy of any land if the landlord genuinely requires the land for cultivating it personally.

(2) Where the landlord proposes to act under sub-section (1) he shall give a notice to the tenant in writing, stating the purpose for which the landlord requires the land and shall save as otherwise provided in sub-section (3), serve the notice on the tenant on or before a date to be notified in this behalf by the Government. A copy of such notice shall, at the same time, be sent to the Mamlatdar. An application for possession shall be made to the Mamlatdar within ninety days, from the date aforesaid and the Mamlatdar may, after being satisfied as to the genuineness, pass orders authorising the termination of tenancy and eviction of the tenant.

(3) Where the landlord is a minor, or a widow with a life interest or a person serving in the Defence Forces or a person subject to any physical or mental disability,

(3) (a) where a tenant raises a second crop during the year, the quantity raised by the tenant in such crop shall not be included in the gross produce unless;

(i) there is a recognized practice of paying rent in respect of second crop; or

(ii) the second crop is raised with substantial assistance from the landlord:

Provided that in the case of crops other than paddy, grown as a second crop, both the conditions specified above shall be fulfilled.

Explanation:-Where a tenant raises in any land under paddy cultivation, any crop of millets, pulses or vegetables, not as a main crop but as a subsidiary or secondary crop, such crop shall be deemed to be a second crop for the purposes of this sub-section.

(b) Where, for the purposes of clause (a), any question arises as to the existence of a recognized practice or, as the case may be, of substantial assistance from the landlord, such question shall be decided by the Mamlatdar after holding an inquiry.

then, if he has not given a notice and made an application as required by sub-section (2), 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 a minor, he attains majority;

(ii) in the case of a person serving in the Defence Forces, he ceases to serve in such Forces, and

(iii) in the case of a person subject to physical or mental disability, he ceases to be so subject; and

(b) in the case of a widow with a life interest, by the successor in title within one year from the date on which the widows interest in land ceases to exist:

Provided that where land is held by two or more joint holders, the provisions of this sub-section shall not apply, if at least one joint holder is outside the categories specified in this sub-section:

Provided further that in cases coming under sub-clause (ii) of clause J[a), the provisions of sub-sections (4) and (5) shall not apply.

(4) The rent payable by a tenant to the landlord shall be paid within thirty days from the date of the final operations in respect of each harvest; such rent may be paid in cash or in kind at the option of the landlord at such conversion rates as may, from time to time, be fixed by the Government by notification.

(4) The landlords right to terminate the tenancy of any tenant under sub-section (1) shall be subject to the following conditions--

(a) the landlord or a member of his family must reside in the village in which the land is situated or in a village within 7 kilometres thereof, during the major portion of any agricultural season;

(b) he shall not be entitled to resume more than 2 hectares of paddy land in the case of Khajan or Kher lands and 4 hectares in the case of any other land.

(c) the landlord is not cultivating any other land;

(d) the income by the cultivation of the land he seeks to resume is his main or principal source of income for his maintenance; and

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

Explanation -- For the removal of doubt it is hereby declared that

the condition in clause (c) shall not apply where the extent of land, if any, already under the personal cultivation of the landlord is less than the ceiling specified in clause (b) and the area sought to be resumed does not exceed what is required to make up such ceiling.

(5) For the purposes of this section all partitions of property between co-owners, joint tenants or co-parcenors, and all transfers of property by way of gift, made on or after the date to be notified in this behalf shall be ignored and deemed not to exist unless such partition or transfer is approved by the Tribunal.

(6) No tenancy can be terminated under this section-

(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, or

(b) if, the tenant has become a member of a co-operative fanning society, so long as he continues to be such member.

(5) Notwithstanding anything in the foregoing provisions, where the Government considers it necessary to do so, it may, by notification, declare that in any specified area, the rent payable in kind or as a share; of crop, shall be commuted into cash rent at the rate specified therein; and thereupon, the commuted cash rent shall not be altered for a period of five years from the date of commutation, unless the Tribunal, on an application by the landlord or tenant, orders otherwise.

(7) If a landlord who resumes any land for personal cultivation under the foregoing provisions fails to cultivate the land within one year from the date of such resumption he shall, within the prescribed time, restore possession of the land to the tenant who was cultivating the land immediately before such resumption.

(8) If, within the prescribed time, the tenant makes an application to the Mamlatdar and satisfies him that the landlord has failed to comply with the provisions of sub-section (7), the tenant shall be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required under that sub-section.

(9) If, in consequence of the termination of tenancy under the foregoing provisions, any part of the land leased is left with the tenant, the rent of the land so left shall be apportioned in the prescribed manner in proportion to the area of such land.

(10) The tenancy of any land left with the tenant after the termination of the tenancy for personal cultivation, shall not, at any time, afterwards be liable to termination again on the ground that

the landlord genuinely requires the land for personal cultivation.

## **21. Reservation For Non-Agricultural Purposes :-**

A landlord may terminate the tenancy of any tenant and reserve the land for any-agricultural purposes, if he is permitted to do so by the Government. Thereupon, the provision of the foregoing sections of this chapter shall mutatis mutandis apply as if the landlord resumes the land for personal cultivation.

## **22. Special Rules :-**

Without prejudice to the generality of sub-section (1) of section 61 but subject to subsection (2) thereof, the Government may make rules for --

- (i) the manner of conducting enquiries into applications for possession of lands made under this chapter;
- (ii) the selection of lands for taking possession;
- (iii) the exchange or consolidation of fragments to secure as far as possible a contiguous area to the landlord or the tenant;
- (iv) the time when the termination of tenancy will take effect; and
- (6) If by custom, usage, agreement or decree or order of a Cou the amount of rent payable is less than the maximum specified in, sub-section (1) the amount so payable shall be the rent in respect of the land, if the Mamlatdar on application by the tenant and after holding an inquiry, determines the existence of such custom, usage, agreement, decree or order of Court.
- (7) The provisions of this section shall come into force on the 1st of September, 1964, and shall apply to rents payable by a tenant to a landlord in respect of all harvest of any agricultural produce after that date;

Provided that in respect of the harvest immediately after the date specified above the tenant shall, in addition to the rent payable by him pay to the landlord a sum of money representing the expenditure incurred by the landlord, whether by way of cost of cultivation or otherwise, which the tenant is liable to pay under the provisions of this Act, and any such sum shall be deemed to be rent payable by the tenant to the landlord in respect of that harvest for all the purposes of this Act.

## **CHAPTER 4**

### **Fixation of rent**

## **23. Maximum Rent :-**

(1) Subject to the other provisions of this Act, the rent payable by a tenant to the landlord in respect of any land shall not exceed one sixth of the gross produce of such land.

#### **24. Maximum Rent After Survey & Settlement :-**

(1) The provisions of this section shall come into force in any area with effect from such date as may be fixed specially by notification.

(2) In any area in which a survey and settlement of agricultural lands have been completed in pursuance of the provisions of this Act or of any other law, the maximum rent payable by a tenant to a landlord shall be such multiples of the land revenue, not exceeding five, as may be prescribed for each area.

Explanation -- In this section the expression "fragment" means such area as may be prescribed.

(3) Where the maximum rent has been fixed under sub-section (2) the Mamlatdar shall, for each village or group of villages or for any area in such village or group within his jurisdiction fix the rate of rent payable by the tenant for the lease of different classes of land situated in such village, group or area, as the case may be.

(4) The rate of rent so fixed shall continue for a period of 5 years and shall be liable to be revised by Government thereafter at the end of each successive period of 5 years; provided that the rate of rent so fixed, if not revised at the end of next period, shall continue until it is so revised.

(5) The rent payable by a tenant to his landlord in respect of any land in a village, or group of villages of area, shall be at the rate fixed under sub-section (3):

Provided that the Mamlatdar may at any time during any such period of five years, on an application made to him in this- behalf and after hearing the landlord or the tenant as the case may be--

(i) reduce the rent, if he is satisfied that on account of the deterioration 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 maximum fixed under sub-section (2), 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.

(6) Until the rent is fixed in accordance with the provisions of the preceding sub-sections a tenant shall, subject to the maximum



provided under sub-section (2), be liable to pay rent to the landlord at the rate at which it was payable immediately before the date referred to in sub- -section (1).

(7) The rent payable under this section shall, at the option of the landlord, be payable in kind at such conversion rates as may be fixed by the Government by notification from in time to time.

## **25. Compensation And Penalty For Excess Recovery Of Rent :-**

If any landlord recovers rent from any tenant in contravention of the provision of section 23 or 24, he shall forth with refund the excess amount recovered to the tenant and shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar, and shall also be liable to such penalty as may be prescribed by or under this Act.

## **26. Liability For Cost Cultivation, Tax, Works Etc. :-**

(1) In the case of land in respect of which rent has been fixed under the foregoing provisions a landlord shall not be liable to make any contribution towards the cost of cultivation of the land in the possession of his tenant, except to the extent otherwise specifically provided for in this Act.

(2) (a) The liability to pay land revenue in accordance with the provisions of any law for the time being in force shall be that of the landlord.

(b) The liability to pay irrigation cess in accordance with the provisions of any law for the time being in force shall be that of the tenant.

(c) The liability to pay any other rate, tax, fee, cess or other charge levied by or under any other law shall be as provided in such law and in the absence of any provision, that of the tenant.

(3) In the case of Khajan and Kher lands the duty and responsibility of carrying out works of maintenance, repair and conservancy of banks, bunds or ridges of tanks or rivers or other sources of irrigation shall be that of the tenant and the landlord shall not be liable to make any contribution to the cost of such works:

1[Provided, however, that in the case of repairs to breaches in bunds which may be specified by Government as protective bunds, Government shall on such conditions and in such manner as may be prescribed, contribute a sum not exceeding 50% of the cost of such

repairs:

Provided, further, that the duty and responsibility of carrying out works of a recurring nature designed to conserve water such as the closure of apertures of the sides or wall of a tank such as Khan or popularly known by any other name, shall continue to be that of the person on whom it was cast, according to the custom, usage or practice in force immediately before the commencement of this Act. Any question as to the existence of any such custom, usage, or practice as aforesaid shall be determined by the Mamlatdar after such enquiry as may be necessary or prescribed].

2[(3)-A (a) [Whenever it appears to the Mamlatdar that any of the works of maintenance, repair and conservancy referred to in sub-section (3) have been neglected for any reason whatsoever he may, by order in writing, direct that the works shall be carried out by such person as may be specified and the cost thereof shall be recovered from the beneficiaries of the work done as arrears of land revenue]:

Provided that in the case of repairs to protective bunds where the breaches have occurred owing to the negligence of the owner of any land to which this Act does not apply, the cost of repairs incurred as a result of such negligence may also be recovered from such persons as may be named in the order of the Mamalatdar as arrears of land revenue.

(b) The person from whom the costs are recovered under the preceding clause shall be entitled to recover the same or an appropriate portion thereof from any person who in law is wholly or partially liable to construct, maintain or repair the bunds.

(c) The question as to whom are the beneficiaries of repairs to a bunds shall be determined by the Mamlatdar.

\*(d) From any order passed by the Mamlatdar under this sub-section an appeal shall lie to Government whose decision shall be final].

(4) Where the benefit of any such works as is referred to in the 3[preceding sub-sections] is derived by or is available to more tenants than one, the cost of such works shall be distributed between all such tenants in such proportion as may be agreed to between them or, in the absence of an agreement, as may be determined by the Mamlatdar, having due regard to all relevant circumstances of the case.

(5) For the purpose of ensuring that the duty and responsibility referred to in sub-section (3) are discharged properly and promptly, the Government may, by order, direct the tenants concerned to

take such measures as may be specified in the order. A copy of every such order shall be sent to the landlord.

(6) If any tenant commits default in complying with any direction or order passed under the preceding subsection the provisions of sub-sections (4) and (6) of section 37 shall apply to such default as if it is a default within the meaning of that section.

1. These two provisos were substituted for the original proviso by G.D.D. 10 of 1966 S. 11. (Govt. Gazette, Series 1 No. 32 dated 10-11-1966). The original proviso reads as follows:

"Provided that in the case of repairs to breaches in the protective or other bunds in khazan lands Government shall contribute 50 per cent of the cost of such repairs"

2. Sub-section (3-A) was inserted by G.D.D. 10 of 1966. S. II (Govt. Gazette, Series I No. 32 dated 10-4-1966).

\* Vide Order No. 1/7/80-RD dated 1-9-1980, for delegation of powers, at page 197.

3 These words were substituted for the words "preceding sub-section" by G.D.D. 10 of 1966. S. 11 (Govt. Gazette, Series I No. 32 dt. 11-10-1996).

## **27. Bar To Recovery Of Any Other Sum From Tenant :-**

Save as otherwise provided in this Act, it shall not be lawful for any landlord to levy any rate, tax, fee, cess or other charge for 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.

## **28. Benefit Of Any Suspension Or Remission Of Rent :-**

( 1 ) When ever by reason of any natural calamity or like circumstances the payment of the whole land revenue payable to the Government in respect of any land is suspended or remitted in accordance with such principles as may be provided for in this behalf 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 for any reason, the payment of the whole or any part of the land revenue payable to Government in respect of any other land in the neighborhood of such land has been suspended or

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

(3) No proceedings shall be taken for recovery by a landlord of any rent, the payment of which has been remitted or suspended or during the period for which the payment of such rent has been remitted or suspended under this section. The period during which the payment of rent is remitted or suspended under this section shall be excluded in computing the period of limitation prescribed for any proceeding for the recovery of such rent.

(4) If any landlord fails to suspend or remit the payment of rent as provided in this section, he shall be liable to refund to the tenant the amount recovered by him in contravention of this section, if the Mamlatdar, after making an inquiry, orders the refund.

#### CHAPTER 5

Other rights and liabilities

### **29. General :-**

Save as provided in this Act, the rights and privileges of any tenant under any custom, 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.

### **30. Presumption As To Rent And Duty To Give Receipt :-**

(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 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 or behalf of such landlord, the landlord or, as the case may be, the person shall at the time when such amount is received by him give a written receipt therefor in such form and in such manner, if any as may be prescribed.

### **31. Tenants Right To Trees On The Land :-**

If in any portion of agricultural land leased to a tenant not covered by cultivation, the tenant has planted or plants any trees, he shall be entitled to the produce and the wood of such trees during the continuance of his tenancy and shall on the termination of his

tenancy be entitled to such compensation for the said trees as may be determined by the Mamlatdar:

Provided that the tenant shall not be entitled to compensation under this section if the tenancy is terminated by surrender under section 10.

(2) If in any such portion of the lands as is referred to in sub-section (1) there are any trees naturally growing thereon, the tenant shall, during the continuance of his tenancy, be entitled to two-thirds of the produce of the trees and the landlord to the remaining one third.

### **32. Compensation For Improvements Made By Tenant :-**

(1) A tenant who has made any improvement on the land held by him, other than what he is bound to do under this Act, shall, if his tenancy is terminated under the provisions of this Act, be entitled to compensation for such improvement the amount of which shall, on application made by the tenant in the prescribed form, be determined by the Tribunal in accordance with the provisions of sub-section (2).

(2) The amount of compensation shall be the value of the improvement at the time of the termination of the tenancy estimated with due regard to:

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

(b) the condition of the improvement as at the time of application and the probable duration of its effect;

(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.

### **33. Right To Erect Farmhouse :-**

A tenant shall be entitled to erect a farmhouse on the land held by him as a tenant with the consent of the landlord and without detriment to the area of cultivation:

Provided that where the landlord refuses to give consent within a period of sixty days from the date of request or where the landlord unreasonably refuses to give such consent, the tenant shall be entitled to erect the farmhouse with the consent of the Mamlatdar to be given after hearing the parties.

### **34. Maintenance Of Boundary Marks :-**

The responsibility for the maintenance and good repair of the boundary marks of the land held by the tenant and for the payment of any charges reasonably incurred on account of services by revenue officers in case of alteration, removal or disrepair of such boundary marks shall be that of the tenant.

### **35. Repairs To Protective Bunds :-**

(1) The duty and the responsibility of the construction, maintenance or repairs of any bunds referred to in subsection (3) of section 26 shall be that of the tenant notwithstanding any law, agreement, usage or custom or decree or order of a court, to the contrary.

(2) If it appears to the Government that the said construction, maintenance or repair has been neglected owing to a dispute between the tenant and the landlord, or between the tenants themselves, or for any reason, the Government may, by order in writing, direct that the construction, maintenance or repair shall be carried out by such person as may be specified in the order and the costs thereof shall be recoverable from the person in actual possession of the bund as arrears of land revenue.

(3) The person from whom the costs are recovered under subsection (2) shall be entitled to recover the same or an appropriate portion thereof from any person who in law is wholly or partially liable to construct, maintain or repair the bunds.

### **36. Power To Assume Management :-**

\*(1) If it appears to the Government that for any two consecutive years including any period before the commencement of this Act, any land has remained uncultivated through default either of the landlord or of the tenant, or that cultivation of any land has seriously suffered for any other cause what-soever, or that any land capable of being used, if reclaimed or other-wise improved, howsoever, has not been so reclaimed or otherwise improved and cultivated, or that any land is remaining as a pasture land in excess of the ordinary grazing requirements of the cattle of the person entitled to graze cattle thereon, the Government may, after such enquiry as may be prescribed, declare by notification that the management of such land shall be assumed, and such declaration shall be conclusive.

1 [Explanation: A land which is cultivable both during the "Sard"

(Kharif) and "Vaingan" (Rabbi) season in a year, is not cultivated during any one of the said season during any year, shall for the purpose of this section be deemed to have remained uncultivated for that year.]

(2) On the publication of a notification under sub-section (1), the Government or an officer authorised by the Government in this behalf shall appoint a manager to be in charge of the land and the manager so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

(3) During the period commencing from the date of publication of the notification under sub-section (1) and ending with the termination of management under sub-section (4) 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, issued, enforced or executed in respect thereof;

(b) the landlord shall be incompetent and the manager shall be competent:

(i) to enter into any contract with respect of the land,

(ii) to mortgage, charge, lease or alienate the land or any part thereof; and

(iii) to grant valid receipts for rents or profits accruing from the land:

Provided that the manager shall not be competent to alienate any and save with the prior approval of the Government and with the consent of the landlord, or where the landlord cannot be found; after the publication of a notice in the prescribed manner:

2[Provided further that where the manager is satisfied that for the purpose of bringing the land under cultivation it is necessary for the lessee to make improvement on the land at a considerable cost or labour or both, it shall be competent for the manager subject to the previous approval of the Government to remit to the lessee the whole or part of the rent payable to him in respect of the land, for a maximum period of five years.]

(c) all powers, which if the management of the land has not been assumed, would have been exercisable by the landlord shall be exercisable by the manager who shall receive and recover all rents and profits due in respect of the land under management and for the purpose of recovering the same may exercise, in addition to the powers exercisable by the landlord 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 cost of management including the cost of necessary repair;

(ii) the Government revenue and all sums due to the Government in respect of the land under management;

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

(iv) such periodical allowance as the Collector may from time to time fix for the maintenance and other expenses of the landlord and of such members of his family as the Collector directs; and

(v) the cost of such improvement of the land as he thinks necessary and is approved by the Collector;

(e) the manager shall pay to the landlord the balance, if any, remaining after the expenses referred to in clause (d) have been defrayed:

Provided that if any proceedings in respect of debts and liabilities enforceable against the land have been suspended under clause (a), the manager shall, out of such balance deposit an amount, not exceeding the amount estimated to be required for the meeting of such debts and liabilities, with the Court in which the proceedings were pending.

[(3A) Where the management of any land has been assumed under sub-section (1) on account of the default of the tenant, such tenant shall cease to have any right or privilege under the provisions of this Act, in respect of such land with effect from the date on and from which such management has been assumed.]

(4) (a) When in the opinion of the Government it has become unnecessary to continue the management of the land the Government shall by notification terminate the management thereof.

(b) On the termination of management, the land (together with any balance of monies creditable to the landlord) shall be delivered to the landlord from whom the management was assumed if he is dead, to the person appearing to the Government to be entitled to the land.

(c) All acts done by the manager during the period of management shall be binding on the landlord or other person to whom the land is delivered under clause (b).

(d) The period during which the institution of any proceedings has been prohibited by clause (a) of sub-section (3) shall be excluded from the computation of the period of limitation for the institution



of that proceeding.

(5) The Government may appoint a Comunidade, a Village Panchayat or a Co-operative Society as manager for the purposes of this section.

\* See Notification No. RD/TNC/SO/167/78 dt. 5-9-1978.

1. Inserted by G.D.D. 13 of 1968 S. 3 (Govt. Gazette, Series 1 No. 42 dated 16-1-1969).

2. Sub-Section (3A) inserted by G.D.D. 13 of 1968 S. 3 (Govt. Gazette, Series I No. 42 dated 16-1-1969).

### **37. Prescription Of Standards Of Cultivation And Management :-**

(1) With a view to bring agricultural economy to a higher level of efficiency the Government may, by rules, regulate standards of efficient cultivation and management.

(2) Such rules may provide for the issue of directions as regards the methods of agriculture to be adopted, for the use of improved seeds, for the proper maintenance of embankments and bunds, for the sale of surplus food grains and for ensuring proper wages and terms of employment to agricultural workers, for the maintenance of regular and accurate accounts in respect of cultivation, and for the issue of such other direction as may be necessary or desirable for the efficient utilisation of lands.

(3) Subject to the rules made under sub-section (1), the Government may by order published in the Official Gazette prescribe and programme referred to above he shall--

(4) If any tenant makes any default in observing the standards or programme referred to above he shall-

i) for the first season in which the default occurs, be issued a warning;

(ii) for the next season in which a default occurs, be liable to pay additional rent to the landlord of ten per cent over and above the rent payable by him, if the default is not due to any act or omission on the part of the landlord; and

(iii) for the succeeding season in which the default occurs again be liable to be evicted from the land under an order of the Mamlatdar.

(5) If any landlord makes any default in observing the standards or programmes referred to above, he shall be liable to forego in favour of the tenant ten per cent of the rent due to him if such default occurred more than once in a year.

(6) The penalties provided in sub-sections (4) and (5) shall be in

addition to the penalties if any, provided by or under this Act or any other law for the time being in force.

### **38. Tenants Right To Operate Sluice Gates :-**

(1) Where, for the purpose of regulating supply of water [or] for irrigation of any land, there is any sluice gate or other such contrivance, the right to operate and the duty and responsibility of maintaining such sluice gate or other contrivance, as also the right to the fisheries, if any, in the vicinity thereof, shall be that of the tenant, notwithstanding any other law, custom, usage, agreement or contract, decree or order of any court to the contrary.

(2) Where immediately before the commencement of this Act, any such right as is referred to in sub-section (i) vested in the landlord or any other person, other than the Government, the tenant shall be liable to pay to the landlord or other person, by way of rent for the exercise of the right conferred under that sub-section, a sum of money to be fixed by the Tribunal in accordance with such principles as may be prescribed.

(3) The rights conferred on a tenant under sub-section (1) shall, where there are more tenants than one who derive benefit from the same sluice gate or other such contrivance, be exercised by all the tenants jointly in accordance with such principles as may be prescribed.

1[(4) nothing in sub-section (1) shall be deemed to confer on the tenant any right to any fisheries or other property in the ownership or possession of Government or to authorise him to block or stagnate water for the purpose of catching or breeding fish, in any land used for agriculture.]

1. This sub-section was inserted and was deemed always to have been inserted Ibid.

### **39. Construction Of Water Course Through Land Belonging To Other Person :-**

1[(1) If any person (hereinafter called the applicant) desires to construct, or repair or to maintain, as the case may be, a water course to take water for purpose of agriculture from a source of water to which he is entitled but such water course is to be constructed or runs through any land which belongs to, or is in possession of, another person (hereinafter called the neighboring holder) and if no private agreement is arrived at for such construction or repairs or maintenance, as the case may be,

between the applicant and the neighboring holder, the person desiring to construct or repair or maintain the water course may make an application in the prescribed form to the Mamlatdar].

(2) On receipt of the application, if the Mamlatdar, after making an inquiry and after giving to the neighbouring holder and all other persons interested in such 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 2[or to repair or to maintain, as the case be] the water course, he may, by order in writing direct the neighbouring owner to permit the applicant to construct the water course on the following conditions:

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

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

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

(iv) the applicant shall pay to the neighbouring holder such compensation for any damage caused to such land by reason of the construction of the water course or such annual rent, as the Mamlatdar may decide to be reasonable;

(v) the applicant shall maintain the water course in a fit state of repairs;

(vi) the applicant shall within the prescribed period execute an agreement in the prescribed form in favour of the neighbouring holder; and

(vii) such other conditions as the Mamlatdar may think fit to impose.

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

(4) An 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 works as may be necessary for the construction of the water course and for

renewing or repairing the same.

(5) The provisions of the foregoing sub-sections and of sections 40 to 42 shall apply mutatis mutandis to the case of a person whose land does not have adequate drainage facilities and who desires to construct a drainage channel through any land which belongs to, or is in the possession of, another person.

1 This sub-section was substituted for the original sub-section (1) by G.D.D. 10 of 1966 S. 12 (Govt. Gazette, Series I No. 32 dated 10-11-1966). The original sub-section (1) reads as follows:

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

2. These words were inserted Ibid.

#### **40. Failure To Pay Rent To Keep Water Course In Good Repair :-**

If the applicant in whose favour an order under sub-section (2) of section 39 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 Mamlatdar by the person entitled thereto;

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

#### **41. Removal Or Discontinuance Of Water Course :-**

(1) If a person intends to remove or discontinue the water course constructed under the authority conferred on him under section 39, he may do so after giving notice to the Mamlatdar and the neighbouring holder.

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

such, person to fill in and reinstate the land.

#### **42. Neighbouring Holder Entitled To Use Surplus Water On Payment Of Rate :-**

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

#### **42A. Procedure For Regulating The Discharge Of Joint Responsibility Of Tenants :-**

1[ (1) When under any of the provisions of this Act, the duty and responsibility of any work of conservancy, maintenance or repair of any bund, embankment, ridge, sluiceway or any other work is that of more than one tenant, Government may, by rules regulate the manner in which such duty or responsibility shall be discharged and also the determination and recovery of the share of a tenant of the cost of a work to which he is under an obligation to contribute.

(2) Without prejudice to the generality of the foregoing, such rules may provide for-

(i) the constitution, functions and organisation of tenants associations for any local area;

(ii) the management and regulation of sources of income of the associations such as income from trees on bunds, operation of sluice-gates, fisheries and such other sources of income as may be prescribed;

(iii) the termination of the beneficiaries of any work, the apportionment and recovery of the cost of such work from among them;

(iv) the manner in which works shall be executed; and

(v) the conditions and mode of payment of Government's contribution.

(3) any sum which is payable by a tenant or any other person towards the cost of any such work as is referred to in sub-section (1) shall be recoverable as arrears of land revenue.

Explanation:-- For the purpose of this section the term "tenant" shall include every person who cultivates the land personally]

1. Section 42-A was inserted by G.D.D. 10 of 1966 S. 13. (Govt. Gazette. Series I No. 32 dated 10-11-1966).

#### **CHAPTER 6**

Tribunal, Procedure and Appeals

#### **43. Tribunal :-**

1[(1) For the purpose of this act there shall be a Tribunal consisting of not more than three members, called the Agricultural Lands Tribunal, for such area as the Government may, by notification, from time to time specify.

(2) Notwithstanding anything contained in sub-section (1) the

Government may appoint any officer not below the rank of a Mamlatdar to be the Agricultural Lands Tribunal and to exercise the powers and to perform the duties and functions of the said Tribunal under this Act in a Taluka or in any other area as may be specified in this behalf.

(3) Save as otherwise provided, the qualifications of the members constituting the Tribunal and conditions of service and all other matters relating to the constitution or organisation of the Agricultural Lands Tribunal shall be such as may be prescribed.]

1. Substituted by G.D.D. 13 of 1968 S. 4. (Govt. Gazette, Series I, No. 42 dated 16vi-1969). The original Section 43 is reproduced below, for information:

"43. Tribunal.-- (1) For the purpose of this Act, there shall be a Tribunal consisting of not less than three Members, called the Agricultural Lands Tribunal, for such area as the Government may, by notification, from time to time, specify:

Provided that it shall be lawful for the Government by notification, to confer on any other Tribunal constituted or functioning under any other law for the time being in force, all or any of the powers conferred on a Tribunal by or under this Act and thereupon such other Tribunal shall be deemed to be an Agricultural Lands Tribunal constituted under this sub-section in relation to the said powers, notwithstanding anything inconsistent in such other law.

(2) Save as otherwise provided, the qualifications of members constituting the Tribunal, their conditions of service and all other matters relating to the constitution or organisation of the Tribunal shall be such as may be prescribed:

Provided that the Chairman of such Tribunal shall be a person having such legal experience or qualifications as may be prescribed".

#### **44. Other Functions Of The Tribunal, Etc. :-**

(1) The Mamlatdar, the Tribunal and the Collector shall in addition to the powers and duties conferred upon them by or under the provisions of this Act, perform in relation to this Act such other functions as may be prescribed and shall decide such other matters as may be referred to them by the Government.

(2) All other matters arising for determination and all disputes between the landlord and the tenant in relation to matters arising under this Act and not otherwise provided for shall be decided by the Tribunal.

(3) The Government may by notification empower any other officer or authority, including a Village Panchayat or Co-operative Society or the Block Development Officer, with any of the powers and duties conferred by or under this Act on the Mamlatdar.

#### **45. 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 in trying a suit, namely:

- (a) proof of facts by affidavit,
- (b) summoning and enforcing the attendance of any person and examining him on oath,
- (c) compelling the production of documents,
- (d) awarding costs, and
- (e) such other powers as may be prescribed.

(2) The orders of the Tribunal shall be given effect to in the manner provided by or under this Act.

#### **46. Commencement Of Proceedings :-**

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

- (a) the name, age, profession and place of residence of the applicant and the opponents;
- (b) a short description and situation of the property of which possession is sought, or the amount of the claim, as the case may be;
- (c) the circumstances out of which the cause of action arose;
- (d) a list of the applicants 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; and
- (e) such other particulars as may be prescribed.

#### **46A. Powers Of The Mamlatdar To Inquire Into Contraventions :-**

1[ (1) Notwithstanding the fact that no application has been made to him in this behalf the Mamlatdar may, upon information received or upon his own knowledge or suspicion, that any of the provisions of this Act have been contravened hold an

inquiry in the prescribed manner into the alleged contravention as if an application had been made to him in this regard.

(2) Government may, in any case where it has reason to believe that there has been a contravention of the provisions of this Act, direct the Mamlatdar to hold an inquiry into alleged contravention.

The powers of Government under this sub-section may also be exercised by the Collector or any other Officer empowered in this behalf by Government].

1. Section 46-A was inserted by G.D.D. 10 of 1966. S. 14 (Govt. Gazette, Series I, No. 32 dated 10-11-1966).

#### **47. Power To Transfer Proceedings :-**

(1) The Government, or the Collector within the area of his jurisdiction, may after due notice to the parties, by order in writing transfer any proceeding under this Act pending before a Mamlatdar from such Mamlatdar to any other Mamlatdar and the Mamlatdar to whom the proceeding is so transferred shall there upon exercise jurisdiction under this act in such proceedings.

(2) The Government may in exceptional circumstances or in public interest transfer to itself any proceedings pending before a tribunal or Collector.

#### **48. Execution Of Order For Payment Of Money Or Restoring Possession :-**

(1) Any sum the payment of which has been directed by an order of the Mamlatdar or the Tribunal or the Collector including an order awarding costs, shall be recoverable from the person ordered to pay the same as an arrear of land revenue; an order of the Mamlatdar or the Tribunal awarding possession or restoring the possession or use of any land shall be executed such manner as may be prescribed:

Provided that such recovery shall not be made and such order [other than an order directing the restoration of possession to a tenant] shall not be executed till the expiry of the period of appeal or, as the case may be, of application for revision as provided in this Act.

1[Explanation:-- For the purposes of the preceding proviso the expression "tenant" shall not include a person deemed to be a tenant under section 4 or section 5].

(2) An order or decision of the Mamlatdar in execution proceedings, subject to appeal, if any, shall be final.

1 Explanation added by GDD 10 of 1966. of 15 (Govt. Gazette, Series I No. 32 dated 10-11-1996).

#### **49. Appeals :-**



(1) From every order 1[including an order passed under chapter II-A] other than an interim order passed by the Mamlatdar<sup>2</sup>[or the Tribunal] under this Act, an appeal shall lie to the Collector and the orders of the Collector on such appeal shall be final, subject to revision, if any, by 3[the Administrative Tribunal.]

(2) From every original order other than an interim order 4[...] passed by the Collector 5[...] and appeal shall lie to the 3 Administrative Tribunal and the orders of 6[Administrative Tribunal] on such appeal shall be final.\*

1. These words have been inserted by G.D.D. 17 of 1976 S. 5. [Official Gazette (Extraordinary) Series I No. 29 dated 14-10-1976]-- Known as Fifth Amendment.

2. These words were inserted by G.D.D. 13 of 1968 S. 5 (Govt. Gazette, Series I No. 42 dated 16-1-1969).

3. These words were substituted for the words "by Government" Ibid.

4 Proviso omitted Ibid. The omitted proviso reads as follows:

"Provided that in respect of such classes or categories of appeals, as may be prescribed, the appeal shall lie to the Tribunal instead of the Collector, and thereupon the orders of the Tribunal shall likewise be final".

5. The words "or an order in appeal or revision" have been deleted by G.D.D. 13 of 1968 (Govt. Gazette, Series I No.42 dated 16:1-1969).

6 The words "or by Tribunal" have been deleted Ibid. "Inserted Ibid.

\*Vide Notif. No. RD/TNC/SO/203/66 dated 20-10-66, for delegation of powers, at page 195.

## **50. Revision :-**

(1) where no appeal lies under this Act, or none has been filed within the period provided for it, the Collector may, on his own motion or on an application made by an aggrieved person or on a reference made in this behalf by the Government, at any time call for the record of any inquiry or the proceedings of any Mamlatdar [or Tribunal] for the purpose of satisfying himself as to the legality or propriety of any order passed by and as to the regularity of the proceedings of such Mamlatdar [or Tribunal] and pass such order thereon as he deems fit:

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

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

1[(2) An application for revision may be made to the Administrative Tribunal against any order, other than an interim order of the Collector, on the following grounds only:--

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

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

(c) that there was a substantial error in following the procedure provided by this Act, which has resulted in the miscarriage of justice.

(3) On the coming into force of the Goa, Daman and Diu Agricultural Tenancy (Amendment) Act, 1968, all revision applications pending with the Government shall stand transferred to the Administrative Tribunal and shall be disposed of by the said Administrative Tribunal as if they had been filed under sub-section (2).]

1. Inserted by G.D.D. 13- of 1968 (Govt. Gazette, Series I. No. 42 dated 16-1-1969).

## **51. Extent Of Powers In Appeal Or Revision :-**

(1) The Collector 1[or the Administrative Tribunal] in appeal or in revision, may confirm, modify or rescind the order in appeal or revision or its execution or may 2[remand the case- for disposal with such direction as deemed fit or) pass such other order as may seem legal and just in accordance with the provisions of this Act. the provisions of this Act.

(2) The Orders passed in appeal or revision shall be executed in the manner provided for the execution of the orders of the Mamlatdar or the Tribunal under this Act.

1. These words inserted Ibid.

2. Inserted by G.D.D. 18 of 1975 S. 3 (Official Gazette, Series I No. 32 dated 6-11-1975).

## **52. Limitation And Court Fees :-**

(1) Every appeal or application for revision under this Act shall be filed within a period of sixty days from the date of the order of the Mamlatdar, Tribunal or Collector, as the case may be and the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963,

shall apply to the filing of such appeal or application for revision.

(2) Notwithstanding anything contained in the Court Fees Act, 1870 every appeal or application made under this Act to the Mamlatdar, Tribunal, Collector or the [Administrative Tribunal] shall bear a Court fee stamp of such value as may be prescribed.

### **53. Procedure :-**

(1) Subject to the other specific provisions in this behalf, the procedure to be followed by the Mamlatdar or the Tribunal or the Collector [...] in all inquiries, appeals and proceedings under this Act and in revision by the Collector 1[...] shall be such as may be prescribed;

(2) Every decision or order passed under this Act shall be recorded in the form of an order which shall state the reasons therefor.

(3) All inquiries and proceedings before the Mamlatdar, the Tribunal, 2[and the Collector] shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

1. The words "or the Government" have been deleted Ibid.

2. These words were substituted for the words "the Collector and the Government" Ibid.

### **CHAPTER 7**

Survey, settlement and records of rights

### **54. Power To Make Rules For Survey, Etc. :-**

(1) It shall be lawful for the Government to take all measures for the survey, classification and assessment of all lands, for the preparation and maintenance of land records, including the record of rights and maps and for all other matters connected therewith or incidental thereto, in accordance with such rules as may be made in this behalf.

(2) Without prejudice to the generality of the foregoing, rules may be under this Act, for:

(i) the appointment, powers and functions of revenue officers;

(ii) the grant, use and relinquishment of unoccupied land;

(iii) the survey and classification of land and the assessment and settlement of land revenue payable under any law for the time being in force;

(iv) the settlement of boundaries and the construction and maintenance of boundary marks;

(v) the preparation and maintenance of records of rights;

(vi) the realisation of land revenue or other revenue demands; and  
(vii) the procedure to be followed by the revenue officers in enquiries under the rules including provisions for appeals and revision.

(3) Any such rule may be made with retrospective effect from a date not earlier than the 19th December, 1961.

## CHAPTER 8

### Miscellaneous

#### **55. Lands Held By Comunidades :-**

For the removal of doubts it is hereby declared that the lands owned by a Comunidade shall be deemed to be owned- by it as a single person and not by the individual members thereof and] that the provisions of this act shall apply to 1[such lands] and the provisions in the Code of Comunidades or any other Decree or other law relating to Comunidades shall stand modified or repealed to the extent necessary.

1. These words were substituted and were deemed always to have been substituted for the words "lands owned by Comunidades" Ibid.

#### **56. Exemption :-**

(1) The provisions of this Act shall not apply to lands leased or held by the Government or lands granted to or for the benefit of any individual specifically for rendering any service to any religious, educational or charitable institution or for any other specific service to the public [or lands vested in the Custodian under the Goa, Daman and Diu Administration of Evacuee Property Act, 1964].

(2) The Government may, by notification, exempt any class of persons from the operation of all or any of the provisions of this Act.

(3) In particular, and without prejudice to the generality of subsection (2), the Government may grant such exemption in respect of any land which is the property of a temple, church, mosque or any other institution for public religious worship or of a trust for educational or charitable purpose, or hospital, pinjrapole or goshala, provided that the entire income of such land is appropriated for the purpose of such temple, church, mosque institution, trust, hospital, pinjrapole or goshala.

(4) The Government may, by notification, reserve any area for non-agricultural purposes, or industrial development and thereupon the

provisions of this Act shall cease to apply in relation to any land in such area.

(5) Any exemption which is granted by Government may be withdrawn by the Government by notification.

### **57. Delegation Of Powers :-**

\*The Government may, by notification, delegate to any officer not below the rank of a Collector, all or any of the powers conferred on Government by or under this Act subject to such conditions if any,- as may be specified in the notification.

\*Vide Appendix, pages. 195, 196, 197.

### **58. Bar To Jurisdiction Of Courts :-**

(1) No suit or other proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

(2) Save as provided in this Act, no Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar, Tribunal, Collector or Government, and no order passed by these authorities under this Act shall be questioned in any Civil or Criminal Court:

### **58A. Bar On Appearance By Pleaders :-**

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

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

Provided, further, that pleaders fees shall not be allowed as part of the costs in any such proceedings:

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

Explanation:-- For the purpose of this section the expression "pleader" includes an advocate, attorney, Vakil or any other legal practitioner but does not include a representative of Farmers Association].

1 Section 58-A Was inserted by G.D.D. 10 of 1966 Section 16. (Government Gazette, Series I No. 32 dated 10-11-1966).

### **59. Power To Give Directions :-**

The Government shall have power to issue directions or orders to Mamlatdars, Tribunal and Collectors, to give effect to the provisions of this Act and the rules made thereunder.

## **60. Penalty :-**

Whoever contravenes any provision of this Act or of any rules made thereunder shall on conviction by a Magistrate be punishable with a fine not exceeding five hundred rupees.

## **60A. Offences Under The Act To Be Cognizable And Compound-Able :-**

1[Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)--

(a) every offence under this Act shall be cognizable; and

(b) every such offence may, with the permission of the Court, be compoundable.

1. Sections 60A and 60B have been inserted by G.D.D. 10 of 1966 S. 17 (Govt. Gazette Series I No. 32 dated 10-11-1966).

## **60B. Offences By Companies :-**

Where a person committing an offence under this Act is a company or other body corporate, or an association of persons (whether incorporated or not) every Director, Manager, Secretary, Agent or other Officer or person concerned with the Management thereof, shall unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence].

## **61. Rules :-**

(1) The Government may, by notification, make rules generally to carry out the purposes of this Act.

(2) All rules made under this Act shall be subject to the condition of previous publication and all rules shall be laid on the table of the Legislative Assembly after they are made and shall be subject to such modifications as the Assembly may make during the Session in which they are so laid or the session immediately following.

## **62. Power To Remove Difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order as occasion requires, do anything (not inconsistent with this Act) which appears to it to be necessary for removing the difficulty.