

THE BOMBAY TENANCY ACT, 1939.

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poultry farming, stock breeding and grazing, but does not include cutting of * * * wood only.

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

(3) "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, required for the convenient or profitable use of such land for agricultural purposes ; and

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

(4) "Land" means land which is used for agricultural purposes and includes the sites of farm buildings appurtenant thereto.

(5) "Mamlatdar" includes a Mahalkari and any other officer whom the Provincial Government may appoint to perform the duties of a Mamlatdar under this Act.

(6) "Person" includes an undivided Hindu family.

(7) "Prescribed" means prescribed by rules made under this Act.

(8) "Profits of Agriculture" means the surplus remaining with the cultivator after the expenses of cultivation including the wages of the cultivator working on the land are deducted from the gross produce.

(9) "Reasonable rent" means the rent determined under section 12.

(10) "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.

¹[(10A) "To cultivate" means to carry on any agricultural operation.]

(11) "To cultivate personally" means to cultivate on one's own account—

(i) by one's own labour, or

(ii) by the labour of any member of one's family, or

(iii) ²[by servants on wages payable in cash or kind but not in crop share or by] hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.—A tenant who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour.

Explanation II.—In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family.

(12) "Year" means the year ending on the 31st of March or on such date as the Provincial Government may, by a notification, appoint for any locality.

(13) Words and expressions used in this Act but not defined shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879.

Bom. V of
1879.

¹ This clause was inserted by Bom. 26 of 1946, s. 3 (b).

² These words were substituted for the words "by servants or", *ibid.*, s. 3 (c).

[CHAPTER I-A.

TENANTS.

Tenants.

2A. (1) A person lawfully cultivating any land belonging to another person shall be deemed to be a tenant if such land is not cultivated personally by the owner and if such person is not—

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

(b) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owner's family, unless the owner has within one year of the coming into force of the Bombay Tenancy (Amendment) Act, 1946, made an application to the Mamlatdar within whose jurisdiction the land is situated for a declaration that the person is not a tenant. Bom. XXVI of 1946.

(2) Where an application under sub-section (1) has been made and the Mamlatdar refuses to make such declaration and the Mamlatdar's decision is not set aside by the Collector in appeal under sub-section (3) of section 13 or by the Provincial Government under section 28, the person shall be deemed to be a tenant for the purposes of this Act.]

CHAPTER II.

PROTECTED TENANTS.

Protected tenants.

3. A tenant shall be deemed to be a protected tenant in respect of any land if—

²[(a) he has held such land continuously for a period of not less than six years immediately preceding either—

(i) the first day of January 1933, or

(ii) the first day of January 1945; and;]

³[(b) he has cultivated such land personally during the aforesaid period.

¹ This Chapter was inserted by Bom. 26 of 1946, s. 4.

² This clause was substituted, *ibid.*, s. 5 (1).

³ Clause "(ii)" was relettered as clause "(b)", *ibid.*, s. 5 (2).

Explanation I.—If the person who held such land on the first day of January 1938 ¹[or the first day of January 1945, as the case may be,] came to hold the same by inheritance or succession from another person or if he has held such land as a tenant and is an heir to such other person, the period during which such other person held such land as a tenant shall be included in calculating the period of six years under this section.

Explanation II.—If the person who held such land on the first day of January 1938 ¹[or the first day of January 1945, as the case may be,] held as a tenant at any time within six years before the said date from the same landlord in the same village any other land which he cultivated personally, the period during which he held such other land shall be included in calculating the period of six years under this section.

Explanation III.—Where any land is held by two or more persons jointly as tenants, all such persons shall, if any one of them cultivated and continues to cultivate such land personally and if the other conditions specified in this section are fulfilled, be deemed to be protected tenants in respect of such land.

Bom. XXVI
of 1946.

[3A. (1) Every tenant shall, on the expiry of one year from the date of the coming into force of the Bombay Tenancy (Amendment) Act, 1946, be deemed to be a protected tenant for the purposes of this Act and his rights as such protected tenant shall be recorded in the Record of Rights, unless his landlord has within the said period made an application to the Mamlatdar within whose jurisdiction the land is situated for a declaration that the tenant is not a protected tenant.

Tenants on
expiry of
one year
from com-
ing into
force of Bom.
XXVI
of 1946
to be deemed
protected
tenants.

(2) Where an application under sub-section (1) has been made and the Mamlatdar refuses to make such declaration and the Mamlatdar's decision is not set aside by the Collector in appeal under sub-section (3) of section 13 or by the Provincial Government under section 28, the tenant shall be deemed to be a protected tenant for the purposes of this Act and his rights as such protected tenant shall be recorded in the Record of Rights.]

¹ These words and figures were inserted by Bom. 26 of 1946, s. 5 (3).

² Section 3A was inserted, *ibid*, s. 6.

Tenants
evicted after
1st April
1937 to be
deemed
protected
tenants.

4. (1) ¹[Every tenant shall be deemed to be a protected tenant for the purposes of this Act, if he—

(a) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1937 and was evicted from such land on or after such date otherwise than by order of a competent court on any of the grounds specified in sub-section (2) of section 5, or

(b) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1944 and was evicted from such land on or after such date otherwise than by order of a competent court on any of the grounds specified in sub-section (2) of section 5.]

Provided that any tenant who has been evicted from the land in consequence of his failure to tender the rent referred to in section 9 of the Bombay Small Holders Relief Act, 1938, as provided therein, shall not be deemed to be a protected tenant for the purposes of this Act, unless he pays to the landlord such rent ²[in cases falling under clause (a)] within four months from the date on which ³[this section comes into force in the area in which the land is situated] ⁴[and in cases falling under clause (b) within six months from the date on which the Bombay Tenancy (Amendment) Act, 1946, comes into force.]

Bom. VIII of
1938.

Bom. XXVI
of 1946.

(2) A person who is deemed to be a protected tenant under sub-section (1) shall, if he intimates in writing to the landlord ⁵[in cases falling under clause (a) of sub-section (1)] within one year after the coming into force of ⁶[this section in the area in which the land is situated] ⁷[and in cases falling

¹ This paragraph was substituted for the original by Bom. 26 of 1946, s. 7 (a) (1).

² These words, brackets and letter were inserted, *ibid.*, s. 7 (a) (2).

³ These words were substituted for the words "this Act comes into force" by Bom. 26 of 1946, s. 2 read with Bom. 7 of 1941, s. 3 (a).

⁴ These words, brackets, letter and figures were inserted by Bom. 26 of 1946, s. 7 (a) (2).

⁵ These words, brackets, letter and figure were inserted, *ibid.*, s. 7 (b) (1).

⁶ These words were substituted for the words "this Act" by Bom. 26 of 1946, s. 2 read with Bom. 7 of 1941, s. 3 (b).

⁷ These words, brackets, letter and figures were inserted by Bom. 26 of 1946, s. 7 (b) (1).

Bom. XXVI
of 1946.

under clause (b) of sub-section (1) within one year after the coming into force of the Bombay Tenancy (Amendment) Act, 1946,] that he is willing to hold the land on the same terms and conditions on which he held it at the time when he was evicted, be entitled to recover possession of the land—

¹[(a) in cases falling under clause (a) of sub-section (1)—

(i) if the land has been leased out by the landlord for a period expiring after the 31st day of May immediately following the date of the coming into force of this section in the area in which the land is situated, from the date on which such lease expires; and

(ii) in other cases, from the 1st day of June immediately following the date of the coming into force of this section in the area in which the land is situated;

(b) in cases falling under clause (b) of sub-section (1)—

(i) if the land has been leased out by the landlord for a period expiring after the 31st day of May immediately following the date of the coming into force of the Bombay Tenancy (Amendment) Act, 1946, from the date on which such lease expires; and

(ii) in other cases from the 1st day of June immediately following the date of the coming into force of the Bombay Tenancy (Amendment) Act, 1946.]

Bom. XXVI
of 1946.

And on so recovering possession, he shall, subject to the provisions of this Act, hold the land on the said terms and conditions.

(3) The provisions of this section shall not apply in cases where the landlord is using the land for any of the purposes mentioned in sub-section (1) of section 7.

Bom. XXVI
of 1946.

5. (1) The rent payable by a protected tenant shall be the rent agreed upon between such tenant and his landlord or in the absence of any such agreement the rent payable according to the usage of the locality or if there is no such agreement or

Rights and liabilities of a protected tenant.

¹ These clauses were substituted for clauses (a) and (b) by Bom. 26 of 1946, s. 7 (b) (2).

usage, or where there is a dispute as regards the reasonableness of the rent payable according to such agreement or usage, the reasonable rent.

(2) Notwithstanding any agreement, usage, decree or order of a Court of law, the tenancy of any land held by a protected tenant as such tenant shall not be terminated unless such tenant—

(a) ¹[has failed] to pay the arrears of rent due, if any, ²[in cases falling under sub-clause (I) of clause (a) of section 3] for the year ending on ³[31st day of March of the year immediately preceding the year in which this section comes into force in the area in which the land is situated, within four months from the date of the coming into force of this section in such area] ⁴[and in cases falling under sub-clause (ii) of the said clause for the year ending on the 31st day of March of the year immediately preceding the year in which the Bombay Tenancy (Amendment) Act, 1946, comes into force, within six months from the date of the coming into force of the said Act;]

Bom. XXVI
of 1946.

(b) ¹[has failed] to pay in any year ⁵[subsequent to the year referred to in clause (a) applicable to his case] within fifteen days from the day fixed for the payment of the last instalment of land revenue in accordance with the rules made under the Bombay Land Revenue Code, 1879, for that year the rent of such land for that year or if an application for the determination of reasonable rent is pending before the Mamlatdar or the First Class Sub-Judge under section 12, ¹[has failed] to deposit within fifteen days from the aforesaid date with the Mamlatdar or the First Class Sub-Judge, as the case may be, a sum equal to the amount of rent which he would have been liable to pay for that year if no such application had been made and in case the reasonable rent determined under section 12 is higher than the sum deposited by him ⁴[has failed] to pay the balance due from him

Bom. V of
1879.

¹ These words were substituted for the word "fais" by Bom. 26 of 1946, s. 8 (1).

² These words, brackets, figures and letter were inserted, *ibid*, s. 8 (2).

³ These figures and words were substituted for the figures and words "31st day of March 1939 within four months from the date on which this Act comes into force" by Bom. 26 of 1946, s. 2 read with Bom. 7 of 1941, s. 4.

⁴ This portion was added by Bom. 26 of 1946, s. 8 (2).

⁵ These words, brackets and letter were inserted, *ibid*, s. 8 (3).

within two months from the date of the decision of the Mamlatdar or the First Class Sub-Judge, as the case may be ;

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

¹[(cc) has sub-divided the land] ;

(d) has sublet the land or fails to cultivate it personally ; or

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

(3) Notwithstanding anything contained in sub-section (2), the tenancy of any land held by a minor who is a protected tenant shall not be liable to be terminated under the said sub-section only on the ground that such land has been sub-let on behalf of the said minor.

Bom. V of
1879.

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

Protected tenants responsible for maintenance of boundary marks.

²7. (1) Notwithstanding anything contained in section 5, a landlord may terminate the tenancy of a protected tenant by giving him one year's notice in writing stating therein the reasons for such termination if the landlord *bona fide* requires the land for any of the following purposes, namely :—

Landlord's right to determine protected tenancy.

(a) for cultivating personally ; or

(b) for any non-agricultural purpose.

(2) If after the landlord takes possession of the land after the termination of the tenancy under sub-section (1), he fails to use it for any of the purposes mentioned in sub-section (1) within one year from the date on which he took possession or ceases to use it at any time for any of the aforesaid purposes within 12 years from the date on which he took such possession, the landlord shall forthwith restore possession of the land to the tenant whose

¹ This clause was inserted by Bom. 26 of 1946, s. 8 (4).

² This section was substituted for the original, *ibid.*, s. 9.

tenancy was terminated by him, unless he has obtained from the tenant his refusal in writing to accept the tenancy on the same terms and conditions or has offered in writing to give possession of the land to the tenant on the same terms and conditions and the tenant has failed to accept the offer within three months of the receipt thereof.

(2A) Where a landlord intends to lease out any land, he shall first offer in writing the tenancy of such land to the protected tenants whose tenancies have been terminated by him under sub-section (1) and forthwith give possession of the land to any one of them who within three months of the communication of the offer to him expresses his willingness to accept the tenancy whether at an agreed rent or subject to the determination of the rent under section 12.

(3) If a landlord after taking possession of the land after the termination of the tenancy under sub-section (1) on the ground that he requires it for the purpose of personal cultivation, dies leaving as his heir, a widow or a minor or a person who is subject to mental or physical disability, such heir shall be deemed to cultivate the land personally, if such land is cultivated by her or his servants or by hired labour.

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

(5) If at any time the tenant makes an application under section 13 to the Mamlatdar and satisfies him that the landlord has failed to comply within a reasonable time with the provisions of sub-section (2) or (2A), as the case may be, the tenant shall be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required by sub-section (2) or (2A), as the case may be :

Provided that no compensation shall be awarded under this sub-section to a tenant whose tenancy was terminated under a decree or order of a competent court, if such court has recorded a finding at the time of the passing of such decree or order that the land was required *bona fide* by the landlord for any of the purposes specified in sub-section (1).

Explanation I.—In cases falling under clause (a) of sub-section (1) of section 4 any notice given before the commencement of this Act, and in cases falling under clause (b) thereof any notice given before the commencement of the Bombay Tenancy (Amendment) Act, 1946, for the termination of the tenancy of a protected tenant, shall not be deemed to be a valid notice for the purposes of sub-section (1).

Bom. XXVI
of 1946.

Explanation II.—For the purposes of this section, a tenant shall include his heir as specified in sub-section (3) of section 9.]

8. (1) A protected tenant who has made an improvement on the land held by him as such tenant before the notice to terminate the tenancy is given to him shall [before eviction] be entitled to compensation for such improvement.

Compensation for improvement made by a protected tenant.

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

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

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

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

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

9. (1) If a protected tenant dies, the landlord shall continue the tenancy on the same terms and conditions on which such protected tenant was holding it at the time of his death to such one of his

Continuation of tenancy on the death of a protected tenant.

¹ These words were substituted for the words "on eviction" by Bom. 26 of 1946, s. 10.

heirs who, within four months of the death of such tenant, gives notice in writing to the landlord that he is willing to hold the land on such terms and conditions.

(2) If the notice referred to in sub-section (1) is given by two or more heirs of the deceased tenant, the landlord shall continue the tenancy to such one of those heirs as is selected by all the heirs by an agreement amongst themselves and communicated to the landlord in writing within ¹[six] months from the death of such tenant, or if no such agreement is communicated to the landlord within such time, to such heir as the Collector after consultation with the landlord may select.

(3) The lineal male descendants of a protected tenant or his adopted son or, in the absence of any lineal male descendant or an adopted son, his widow shall be deemed to be his heirs for the purposes of this section.

(4) Where any land is held by more than one protected tenant jointly the tenancy of such land shall, on the death of any one of such protected tenants, be continued, subject to the provisions of this Act, to the surviving protected tenant or tenants and the heirs of the deceased tenant determined in the manner provided in sub-section (2), as the case may be.

Sub-division
not to be
recognised.

²[10. No sub-division of a land held by a protected tenant shall be recognised and any such sub-division shall make the tenancy liable to termination.]

Bar to
seizure,
attachment
and sale by
process of
Court.

11. The rights conferred on a protected tenant by this Act shall not be liable to seizure, attachment or sale by process of any Court and it shall not be lawful to mortgage, charge, lease or alienate any such rights.

Enquiries
as regards
reasonable
rent.

12. (1) For the determination of the reasonable rent of any land held by a protected tenant as such tenant, the protected tenant or his landlord may apply in writing to the Mamlatdar within whose jurisdiction such land is situated. Such application shall be in such form as may be prescribed.

¹This word was substituted for the word "four". Bom. 25 of 1946 s. 11.

²This section was substituted for the original, *ibid.*, s. 12.

Bom. V of
1879.

(2) On the receipt of an application under sub-section (1) the Mamlatdar shall give notice to the landlord or to the protected tenant, as the case may be, and, after holding a formal enquiry in the manner provided in the Bombay Land Revenue Code, 1879, shall determine the reasonable rent of the land.

(3) Any party aggrieved by the decision of the Mamlatdar under sub-section (2) may, within two months from such decision, file an appeal before the First Class Subordinate Judge, within whose jurisdiction the land is situated.

(4) The Subordinate Judge in appeal may for reasons to be recorded in writing annul, reverse, modify or confirm the decision of a Mamlatdar or he may direct further enquiry to be made on any point or take additional evidence as he may think necessary.

(5) In determining the reasonable rent regard shall, subject to the provisions of section 15, be had to the following factors :—

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

(b) the profits of agriculture of similar lands in the locality ;

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

(d) the improvements made in the land by the landlord ;

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

(f) such other factors as may be prescribed.

(6) The Mamlatdar and the Subordinate Judge in proceedings under this section shall have the same powers as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit, namely :—

of 1908.

(a) proof of facts by affidavit ;

(b) summoning and enforcing the attendance of any person and examining him on oath ; and

(c) compelling the production of documents.

The Mamlatdar and the Subordinate Judge may have also such other powers as may be prescribed.

(7) The Mamlatdar or the First Class Subordinate Judge may award costs in any proceeding under this section, and such order shall be deemed to be a decree of a Civil Court and shall be executable as such.

(8) A protected tenant may at any time, during the pendency of proceedings under this section deposit with the Mamlatdar or the First Class Subordinate Judge, as the case may be, a sum equal to the amount of rent which if no proceedings had been instituted under this section he would have been liable to pay in respect of the land of which the reasonable rent is to be determined. On the completion of proceedings, the Mamlatdar or the First Class Subordinate Judge shall direct that the amount so deposited or such part of it as is equal to the amount determined as reasonable rent under this section shall be paid to the landlord and shall make such other order as may be necessary.

(9) Every order passed by the Mamlatdar under this¹[section], if not appealed against, and every order passed by the First Class Subordinate Judge in appeal competent to pass such orders, shall hold good for a period of five years and shall not be called in question in any Court during that period:

Provided that the Mamlatdar or the First Class Subordinate Judge, as the case may be, may, during the said period of five years—

(i) reduce the rent if on an application made to him by a tenant he is satisfied that on account of deterioration of the land by floods or other cause beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation, or

(ii) enhance the rent if on an application made to him by a landlord he is satisfied that on account of any improvement made in the land by or at the expense of the landlord the produce of the land is increased.

(10) Notwithstanding anything contained in the Court-fees Act, 1870, every application under this Act to the Mamlatdar and every appeal to the First

¹ This word was substituted for the word "Act" by Bom. 26 of 1946, s. 13.

Class Subordinate Judge shall bear a Court-fee stamp of such value as may be prescribed.

(11) Any party to proceedings under this section may appear by any person authorized in writing to act on his behalf.

13. ¹[(1) An application—

(a) for a declaration under section 2A that the person cultivating any land is not a tenant;

(b) for a declaration under section 3A that a tenant is not a protected tenant;

(c) for a direction for obtaining possession of land under sub-section (5) of section 7;

(d) for award of compensation under sub-section (5) of section 7;

(e) for determining under section 8 compensation for improvements made to a land—

shall be made to the Mamlatdar in whose jurisdiction the land is situated. Such application shall be made in such form as may be prescribed.

(2) On receipt of such application, the Mamlatdar shall hold an inquiry and shall either make or refuse to make the declaration as specified in clause (a) or (b), as the case may be, make the direction as specified in clause (c), award compensation, if any, payable to the tenant as specified in clause (d) or determine the compensation payable to the tenant as specified in clause (e), as the case may be, after following as far as is practicable the procedure prescribed in section 12.

(2A) The Mamlatdar shall record his reasons for his decision under sub-section (2).]

(3) Any person aggrieved by any order passed by the Mamlatdar under sub-section (2) may appeal to the Collector within two months from the date of such order.

(4) The order of the Mamlatdar under sub-section (2) shall, subject to an appeal to the Collector under sub-section (3) and the provisions of section 28, be final. The order of the Collector shall, subject to the provisions of section 28, also be final.

(5) Any order passed by the Mamlatdar under sub-section (2) or by the Collector under sub-section (3)

Application
for declaration,
direction,
and
compensation.

¹ These sub-sections were substituted for the original by Bom. 26 of 1946, s. 14.

shall be deemed to be a decree of a Civil Court and shall be executable as such.

CHAPTER III.

TENANTS GENERALLY.

Sections 5, 6, 10 and 11 to apply to all tenants.

¹[13A. The provision of sections 5, 6, 10 and 11 shall apply to all tenants.]

Abolition of all cesses, etc.

14. (1) Notwithstanding any agreement, usage or law, it shall not be lawful for any landlord to levy any cess, rate, ²[vero, huk,] tax or service of any description or denomination whatsoever, from any tenant in respect of any land held by him as a tenant other than the rent lawfully due in respect of such land.

(2) Any person who levies any such cess, rate, ²[vero, huk,] tax or service in contravention of the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

Determination reasonable rent.

³[14A. (1) The rent payable by a tenant other than a protected tenant shall be the rent agreed upon between such tenant and his landlord. Where there is a dispute as regards the reasonableness of the rent payable according to such agreement the rent payable shall be the reasonable rent determined under sub-section (2).

(2) For the determination of reasonable rent under sub-section (1) either the tenant or the landlord may apply in writing to the Mamlatdar within whose jurisdiction the land is situated. Such application shall be in such form as may be prescribed. Thereupon the provisions contained in sub-sections (2) to (11) of section 12 shall, so far as may be, apply.]

15. (1) The Provincial Government may from time to time by notification in the Official Gazette fix the maximum rate of rent payable by tenants for lands situated in such areas as may be specified in the notification. Power of Government to fix maximum rate of rent.

¹ S. 13A was inserted by Bom. 26 of 1946, s. 15.

² The words were inserted, *ibid.*, s. 16.

³ This section was inserted, *ibid.*, s. 17.

[Provided that the maximum rate of rent shall not exceed in the case of irrigated lands one-fourth, and in the case of other lands one-third of the crop or its value determined in the prescribed manner.]

(2) Notwithstanding any agreement, usage, decree or order of a Court, a landlord shall not be entitled to recover rent from any tenant for any land in any such area at a rate exceeding the rate fixed for such land in such area in such notification.

(3) Every such notification shall be placed before each Chamber of the Provincial Legislature and shall be liable to be rescinded or modified by a resolution passed in which each of the said Chambers concurs during the next following session.

²[15A. (1) The Provincial Government may from time to time, by notification in the *Official Gazette* declare that rents payable wholly or partly as a crop-share in any area to which the notification applies shall, with effect from a date specified in the notification, which shall not be earlier than 6 months from the date of the notification, be commuted into cash in the manner prescribed.

Commutation
of crop share
rent into
cash.

(2) Notwithstanding anything contained in any agreement, usage, decree or order of a Court or any orders of the Provincial Government under section 15, no landlord in any area in respect of which a notification has been issued under sub-section (1) shall recover any rent by way of crop-share or in excess of the commuted cash rent after the date specified in such notification under sub-section (1).

(3) If any landlord recovers any rent by way of crop-share or (in excess of the commuted cash rent, he shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

(4) Every notification under sub-section (1) shall be placed before each Chamber of the Provincial Legislature and shall be liable to be rescinded or modified by a resolution passed during the next following session by both Chambers.]

16. (1) Notwithstanding anything contained in section 84A of the Bombay Land Revenue Code, 1879, whenever from any cause the payment of the whole land revenue payable to Government by a landlord in respect of any land is

Suspensions
or remissions
of rent.

¹ This proviso was added by Bom. 26 of 1946, s. 18.

² This section was inserted, *ibid*, s. 19.

suspended or remitted, the landlord shall suspend or remit, as the case may be, the payment to him of the rent of such land by his tenant. If in the case of such land the land revenue is partially suspended or remitted, the landlord shall suspend or remit the rent payable by the tenant of such land in the same proportion :

Provided that the landlord shall not be bound to suspend or remit the rent or portion thereof which is payable in the form of a share of the crop.

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

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

Bom. V of
1879.

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

Bom. V of
1879.

during a period of 3 years immediately preceding the date of the application made under section 86 of the said Code.

¹[16A. Notwithstanding anything contained in this Act or any other law for the time being in force or any agreement or usage, the tenancy of any land leased to and held by a person in the military, naval or air service of the Crown shall not be liable to be terminated on the ground only that the land has been sub-let by or on behalf of the said person.]

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

17. (1) If ²[in any village,] a tenant is in occupation of a dwelling house built at the expense of such tenant or his predecessor-in-title on a site belonging to his landlord, such tenant shall not be evicted from such dwelling house (with the materials and the site thereof and the land immediately appurtenant thereto and necessary for its enjoyment) unless—

Bar to eviction from dwelling house.

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

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

(2) The provisions of sub-section (1) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture from which he has been evicted under sub-section (1) of section 7.

18. (1) If a landlord to whom the site referred to in section 17 belongs intends to sell such site, the tenant at the expense of whom or whose predecessor-in-title, a dwelling house is built thereon shall be given in the manner provided in sub-section (2) the first option of purchasing the site at a value determined by the Mamlatdar in the manner provided herein.

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

(2) The landlord intending to sell such site shall give notice in writing to the tenant requiring him to state within 3 months from the date of such notice whether he is willing to purchase the site.

¹ Section 16A was inserted by Bom. 27 of 1942, s. 2.

² These words were substituted for the words "in any alienated village, or village held on khoti or talukdari tenure" by Bom. 26 of 1946, s. 20.

(3) If within the period of 3 months so specified the tenant intimates in writing to the landlord that he is willing to purchase the site, the landlord shall make an application to the Mamlatdar for the determination of the value of the site. On receipt of such application the Mamlatdar after giving notice to the tenant and after holding a formal enquiry shall determine the value of the site. The determination by the Mamlatdar of the amount of the value of such site shall, subject to the provisions of section 28, be final. The Mamlatdar may, by an order in writing, require the tenant to deposit such amount within three months from the date of such order. On the deposit of such amount the site shall be deemed to have been transferred to the tenant and the amount deposited shall be paid to the landlord. The Mamlatdar shall, on payment of the prescribed fees, grant a certificate in the prescribed form to such tenant specifying therein the site so transferred and the name of such tenant.

(4) If the tenant fails to intimate his willingness to purchase the site within the time specified in sub-section (2) or fails to deposit the amount of the value within the time specified in sub-section (3), the tenant shall be deemed to have relinquished his right of first option to purchase the site and the landlord shall then be entitled to evict the tenant on payment of such compensation for the value of the structure of such dwelling house as may be determined by the Mamlatdar after holding an enquiry in the manner provided in sub-section (3). The decision of the Mamlatdar as regards the amount of compensation under this section shall, subject to the provisions of section 28, be final.

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

Tenant's
rights to
trees planted
by him.

19. (1) If a protected tenant or any other tenant has ¹[before the date of the coming into force of this section in the area in which the land leased to him is situated, planted or thereafter plants any trees on such land] he shall be entitled to the produce and the wood of such trees during

¹ These words were substituted for the words "before the coming into force of this Act planted or thereafter plants any tree on the land leased to him" by Bom. 26 of 1946, s. 2, read with Bom. 7 of 1941, s. 5.

the continuance of such tenancy and shall on the termination of such tenancy be entitled to such compensation for the said trees as may be determined by the Mamlatdar after holding an enquiry in the manner provided by sub-section (3) of section 18 :

1 * * * * *

Provided ² * * * * * that a tenant shall not be entitled to compensation under this sub-section if the tenancy is terminated by surrender on the part of the tenant.

³[Provided further that the landlord shall during the continuance of the tenancy, be entitled to the rent of the land as if the trees had not been planted.]

(2) Any person aggrieved by the decision of the Mamlatdar under sub-section (1) may appeal to the Collector within two months from the date of such decision.

(3) The order of the Mamlatdar under sub-section (1) shall, subject to an appeal to the Collector under sub-section (2) and the provisions of section 28, be final.

(4) The order of the Collector under sub-section (2) shall, subject to the provisions of section 28, be also final.

(5) Any order passed by the Mamlatdar under sub-section (1) or by the Collector under sub-section (2), shall be deemed to be a decree of a civil court and shall be executable as such.

³[20. Where any tenancy of any land held by any tenant is terminated for non-payment of rent and the landlord sues or files any proceeding to eject the tenant, the Court shall call upon the tenant to tender to the landlord the rent in arrears together with the cost of the suit or proceeding, or to give such security as it thinks fit for making such payment within fifteen days; and if the tenant complies with such direction within 15 days, the Court shall, in lieu of making a decree or

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

¹ The first proviso to sub-section (1) of section 19 was deleted by Bom. 26 of 1946, s. 21.

² This word was omitted, *ibid.*

³ This proviso was substituted for the original, *ibid.*

⁴ This section was substituted for the original, *ibid.*, s. 22.

passing an order for ejectment pass an order directing that the tenancy had not been terminated, and thereupon the tenant shall hold the land as if the tenancy had not been terminated :

Provided that 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 specified in clause (b) of sub-section (2) of section 5.]

Relief
against
termination
of tenancy
in certain
cases.

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

Receipts for
rent.

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

(2) Every landlord shall give a written receipt for the amount of rent received by him in respect of any land in such form and in such manner as may be prescribed.

(3) Any person who fails to give a written receipt for the amount of rent received by him shall on conviction be punishable with a fine which may extend to Rs. 100.

No lease to
be granted for
less than
10 years and
every lease to
be deemed to
be for ten
years.

¹[23. (1) (a) No lease of any land situated in any area in which this section comes into force made after the date of the coming into force of this section in such area, shall be for a period of less than 10 years ; and

(b) every lease subsisting on the said date or made after the said date in respect of any land in such area shall be deemed to be for a period of not less than 10 years.

¹ This section was substituted by Bom. 26 of 1943, s. 23.

(2) Notwithstanding any agreement, usage or law to the contrary, no such lease as is specified in clause (b) of sub-section (1) shall be terminated before the expiry of a period of 10 years only on the ground that the period of the lease has expired :

Provided that any such lease as is specified in clause (b) of sub-section (1) may be terminated by a tenant before the expiry of a period of 10 years by surrendering the lease.

(3) Any landlord who contravenes the provisions of sub-section (1) or (2) shall, on conviction, be punishable with fine, which may extend to Rs. 1,000.]

24. (1) A ¹[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 in whose jurisdiction such land or dwelling house is situated. The application shall be made in such form as may be prescribed. Procedure
for taking
possession.

²[(1A) No landlord shall obtain possession of any land held by a tenant except under an order of the Mamlatdar. For obtaining such order he shall make an application in the prescribed form.]

(2) On receipt of ³[application under sub-section (1) or (1A)] the Mamlatdar shall, after holding an enquiry in the prescribed manner, pass such order thereon as he deems fit.

(3) An appeal shall lie to the Collector against an order passed by the Mamlatdar under sub-section (2) within two months from the date of such order.

(4) Subject to the provisions of section 28, every order passed by the Mamlatdar under sub-section (2), unless modified or revised by the Collector on appeal under sub-section (3), and every order passed by the Collector under sub-section (3), shall be final.

¹ This word was substituted for the word "person" by Bom. 26 of 1946, s. 24 (a).

² This sub-section was inserted, *ibid*, s. 24 (b).

³ These words, brackets, figures and letter were substituted for the words "such application", *ibid*, s. 24 (c).

(5) Every order passed by the Mamlatdar under sub-section (2) and every order passed by the Collector under sub-section (3) shall be deemed to be a decree of a civil court and shall be executable as such.

Act not to apply to certain lands.

25. Nothing in this Act shall apply to lands—

(1) held on lease from the Crown or a co-operative society, or

(2) held on lease for the benefit of an industrial or commercial undertaking.

Act not to affect rights of tenant under any other law.

26. ¹[No provision contained in this Act] ^{2*} * * * shall be construed to limit or abridge the rights or privileges of any tenant under any usage or law for the time being in force or arising out of any contract, grant, decree or order of a court or otherwise howsoever.

CHAPTER IV.

MISCELLANEOUS.

Rules.

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

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

(a) the manner in which the crop-share payable to a landlord as rent may be appraised.

(b) the form of application for a declaration under sub-section (1) of section 2A;

(c) the form of application for a declaration under sub-section (1) of section 3A that the tenant is not a protected tenant;

(d) the value of the court fee stamp payable on an application to the Mamlatdar or an appeal to the Civil Judge (Senior Division) under section 12;

(e) the other factors to be taken into consideration for determining reasonable rent under section 12;

¹ These words were substituted for the words "Nothing contained in this Act" by Bom. 27 of 1942, s. 4.

² The words and figures "except the proviso to section 23" were omitted by Bom. 26 of 1946, s. 25.

This sub-section was substituted for the original, *ibid*, s. 26.

(f) the form of application for declarations under clauses (a) and (b), for a direction under clause (c) and for award or determination of compensation under clauses (d) and (e) of sub-section (1) of section 13;

(g) the form of application for determining reasonable rent under sub-section (2) of section 14A;

(h) the manner of determining the value of the crop for the purposes of the proviso to sub-section (1) of section 15;

(i) the manner of commutation of crop-share rent into cash under sub-section (i) of section 15A;

(j) the fees to be paid for the grant of a certificate and the form of such certificate under sub-section (3) of section 18;

(k) the manner and the form in which a receipt is to be given by the landlord under section 22;

(l) the form of application for possession of land or dwelling house and the manner in which the enquiry shall be held under section 24;

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

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

28. Except in cases provided in section 12, in all matters connected with this Act, the Provincial Government shall have and exercise the same authority and control over the Collectors and Mamlatdars as they have and exercise over them in the general and revenue administration.

Power of the Provincial Government over Collectors, etc.

[28A. The Provincial Government may, subject to such restrictions and conditions as it may impose, by notification in the *Official Gazette*, delegate to any of its officers, not below the rank of an Assistant or Deputy Collector, all or any of the powers conferred on it by this Act.]

Delegation of powers.

29. On the date on which [the provisions of sections 2 to 13 (both inclusive) of this Act come into force in any area], section 9 of the Bombay

Repeal of section 9 of Bom. VIII of 1938.

¹ This section was inserted by Bom. 26 of 1946, s. 27.

² These words, figures and brackets were substituted for the words "this Act comes into force" by Bom. 26 of 1946, s. 2 read with Bom. 7 of 1941, s. 7(a).

Small Holders Relief Act, 1938, hereinafter referred to as the said Act, shall, notwithstanding anything contained in sub-section (3) of section 1 of the said Act be deemed to have been repealed¹ [in such area] :

Provided that any right, privilege, obligation or liability referred to in section 11 of the said Act, the enforcement of which was stayed by the provisions of section 9 of the said Act shall immediately on the repeal of the said section revive and be enforceable in the same manner as is provided in the said section 11 for revival of such rights, privileges, obligations or liabilities on the expiration of the said Act, as if the said Act has expired :

Provided further that in case of persons whose such rights, privileges, obligations or liabilities are in any manner affected by the provisions of this Act such rights, privileges, obligations or liabilities shall be enforceable in so far as the enforcement thereof is not inconsistent with the provisions of this Act.

Amendment
of Bombay
Land Revenue
Code.

30. In the Bombay Land Revenue Code, 1879,— Bom. V of 1879.
(1) in section 59 after the word "granted" the word, letters and figures "or Rs. 100" shall be inserted ;

(2) sections 83 to 94 shall be deleted.

Amendment
of sections
6 and 9
of Khoti
Settlement
Act, 1880.

31. In the Khoti Settlement Act, 1880,— Bom. I of 1880.

(i) in section 6—

(a) for the word "is" the word "was" shall be substituted ; and

(b) after the word "inheritance" the words and figures, "before the passing of the Bombay Tenancy Act, 1939" shall be inserted ;

(ii) in section 9—

(a) for the words "dharekaries and quasi-dharekaries", the words "and privileged occupants" shall be substituted ; and

(b) the words beginning with the words "Permanent tenancies" and ending with the words "exceeding one year" shall be deleted.

¹ These words were inserted by Bom. 26 of 1946, s. 2, read with Bom. 7 of 1941, s. 7 (b).