

# Maharashtra Hereditary Offices Act, 1874

MAHARASHTRA

India

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### Act 3 of 1874

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Maharashtra Hereditary Offices Act, 1874 Act No. 3 of 1874 MH97 [5th February, 1875] For Statement of Objects and Reasons, see Bombay Government Gazette, 1873, Part V, and pp. 207 and 309, for Proceedings in Council, see Bombay Government Gazette, pp. 439, 443 and 462, *ibid*, 1874, pp. 135, 148, 156 and 162. As to the application of Bombay 3 of 1874 as amended by Bombay 5 of 1886, to Matadars in the districts of Ahmedabad, Kaira, Broach and Surat, and in villages in the Panch Mahals District to which Bombay 6 of 1887, *infra*, is extended - see the Matadars Act, 1887 (Bombay 6 of 1887), Sections 1 and 2, *infra*, Subject to modifications and repeals. Bombay 6 of 1887 is to be read as one with this Act - see Bombay 6 of 1887, Section 4. For further modifications, see Section 5 *et seq.* of the latter Act. An Act to amend the Law relating to Hereditary Offices. Preamble Whereas it is expedient to declare and amend the law relating to Hereditary Offices; It is hereby enacted as follows:-

## Part I – Preliminary

### 1. Short title.

- This Act may be called [the Maharashtra Hereditary Offices Act] [This Short title was Substituted for the Short title 'The Bombay Hereditary Offices Act, 1874' by Maharashtra 24 of 2012, Schedule Entry 4, (w.r.e.f. 1.5.1960)]. It extends to the Regulation Districts and to all villages therein, whether alienated or otherwise, so far as its provisions shall not conflict with the terms, on which any such alienated village may have been secured to the holder thereof. Nothing in this Act shall affect the powers of [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] to deal with any watan or parts of watans, or with the profits thereof respectively under [Act No. XI of 1852] [The Bombay Rent-free Estates Act, 1852.], or Bombay Acts Nos. II and VII of 1863, or any other law at present in force with respect thereto.

## **2. [Repeal of enactments] Rep. Act XII of 1876.**

## **3. Application of Parts VI, VII, VIII and IX.**

- Parts VI, VII, VIII and IX [\* \* \*] [The words 'of this Act' were repealed by Bombay General Clauses Act, 1886 (Bombay 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] shall not apply to hereditary offices of lower degree than Patel or Kulkarni, nor to watans appertaining to such offices.

## **4. Interpretation clause.**

- In this Act, unless there be something repugnant in the subject or context - "Watan property" means the moveable or immovable property held, acquired, or assigned for providing remuneration for the performance of the duty appertaining to an hereditary office. It includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise. It includes cash payments in addition to the original watan property made voluntarily by [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] and subject periodically to modification or withdrawal. "Hereditary Office" means every office held hereditarily for the performance of duties connected with the administration or collection of the public revenue or with the village police, or with the settlement of boundaries, or other matters of civil administration, The expression includes such office even where the services originally appertaining to it have ceased to be demanded. The watan property, if any, and the hereditary office and the rights and privileges attached to them together constitute the watan. "Watandar" means a person having an hereditary interest in a watan. It includes a person holding watan property acquired by him before the introduction of the British Government into the locality of the watan, or legally acquired subsequent to such introduction, and a person holding such property from him by inheritance. It includes a person adopted by an owner of a watan or part of a watan, subject to the conditions specified in sections 33 to 35 [\* \* \*] [The words 'of this Act' were repealed by Bombay General Clauses Act, 1886 (Bombay 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] "Family" includes each of the branches of the family descended from an original watandar: Provided that no sub-division shall be recognized except as hereinafter provided in section 26. "Head of family" includes the chief representative of each branch of a family. "Representative watandar" means a watandar registered by the Collector under section 25 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] as having a right to perform the duties of an hereditary office. "Officiator" means the person actually performing the duties of an hereditary office for the time being, whether he be a representative watandar or a deputy or a substitute appointed under any of the provisions [of this Act] [These words were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886), and re-inserted by the Amending Act, 1895 (16 of 1895).] "Guardian" means a relation or other person to whom the care, nurture, or custody of any child falls by natural right or recognized usage, or who has accepted or assumed directly the care, nurture, or custody of any child, or in case of a dispute the holder of a certificate of guardianship from a competent court.

## Part II – Watan Property and Profits thereof

### 5. [ Prohibition of alienation of watan and watan rights. [Section 5 was substituted by Section 1, Bombay 5 of 1886. As to postponement of female members and as to interest of widow see ibid, Section 2.]

(1) Without the sanction of [the [State] Government], [or in the case of a mortgage, charge, alienation, or lease of not more than thirty years, of the Commissioner] [These words were inserted by Bombay 8 of 1958, Section 3 Schedule.] it shall not be competent-(a) to a watandar to mortgage, charge, alienate or lease, for a period beyond the term of his natural life, any watan, or any part thereof, or any interest therein, to or for the benefit of any person who is not a watandar of the same watan; (b) to a representative watandar to mortgage, charge, lease or alienate any right with which he is invested, as such, under this Act. (2) In the case of any watan in respect of which a service commutation settlement has been effected, either under section 15 or before that section came into force, clause (a) of this section shall apply to such watan, unless the right of alienating the watan without the sanction of [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] is conferred upon the watandars by the terms of such settlement or has been acquired by them under the said terms.]

### 6. Collector may institute legal proceedings for the protection of a watan.

(1) In any case in which it shall appear to the Collector that the institution of legal proceedings is requisite or desirable with respect to any watan, or the estate, property, funds or affairs thereof, the Collector shall certify such case in writing under his hand to the [\* \* \*] [The word 'Revenue' was repealed by the Bombay General Clauses Act, 1886 [Bombay 3 of 1886], Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] [Commissioner] [This word was substituted for the words 'State Government' by Bombay 8 of 1958, Section 3 Schedule.], together with such statement and particulars as in his opinion may be requisite or proper for the explanation of such case, and thereupon the [said Commissioner] [These words were substituted for the words 'State Government' by Bombay 8 of 1958.], if upon consideration of the circumstances [he thinks fit] [These words were substituted for the words 'it thinks fit' by Bombay 8 of 1958. Section 3 Schedule.], shall authorize the Collector to institute and prosecute in the name of the Collector such legal proceedings as may appear requisite or proper for the protection of the watan, its estates, property, funds or affairs, by suit or petition in any Civil Court having jurisdiction in the matter. The cost of such proceedings, unless recovered from the opposite party, shall be paid out of the funds of the watan. Collector may proceed under sections 8 to 11, or 13. - (2) The Collector may, if he thinks fit, proceed as provided in sections 8, 9, 10, 11 or 13 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886).] in lieu of instituting or prosecuting legal proceedings under this section.

## **7. Watan assigned as remuneration not alienable without sanction.**

- Watan property assigned under section 23 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886).] as remuneration of an officiator, and the profits of watan property so assigned, shall not be alienated or assigned to any person whatever without the sanction of [the State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] [Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.].

## **8. Watan Property passed into possession of person other than officiator liable to contribution for remuneration of officiator.**

- Whenever any watan, or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have before the date of this Act coming into force passed by virtue of, or in execution of, a decree or order of any [Court] [This word was substituted for the words 'British Court' by the Adaptation of Laws Order, 1950.] into the ownership or beneficial possession of any person other than the officiator for the time being, or has or have before such date passed otherwise than by virtue of, or in execution of, a decree or order of any [Court] [This word was substituted for the words 'British Court' by the Adaptation of Laws Order, 1950.] into the ownership or beneficial possession of a watandar other than such officiator; or when any watan, or part or profits thereof, not being assigned as remuneration of an officiator has, after the date of this Act coming into force, passed by virtue of, or in execution of, a decree or order of any [Court] [This word was substituted for the words 'British Court' by the Adaptation of Laws Order, 1950.] or otherwise into the ownership or beneficial possession of a watandar other than such officiator; such watan, or any part thereof, or any of the profits thereof, shall be liable under the orders of the Collector to contribution for the remuneration of such officiator in like manner and to the like extent as if no such decree had been passed or no such transfer had taken place.

## **9. Collector may declare alienation of watan property to be under certain circumstances null and void.**

(1) Whenever any watan or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have before the date of this Act coming into force, passed otherwise than by virtue of, or in execution of, a decree or order of any British Court and without the consent of the Collector and transfer of ownership in the Revenue records, into the ownership or beneficial possession of any person not a watandar of the same watan, the Collector may, after recording his reasons in writing, declare such alienation to be null and void, and order that such watan, or any part thereof, or any of the profits thereof, shall from the date of such order belong to the watandar previously entitled thereto, and may recover and pay to such watandar any profits thereof accordingly. Collector may in the case of land recover full rent. - (2) If such part of a watan be land, it shall be lawful for the Collector, instead of transferring the possession of the land, to demand and recover the full rent ordinarily paid by tenants of and of similar description in the same locality, and the amount so recovered shall be considered as the profits. The decision of the Collector

as to what is the full rent shall be final.

## **10. Civil Court on receipt of Collector's certificate, to remove attachment on watan property assigned as remuneration of officiator.**

- When it shall appear to the Collector that by virtue of, or in execution of, a decree or order of any [Court] [This word was substituted for the words 'British Court' by the Adaptation of Laws Order 1950.] any watan or any part thereof, or any of the profits thereof, recorded as such in the Revenue records or registered under this Act, and assigned under section 23 [\* \* \*] [The words 'of this Act' were repealed by the General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] as remuneration of an officiator, has or have, after the date [of this Act] [These words were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886), and re-inserted by the Amending Act, 1895 (16 of 1895).] coming into force, passed or may pass without the sanction of [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] into the ownership or beneficial possession of any person other than the officiator for the time being; or that any such watan, or any part thereof or any of the profits thereof, not so assigned has or have so passed [or may pass] [These words were inserted by the Bombay Hereditary Officers (Amendment) Act, 1886 (Bombay 5 of 1886).] into the ownership or beneficial possession of any person not a watandar of the same watan, the Court shall, on receipt of a certificate under the hand and seal of the Collector, stating that the property to which the decree or order relates is a watan or part of a watan or that such property constitutes the profits or part of the profits of a watan, or is assigned as the remuneration of an officiator, and is therefore inalienable, remove any attachment or other process then pending against the said watan, or any part thereof, or any of the profits thereof, and set aside any sale or order of sale or transfer thereof, and shall cancel the decree or order, complained of so far as it concerns the said watan, or any part thereof or any of the profits thereof.

## **11. Collector shall declare null and void alienation of watan property made after passing of Act.**

- When any alienation of the nature described in section 10 [\* \* \*] [The words 'of this Act' were repealed by the General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] shall take place otherwise than by virtue of, or in execution of a decree or order of any [Court] [This word was substituted for the words 'British Court' by the Adaptation of Laws Order 1950.] the Collector shall, after recording his reasons in writing, declare such alienation to be null and void, [\*\*\*] [The words 'and shall either summarily resume possession of such property or assess it at the rate prescribed in section 9, clause 2, of this Act, as he may think fit and it shall thenceforward revert to the watan' were repealed by Section 4. Bombay 5 of 1886.][11A. Resumption of property to which an order made under section 10 or Section 11 applies. - The Collector shall either summarily resume possession of all property to which an order of a Court passed on receipt of his certificate under section 10, or his own declaration under section 11, relates or assess it at the rate prescribed in

clause 2 of section 9, as he may think fit, and the said property shall thence forward revert to the watan.] [Section 11A was inserted by Bombay 5 of 1886.]

## **12. Powers of Collector to carry out provisions of sections 8, 9 and 11.**

- It shall be lawful for the Collector whenever it may be necessary, in carrying out the provisions of sections 8, 9 and 11 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1980, Schedule B. This Schedule is printed as an appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).](a)to summarily evict any person wrongfully in possession of any land, or(b)to levy any rent due by any person in the manner that may be prescribed any law for the time being in force for the levy of a revenue demand.

## **13. Watan assigned as remuneration not liable to process of Court.**

- Watan property assigned as remuneration of an officiator under section 23 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1980, Schedule B. This Schedule is printed as an appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] and the profits of such watan property are not liable to process of any Civil Court.On receipt of a certificate under the hand and seal of a Collector to the effect that certain property designated therein is watan property so assigned, the Court shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such property or the profits thereof.

## **14. Combination of hereditary offices.**

(1)It shall be lawful for a Collector for reasons to be stated in writing, to combine two or more watans hold for the performance of similar services in the same village or parts of the same village.(2)[Validation of prior combinations] Rep. Act XVI of 1895.

## **Part III – Commutation of Watans**

### **15. Commutation of service.**

(1)The Collector may, with the consent of the holder of a watan, given in writing, relieve him and his heirs and successors in perpetuity of their liability to perform service upon such conditions, whether consistent with the provisions of this Act or not, as may be agreed upon by the Collector and such holder.(2)[Validation of prior settlements.] Rep. Act XVI of 1895.Settlement on whom to be binding.  
- (3) Every settlement made or confirmed under this section shall be binding upon both [the [State] [The words 'the Provisional Government' were substituted for the word 'Government' by the Adaptation of Indian LawS Order in Council.] Government] and the holder of the watan and his heirs and successors.Who is a "holder" - (4) The word "holder" for the purposes of this section includes any sole owner or the whole number of joint owners or any person dealt with as representative of the persons beneficially interested or entered as such in the Government records at the time of the settlement.

## **16. Rights of individuals to exact customary service from village servants not affected.**

- Nothing in the last preceding section shall be held to affect any rights of individuals or village communities to exact such service as may be customary from village servants whose watans were originally granted or are now held for the performance of such service, but who have been relieved by [the [State] [The words 'the Provisional Government' were substituted for the word 'Government' by the Adaptation of Indian LawS Order in Council.] Government] of liability to perform such service to the State.

## **17. Assessment of amount of payments in alienated villages.**

- When all or any of the property of a watan consist of payments of whatever description, whether in money or kind, made by Jahgirdars, Inamdars, Mehwassi Chiefs, or others owing or occupying immovable property wholly or partially free from assessment, the Collector may from time to time determine the amount of such payments recoverable; provided that no larger demand shall be made than one equivalent to the amount that would be payable under the scale in force for the time being in the case of Government villages.

## **18. Appointment of Panchayat to define rights and duties of certain classes of watandars.**

- When all or any of the property of a village watan of lower degree than that of Patel or Kulkarni consists of a right to levy in money or kind directly from individuals, it shall be lawful for the Collector, on the application of any person interested, to cause the nature and extent of such right and of the duties to be performed, and the persons, families, or classes liable to make payment and to perform the duties, to be defined in writing by a panchayat of five persons, whereof two shall be appointed by the villagers, two by the watandars, and one, who shall be sarpanch by the Collector. The decision shall be in accordance with the opinion of the majority of the panchayat, provided that in case the villagers or the watandars fail to nominate members, within seven days, the Collector shall appoint such members as may be required to constitute a panchayat of five: Provided also that, in case the panchayat do not come to a decision within seven days from the appointment of the sarpanch, the Collector may himself pass a decision. The decision of the panchayat or of the Collector, as above provided, shall be final and binding on all persons or classes whose rights, duties or liabilities have been submitted to such decision.

## **19. Mode of fixing amount payable when profits of a watan fluctuate.**

- Whenever, on failure of the panchayat to come to a decision, the Collector, acting under the last preceding section, passes a decision, and it appears that the profits of the watan or part thereof are of fluctuating amount, or are payable in kind, it shall be lawful for the Collector to determine the amount payable and to decide whether the payment shall be made in kind or money.

## **20. Validity of settlements made prior to passing of Act.**

- Any settlement of the nature described in sections 17, 18 or 19 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1986, Schedule B. This Schedule is printed as an appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904))] made before the date of this Act coming into force, by a Collector or other officer duly authorised by [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government,] shall have the same force as if made under this Act.

## **21. Settlements for such period as [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may direct.**

- Settlements of the nature described in sections 17, 18 or 19 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1986, Schedule B. This Schedule is printed as an appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904))] made after this Act comes into force, shall be made for such periods as [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] may from time to time direct.

## **Part IV – Creation and Lapse of Watans**

### **22. Creation of new watans.**

- When no watan exists, it shall be lawful for [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] to create one, and in so doing to assign, subject to such sanction as may be required by any law, [\* \* \*] [The words 'or order of the Governor General of India in Council' were omitted by the Adaptation of Indian Laws Order in Council.] for the time being in force, such [property vested in [the State Government] [The words 'property vested in the Crown for the purposes of the Province' were substituted for the words, 'Property of Government' by the Adaptation of Indian Laws Order in Council.]] as to [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] may seem fit. Such watan shall be subject to all the provisions of this Act, and the watandars shall exercise the powers and perform the duties conferred and imposed by this Act or any other law for the time being in force. When a watan, or part of a watan, has lapsed or has been confiscated or otherwise lawfully resumed by [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government], or when the right of any particular family to hold a watan does not exist or is not established, it shall be lawful for [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government], subject to the sanction mentioned in the first clause of this section, to assign such watan, or part of a watan, to such person



or persons as to [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] may seem fit.

## **Part V – Remuneration of Officers**

### **23. Collector to fix emoluments of officers.**

- Subject to the provisions of this Act and of any other law for the time being in force regarding Service Inams, Cash allowances and Pensions, it shall be the duty of the Collector to fix the annual emoluments of officers appointed under the provisions of this Act, and to direct the payment thereof to the officers for the time being. Collector may assign watan property for the purpose. - It shall be lawful for the Collector for this purpose to assign watan property, or the profits thereof, towards the emoluments of officers. The existing assignments shall, until altered by competent authority, be taken to have been made under this section. With the sanction of [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] the Collector may, as occasion arises, alter the assignment and may increase or diminish it in value, such increase or diminution being made rateably among the holders in proportion to the profit derived by such holders respectively from the watan.

## **Part VI – Representative Watandars**

[24 . Duties of office to be performed by representative watandars. [As to the local repeal of sections 24 to 29, see the Matadars Act, 1887 (Bombay 6 of 1887), sections 1 and 3.]- The duties appertaining to any hereditary office shall be performed by the representative watandars or by deputies or substitutes as hereinafter provided, and by no other persons.

### **25. Determination and registration of representative watandars.**

- It shall be the duty of the Collector to determine, as hereinafter provided, the custom of the watan as to service and what persons shall be recognized as representative watandars for the purpose of this Act, and to register their names.

### **26. Previous practice to be considered in determining who are representative watandars.**

- In determining what heads of families shall be recognized as representative watandars and what is the custom of the watan as to service, the Collector shall inquire into and take into consideration the practice heretofore observed from the earliest period for which there are records or other evidence available provided that he shall not be bound to recognize appointments or sub-divisions which have been made subsequently to the introduction of [Act No. XI of 1843] [Act 11 of 1843 was repealed by Section 2 of this Act], and which he considers to be contrary to the custom of the watan.

## **27. Registration of head of family as sole representative watandar.**

- If it shall appear to the Collector that the custom has been for a member of one family only to serve, the Collector shall register the name of the head of such family only as the representative watandar and no other person.

## **28. Registration of heads of families as representative watandars.**

- If it shall appear to the Collector that the custom has been for a member of each of several families to perform the duties either contemporaneously or for successive periods, the Collector shall register the name of the head of each of such families as representative watandars and not other persons, and where the practice of service and successive periods is proved exist, he shall decide the order in which the representative watandars shall officiate

## **29. Registration of head of eldest family as sole representative watandar.**

- Where the practice of service in successive periods appears to have existed but is not proved to the satisfaction of the Collector to have existed at the date of the introduction of [Act No. XI of 1843] [Act 11 of 1843 was repealed by Section 2 of this Act.] or when the practice of selection by the Collector from several families prevails, he shall determine who is the head of the eldest family descended from the original watandar and shall register his name as sole representative watandar. Registration of heads of separate families as representative watandars. (2) In cases where such several families are not descended from a common ancestor, the Collector shall register as representative watandars the heads of such families, and establish the practice of service in successive periods.]

## **30. [ Registration as representative watandar of head of each family in amalgamated watan. [As to the local modification or repeal of Sections 30, 31, 33 and 34, see Bombay 6 of 1887.]**

- When the practice of service in successive periods has been introduced under the British rule, in consequence of the reduction in the number of [officiators] or the amalgamation of watans by [the Provincial Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.], the head of each family that formerly officiated shall be separately entered as a representative watandar

## **31. Procedure if heads of families agree as to who are representative watandars.**

- But if in any case described in section 29 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 1886).] the heads of families at any time before the completion of the register prescribed by this Act agree unanimously in writing, or have in writing agreed during the inquiry made in the preparation of the existing registers, as to who are the

representative watandars and as to the order of service, then the register, prescribed in this Act shall be prepared in accordance with such agreement.

### **32. Right of service to remain after relinquishment of watan property.**

- When watan property or profits have been voluntarily relinquished without abandonment of right of service, such right of service shall be dealt with as if the watandars were still in receipt of such emoluments.

### **33. Notice of adoption if heir has been adopted prior to passing of Act.**

- In any case in which, before the coming of this Act into force, any registered representative watandar or his widow shall have adopted an heir, notice of the same shall, within twelve months from the coming into force of this Act, be given by or on behalf of such adopted heir to the Collector, who shall register the name of such heir accordingly, But if such adoption shall be shown to have been or shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

### **34. Notice of adoption when heir is adopted after passing of Act.**

- In any case in which, after the coming of this Act into force, any registered representative watandar or his widow shall adopt an heir, report of such adoption shall within three months be made to the Collector by such watandar or by his widow, or in case of their death then by such adopted heir, or by the guardian of the tatter, and the Collector shall register the name of such heir accordingly. But if such adoption shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.]

### **35. Procedure if notice of adoption is not duly given.**

- In any case in which [notice or] [These words were inserted by Section 7 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bombay 5 of 1886).] report of such adoption shall not be made as herein directed, the Collector shall not recognize the same without the production of a certificate of heirship, or of a final decree of a competent Court establishing the validity of such adoption.[[36. Death of representative watandar to be reported; name of heir to be registered.] [Section 36 was substituted by Section 2(1) of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910).]- When any representative watandar dies it shall be the duty of the patel and village accountant to report the fact to the Collector; and the Collector shall if satisfied of the truth of the report, and subject to the provisions of section 2 of Bombay Act V of 1886, register the name of the person appearing to be the nearest heir of such watandar as representative watandar in place of watandar so deceased:Provided that-(1)in determining who is the nearest heir for the purposes of this section the rule of lineal primogeniture shall be presumed to prevail in the watan family;(2)in any case where the deceased watandar was not a sole representative watandar, if his nearest heir is not a member of the branch of the family to which the deceased watandar belonged but is another representative watandar of the

same watan or is a member of the branch of another representative watandar of the same watan, the share entered in the register against the name of the deceased watandar shall -(a)if there is only one remaining representative watandar of the same watan who is descended from the same original watandar as the deceased, pass to that remaining representative watandar.(b)if there are more than one such remaining representative watandars, be divided among such remaining representative watandars in proportion to their shares.and the register shall be corrected accordingly:(3)[if any person shall by production of a decree] [The words 'if any person shall by production of a decree' were substituted for the words 'if at any time any person shall by production of a certificate of hardship, or a decree or order' by Bombay 11 of 1930, Section 2.] of a competent Court, satisfy the Collector that he is entitled to have his name registered as the nearest heir of such deceased watandar in preference to the person whose name the Collector has ordered to be registered, [at any time within six years of such order, the Collector shall subject to the foregoing provisos, cause the entry in the register to be amended accordingly.] [The words 'at any time within six years of such order, the Collector shall' were substituted for the words 'the Collector may' by Bombay 11 of 1930.]]

**37. [ Guardian of minor watandar to perform duties of minor. - When any head of a family or representative watandar is under the age of eighteen years his guardian may s-bject to the provisions of section 51 [\* \* \*] [As to the local repeal of Section 37, see Bombay 6 of 1887.] exercise all powers and perform all duties conferred and imposed by this Act]**

## **Part VII – Periods of Service**

**38. [ Representative watandars to serve for life or for fixed periods of five or ten years. [Section 38 was substituted by Section B of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bombay 5 of 1886). As to the local repeal of Section 38, see Bombay 6 of 1887.]**

- Subject to the provisions of sections 45 and 46, representative watandars shall be entitled to office for the following periods, respectively (namely) :-]

- |                                                                                                                                                                                                                                                            |                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| <p>in cases falling under section 28 or section 29, clause (2),or section 30 or section 31, in which the</p> <p>(a) representativewatandars are entitled to office contemporaneously, and in casesfalling under section 27 or section 29, clauses (1),</p> | <p>For life</p>                                                                                                                 |
| <p>in cases falling under section 28 or section 29, clause (2),or section 30 or section 31, in which the</p> <p>(b) representativewatandars are entitled to office in successive periods.</p>                                                              | <p>for such period as the Collector shall in each case determine,the same being not less than five nor more than ten years.</p> |

**39. [ Procedure on death of officiator. [As to the local repeal of Section 39, see Bombay 6 of 1887.]**

- In the event of the officiating watandar dying before the expiration of his fixed period of service, his heir shall, subject to the provisions of Part VIII [\* \* \*] be entitled to officiate for the remainder of that period.]

**40. [ Election of officiator in rotation watan. [As to the local repeal of sections 40, 41. 42 and 43, see Bombay 6 of 1887.]**

(1)In the case of a watan in which the representative watandars are entitled to perform the duties in successive periods, the Collector shall, on the occurrence of the turn of any such representative watandar to perform the duties, issue a notice to the whole body of registered representative watandars calling upon them to appear before him at a certain time and place to elect an officiator, or such number of officiators as may be required by the Collector under the provisions of section 43 [\* \* \*].(2)If not less than three fourths, including the watandar whose turn it is to officiate, of the representative watandars appear at the appointed time and place and unanimously nominate a fit and proper person or persons, being a watandar or watandars of the same watan, the person or persons, so nominated shall be entitled to officiate in the place and for the period of service of the representative watandar whose turn it is to perform the duties.(3)If the person or persons so nominated be other than the representative watandar whose turn it is to perform the duties, he or they shall for all the purposes of this Act be deemed to be the duly appointed deputy or deputies of the said representative watandar.

**41. Mode of appointment if representative watandars fail to nominate officiator.**

- If in the case of a watan in which the representative watandars are entitled to perform the duties in successive periods, the representative watandars shall not appear at the time and place appointed under the provisions of the last preceding section, or shall fail to nominate an officiator, or the requisite number of officiators, unanimously, then the provisions of this Act as to service by the representative watandar entitled to officiate and as to appointment of deputies shall apply.]

**Part VIII – Officiating Watandars and Deputies**

**42. [ Representative watandar to perform duties of office. - Every representative watandar whose duty it is to officiate shall, if a fit and proper person, perform the duties of the hereditary office himself on being so required by the Collector, but may be permitted by the Collector to appoint a deputy.] [As to the repeal of sections 39, 40, 41, 42, and 43, see Bombay 6 of 1887.]**

**43. [ Collector to determine number of officiators required. - The Collector shall determine the number of officiators required for the proper performance of the duties of any office from time to time, and for this requirements may call upon the representative watandar aforesaid to appoint a sufficient number of fit and proper persons as deputies, or may direct service in successive periods by representative watandars who have hitherto served or are serving contemporaneously.] [As to the repeal of sections 39, 40, 41, 42, and 43, see Bombay 6 of 1887.]**

**44. [Collector to appoint deputy if watandar fails.]**

Rep. Bombay III of 1910. [[45.] [Section 45 was substituted by Section 9 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bombay 5 of 1886).] Collector when to refuse service of representative watandar or of deputy nominated by him.] - The Collector shall refuse to accept the service of any representative watandar or of any person nominated by a representative watandar to be his deputy, if such representative watandar or person -(a)is under eighteen years of age;(b)has not passed such educational test, if any, as [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] think fit from time to time to prescribe in this behalf;(c)has attained sixty years of age, except when such person's appointment or continuance in office is specially permitted by the Collector;(d)is in the opinion of the Collector disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body;(e)has been adjudged by the Collector after a summary inquiry held in accordance with the provisions relating to summary inquiries contained in the [Bombay Land-Revenue Code,] [Infra.] 1879, to be of general bad character;(ee)[ is considered by the Collector to be unfit for office on the ground that he is a wilful defaulter in respect of and revenue or any sum expressly declared by any law for the time being in force to be recoverable as an arrear of land revenue;] [Clause (ee) was inserted by Section 2 of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910)](f)has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the [Commissioner] [This word was substituted for the words 'State Government' by Bombay 8 of 1958, Section 3 Schedule ] is hereby empowered to make if [he] [This word was substituted for the word 'it', ibid.] shall think fit, in this behalf;(g)declines to forsake, whilst officiating, some other employment which is in the opinion of the Collector incompatible with the due discharge of the duties of the office;(h)[ has been removed from office or declared to be ineligible for re-employment under section 58 unless his re-employment is expressly sanctioned by the [Commissioner] [Clauses (h) was inserted by Section 2 of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910).]] [[46. Power to remove officiator or deputy or representative watandar who becomes unfit to officiate. - If an officiator at any time becomes unfit to officiate for any of the reasons specified in section 45, the Collector shall remove him from office and, subject to the other provisions of this Part, appoint another officiator.A deputy appointed by a representative watandar may at any time be removed

from office by the Collector at the request of the representative watandar, if, in the opinion of the Collector, there are good grounds for such request.] [Sections 46, 47, 48 and 49 were substituted by Section 2 of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910).]]

[[47. Procedure when representative watandar is rejected or removed. - If a representative watandar whose duty is to officiate is rejected or removed under section 45 or 46, he may, subject to the provisions of section 49, appoint a deputy: Provided that, whenever such representative watandar ceases to be disqualified under section 45, he shall become entitled, if otherwise fit, to serve in person in supersession of any such deputy, or to serve in person or (subject to the provisions of section 42) to appoint a deputy in supersession of any deputy appointed by the Collector] [Sections 46, 47, 48 and 49 were substituted by Section 2 of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910).].]]

[[48. Procedure when a deputy is rejected or ceases to officiate. - If a deputy dies or resigns, or is rejected or removed by the Collector under section 45 or 46, the representative watandar whose duty it is to officiate may himself if otherwise fit, perform the duties in place of such deputy or, subject to the provisions of sections 42 and 49, appoint another deputy] [Sections 46, 47, 48 and 49 were substituted by Section 2 of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910).].]]

[[49. Cases where Collector, instead of the representative watandar, shall appoint a deputy. - The Collector, instead of the representative watandar whose duty it is to officiate, shall himself appoint a deputy in any of the following cases:-(a)where the representative watandar is disabled by lunacy or imbecility of mind from appointing a deputy;(b)where the representative watandar is disqualified under clause (e), (f) or (h) of section 45, whether or not he was a representative watandar at the time of his incurring such disqualification;(c)where the representative watandar fails to comply with any requisition of the Collector to serve in person or to appoint a deputy under section 42, 43, 47 or 48, within two months from the date thereof;(d)where the first person nominated by the representative watandar is rejected under section 45, and the second person nominated is also rejected under that section;(e)where the representative watandar declines to appoint a person as his deputy in accordance with section 53;(f)where a deputy appointed by the Collector under any of the above clauses dies or resigns].]

## **50. [Collector may nominate deputy if representative watandar is rejected or removed.]**

Rep. Bombay III of 1910.

**51. [ Female cannot officiate but may nominate deputy. - No female shall perform in person the duties of any hereditary office; but if a representative watandar or the guardian of a representative watandar, she may appoint a deputy.] [As to local repeal of sections 51 to 55, see Bombay 6 of 1887.]**

**52. [ Mamlatdar or Mahalkari to appoint deputy when officiator suspended. - During the suspension of an officiating representative watandar or deputy and during any vacancy, the duties shall temporarily be performed by a substitute, whether a watandar or not, appointed by the [Mamlatdar or the**

**Mahalkari, as the case may be] [As to local repeal of sections 51 to 55, see Bombay 6 of 1887.].] [Sections 46, 47, 48 and 49 were substituted by Section 2 of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910).]**

[[53. Deputy must ordinarily be a member of the same family as the representative watandar whose duty it is to officiate.] [Section 53 was substituted by Section 12 of the Bombay Hereditary Offices (Amendment) Act 1886 (Bombay 5 of 1886).] - Except as is otherwise provided in the last preceding section and in section 56, and except as [the [State] [The words 'Provincial Government' were substituted for the words 'Governor in Council' by the Adaptation of Indian Laws Order in Council.] Government] shall by a general or special order from time to time otherwise direct, every deputy appointed under this Act shall be a member of the same family to which the representative watandar whose duty it is to officiate belongs, if there be a member of such family fit and willing to officiate [or, in default of such member, a watandar of the same watan who is fit and willing to officiate and who is descended from the same original watandar as the representative watandar whose duty it is to officiate.] [These words were added by Section 2 of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910).]][\* \* \*] [[The following paragraph was repealed by Bombay 3 of 1910, Section 3-'If a representative watandar declines to appoint as his deputy any such person so aforesaid, the appointment shall be made by the Collector.']]

**54. [Term of appointment of deputy. - When the Collector appoints a deputy, it shall be for a term not exceeding five years.**

When a watandar entitled to officiate appoints a deputy, it shall be for a term not less than five years or for life. The term of appointment of a deputy shall cease and determine on the right of his principal ceasing, or on the death of his principal, and any appointment of a deputy on behalf of a representative watandar under the age of eighteen years shall terminate on the attainment by such representative watandar of that age.] [As to local repeal of sections 51 to 55, see Bombay 6 of 1887.]

**55. [ Officiator if absent or ill may appoint a temporary substitute. - In the event of temporary absence or illness, an officiator may arrange with any fit person for the temporary conduct of the duties, but shall be liable in the penalties prescribed in sections 57 to 61] [As to local repeal of sections 51 to 55, see Bombay 6 of 1887.] [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886).].**

**56. [ Head of family when to be treated as watandar. - When the hereditary right to perform the duties of an hereditary office as deputies of the original watandar is vested in a family distinct from that of the original watandar, the custom shall be recognized, and the heads of the family entitled to perform the duties shall be registered and treated as representative watandars.] [As to the local repeal of Sections 56 to 58 see Bombay 6 of 1887.]**



## **Part IX – Penalties**

**57. [ Punishment of officiators. - It shall be lawful for the Collector to suspend any officiator from office during inquiry into alleged misconduct, and to punish any such officiator for misconduct or neglect of duty by suspension from office for a period not exceeding six months, or by five not exceeding the fourth part of the annual emolument provided for the officiator. The order of the Collector shall be final in such cases, except when the penalty is inflicted on an hereditary district officer.] [As to the local repeal of sections 56 to 58 see Bombay 6 of 1887.]**

**58. [ Collector may remove officiator with the sanction of Provincial Government.] [As to the local repeal of sections 56 to 58 see Bombay 6 of 1887.] - It shall be lawful for the Collector, with the previous sanction of [the Provincial Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.], in case of fraud, the wilful framing of incorrect records, habitual neglect of duty, or other grave misconduct on the part of an officiator, to remove him from office ,[or if he has ceased to officiate, to declare that he is ineligible for re-employment in any hereditary office except with the sanction of [the Provincial Government] [These words were added by Section 2 of the Bombay Hereditary Offices Act, 1910 (Bombay 3 of 1910).]].**

**59. [Officiator removed from office ineligible for re-employment.]**

Rep. Bombay III of 1910.

**60. [ Provincial Government may direct the forfeiture of a watan.] [Section 60 was substituted by Section 13 of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bombay 5 of 1886). As to the local modification of Section 60, see Bombay 6 of 1887.] - When any representative watandar or any deputy or substitute appointed by him is convicted by a criminal Court inferior to a Court of Session of any offence in the discharge of his official duties, or of any of the offences specified in the second schedule or of the abetment of any such offence, and such conviction is not subsequently reversed or quashed, the [Provincial Government] [The words 'Provincial Government' were substituted for the words 'Government Council', by the**

**Adaptation of Indian Laws Order in Council.] may, [\* \* \*] [The words 'direct the forfeiture of the whole or of any part of any watan in which he has an interest. Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit 'were deleted and Clauses (a) and (b) were inserted by Bombay 11 of 1925, Section 2.]**

(a)[ if the offence be committed in the discharge of his official duties or be any of those enumerated in Schedule II (2) to (6), direct the forfeiture of the life interest of the person convicted or if he be not the representative watandar also of the representative watandar; [The words 'direct the forfeiture of the whole or of any part of any watan in which he has an interest. Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit 'were deleted and Clauses (a) and (b) were inserted by Bombay 11 of 1925, Section 2.](b)if the offence is as is described in Chapter VI of the Indian Penal Code, Direct the forfeiture of the whole or of any part of any watan in which he has an interest. Such forfeiture may be either absolute or for such period as the [Provincial Government] thinks fit.]

**61. [ Forfeiture of life interest of officiator and deputy for misconduct of deputy. - All deputies appointed under this Act shall be subject to the same rules in the performance of the duties of their offices, and to the same penalties, except as otherwise provided, as the representative watandars themselves are subject to when officiating, and in the case specified in section 58 of this Act, it shall be lawful for [the Provincial Government] [As to the local repeal of sections 61 and 62 see Bombay 6 of 1887] to direct the forfeiture of the life interest in the watan of the representative watandar entitled to officiate whether the officiator guilty of misconduct be such representative watandar himself or a deputy appointed by him:]**

[Provided that the [Provincial Government] [The Proviso to section 61 was inserted by Bombay 11 of 1925, Section 3.] shall not direct under this or the preceding section the forfeiture of any watan or part thereof belonging to a person other than the one so convicted or found guilty, unless it is provide to [its] [The word 'its' was substituted for the word 'his' by Bombay 11 of 1925.] satisfaction that that person had previous knowledge of or connived at the offence or misconduct]

**62. [ Order to be passed after investigation. - No order shall be passed under this part except upon perusal of the judgment of a Court [if any and after investigation recorded in writing in which an opportunity of being heard either in person or through pleader shall be given to the party against whom any such order is proposed to be passed] [As to local repeal of sections 61 and 62, see Bombay 6 of 1887.].]**

## Part X – Interior Village Hereditary Offices

### 63. Application of Part X.

- This part applies only to hereditary village offices of lower degree than that of Patel or Kulkarni.

### 64. Powers granted to Collector.

- [(1)] [Section 64 was renumbered as Section 64(1) by Section 2 and Schedule I of the Bombay Decentralization Act, 1915 (Bombay 3 of 1915).] The Collector is empowered, subject to the general control of [the Provincial Government] [The words 'Provincial Government' were substituted for the words 'Government Council', by the Adaptation of Indian Laws Order in Council.],-(a)to register the names of individual watandars as holders of the office, or to register it as held by the whole body of watandars;(b)to determine, when individual names are so registered, the rights, duties and responsibilities among themselves of the persons so registered, and the mode in which they shall be selected to perform the duties, whether by selection by the Collector or by defined rotation, or by election by the watandars or otherwise, as may be expedient;(c)to require, in cases where the registration is made in the name of the whole body of watandars, that the appoint so many fit persons as may be necessary to perform the duties which the Collector may assign to them severally and jointly; such appointment to be made within a reasonable time to be previously fixed and notified to them by the Collector. In default of such appointment being made, the Collector may himself appoint;(d)to provide for and enforce the joint responsibility of the whole body for the neglect of duty or misconduct of any of their number or of their representatives and in cases where the crime of cattle poisoning is prevalent, with the sanction of [the Provincial Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of India Laws Order in Council.] to attach, during the pleasure of [the Provincial Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of India Laws Order in Council.], the watans of the persons whom he may have reason to believe to have been guilty of, or to have connived at, the commission of the crime;(e)[ To pass orders in regard to the dismissal of persons officiating;] [Clause (e) was substituted by Section 2 and Sch I of the Bombay Decentralization Act, (Bombay 3 of 1915).](f)[ to permit the watandar whose duty it is to officiate, to appoint a deputy for performing the duties of his office.] [Clause (f) was inserted by Bombay 15 of 1931, Section 2.]The Collector to amend entry on register. - [(2) The Collector, when he is satisfied that a person who produces a decree or order of a competent court is entitled to have his name entered in the register as nearest heir of a deceased watandar in preference to the name of a person already entered in the said register as such heir, provided that the said order or decree is produced within six years of the date of the entry in the said register sought to be amended, shall amend the said entry in the said register accordingly.] [Sub-sections (2) and (3) were inserted by Bombay 12 of 1932, Section 2.]The Collector may delegate certain powers to Mamlatdars and Mahalkaris. - [(3) The Collector is empowered to delegate to the Mamlatdar or Mahalkari the powers exercisable by him under clause (a) of sub-section (1)] [Sub-sections (2) and (3) were inserted by Bombay 12 of 1932, Section 2.].Powers granted to Mamlatdar and Mahalkari. - [(4) The Mamlatdar and the Mahalkari are empowered to pass orders in regard to the appointment,

remuneration, period of services, suspension and fining of persons officiating, the grant of leave of absence and other matters of discipline not expressly provided for by this or any other law for the time being in force.] [Sub-section (2) which was added by Section 2 and Schedule I of Bombay 3 of 1915 was renumbered as sub-section (4) *ibid.*]

## Part XI – The Register

### 65. Collector to prepare and keep Register.

- The Collector shall prepare and keep all Registers necessary for the purposes of this Act in the form which [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of India Laws Order in Council.] Government] may from time to time prescribe. There shall be one Register of lands and allowances in consideration whereof liability to perform service exists and another of lands and allowances in respect of which no such liability exists. The words 'the Provincial Government' were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

### 66. Non-Service Register what to contain.

- In the Register of lands and allowances the holders whereof are exempt from service, the Collector shall specify-(a)the area of the lands, the survey number and assessments, the quit-rent leviable, and the net revenue alienated by [the [Government] [The words 'the Crown' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.]]; (b)the amount and nature of the cash or other allowances, and the source from which they are payable; (c)the terms of the settlement under which the exemption is enjoyed; (d)the names of the parties to such settlement with [the [Government] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of India Laws Order in Council.]] as indicated in the Sanads issued to them; (e)such other particulars as [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order In Council.] Government] may from time to time order to be recorded.

### 67. [ Service Register what to contain.] [As to the local repeal Section 67, see Bombay 6 of 1887.] - In the Register of lands and allowances in consideration whereof liability to serve still exists, the Collector shall specify -

(a)the area of the lands, the names of the occupants, the survey number and assessment, the quit-rent, if any, leviable, and the net revenue alienated by the [Government] [This word was substituted for the word 'Crown' by the Adaptation Laws Order, 1950.], the amount and nature of the cash or other allowances the source from which they are payable, and the land and allowances assigned for the remuneration of officiators; (b)the names of the heads of families and of the representative watan-dars; (c)whether the service is performed by one representative watan-dar or otherwise: if by several in successive periods, the order in which they are to succeed each other; (d)the proportional share of the watan possessed by each head of family which may be

expressed in annas or fractions of a rupee;(e)the number of officiators required to perform the duties;(f)the nature of the settlement of inferior village watans referred to in Part X [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the 'Bombay General Clauses Act, 1904 (Bombay 1 of 1904).];(g)such other particulars as [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order In Council.] Government] may (from time to time) order to be recorded.

## **68. Register to be corrected.**

- The Register kept under this Act shall be corrected or added to on the occasion of any change being made in accordance with the provisions of this Act in the particulars above specified.

## **Part XII – Miscellaneous**

**69. [ Service to be performed by watandars. - All watandars of whatever denomination whose liability to serve has not been commuted are legally bound, subject to the provisions of this Act, to render such service as has been customary or as is required by law.] [As to the local repeal of as, 69 and 71, see Bombay 6 of 1887.]**

[70 . Watan records the property of the [Government] [Section 70 was substituted by Section 14 of the Bombay Hereditary Offices (Amendment) Act. 1886 (Bombay 5 of 1886).]. - All records which have been or may be prepared by any watandar or by any officiator in an hereditary office in pursuance of the duties of the office, or by order of a superior officer or of the present or former Government are hereby declared to be the [property of the] [The words 'property of the Crown for the purposes of the Province' were substituted for the words 'property of Government' by the Adaptation of Indian Laws Order in council.] [State Government] [This words were substituted for the words 'the Crown for the purposes of the Province' by the Adaptation of Laws Order, 1950.], and the [Mamlatdar or the Mahalkari] [These words were substituted for the word 'Collector' by Section 2 and Schedule I of the Bombay Decentralization Act, 1915 (Bombay 3 of 1915).] may enforce their production or the production of any State records in the possession of a watandar or of an officiator, in accordance with the Provisions of sections 25 and 26 of the Bombay Land Revenue Code, 1879.]

## **71. Watandars may sign village records.**

- With regard to hereditary offices not inferior to that of Patel or Kulkarni it is hereby declared that every head of family shall have the privilege of signing of the abstract of village land and revenues or other village papers which it may be customary for him to sign.

## Part XIII – Procedure and Appeals

### 72. Evidence to be taken.

(1) It shall be lawful for the Collector or other officer conducting an investigation under this Act to take evidence, and in sections 193 and 228 of the [Indian Penal Code] [Central Acts] the words "judicial proceeding" shall be taken to include any proceeding under this Act. (2) Every person who shall have been summoned to give evidence or to produce any document in his possession, by the Collector or other officer conducting an investigation under this Act, shall be legally bound to attend, or to produce such documents.

**73. [ Orders under Parts III, V, VI and VII to be passed after investigation in writing.] [As to local repeals of parts of section 73, see Bombay 6 of 1887.] -**  
**(1) Except as hereinafter provided in clause 2 of this section, no order under Part III [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] directing commutation of a watan, or under Part V [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] assigning the remuneration of officiators, or under Part VI [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] determining the custom of the watan as to service and what persons should be registered as head of families or representative watandars, or under Part VII [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] determining the periods of service, shall be passed, unless after an investigation recorded in writing and a proper opportunity afforded for the hearing of claims and the production of evidence.**

In each such investigation, and in removals from office under section 58 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] the Collector or other officer shall record his decision with the reasons therefore in his own handwriting. Certain decisions passed since 1866 to be accepted in lieu of fresh investigation. - (2)

Unless the [[State] [The words 'Provincial Government' were substituted for the words 'Governor in Council' by the Adaptation of Indian Laws Order in Council.] Government] shall otherwise direct, decisions passed subsequently to the year 1866 after an investigation recorded in writing and after a proper opportunity had been afforded for the hearing of claims and the production of evidence, and which are recorded, with the reasons therefore, in the handwriting of a Collector or his Assistant or Deputy, shall be accepted, in so far as they may not be inconsistent with the provisions [of this Act] [These words were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886), and re-inserted by the Amending Act, 1895 (16 of 1895).] in lieu of fresh investigation and decision under this Act for the purpose of framing the register required in section 67 [\* \* \*] [The word 'thereof' was repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] If any details necessary for the said register have not been recorded in any decision of the nature described above, but are forthcoming from the evidence taken in connection with such decision, they may be supplied from such evidence in lieu of fresh investigation for the completion of the register. Such details as may not be forthcoming shall be obtained by such further investigation as the Collector may deem necessary.

#### **74. Control of proceedings of Collector.**

- The proceedings of the Collector shall be under the general control of [the Commissioner and of] [These words were inserted by Bombay 8 of 1958, Section 3 Schedule.] [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government].

#### **75. Mamlatdar may make investigation under Part X.**

- The Collector may [save in respect of any matter in which he has delegated his powers to a Mamlatdar or Mahalkari under sub-section (2) of section 64 require any investigation under Part X [\* \* \*] [These words were inserted by Bombay 12 of 1932, Section 3.] to be made by a Mamlatdar or Mahalkari, but the decision thereon shall be made by the Collector.]

#### **76. No appeal to lie save where specially provided.**

- No appeal shall lie from any order made under section 64, clause (e) [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the 'Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] before final order nor from any order registering any fact specified under section 67, clauses (b), (c), (d) and (e) [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the 'Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] where the effect of such order is merely to register the same facts as are already recorded in the existing registers kept according to law or under the orders of [the [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government].

## 77. Appeals.

- Except as hereinbefore provided, one appeal only shall lie from every decision passed after investigation recorded in writing by a Collector, or by an Assistant Collector, or Deputy Collector [or from every decision passed by a Mamlatdar or Mahalkari exercising the powers delegated to him under sub-section (2) section 64] [These words were inserted by Bombay 12 of 1932, Section 4.] [\* \* \*]. [The words and figures 'empowered under the provisions of Bombay Act I. of 1868' and the words 'so empowered' were repealed the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] Such appeal, if from the decision of an Assistant Collector, or Deputy Collector [or Mamlatdar, or Mahalkari] [These words were inserted by Bombay 12 of 1932, Section 4.] [\* \* \*] [The words and figures 'empowered under the provisions of Bombay Act I. of 1868' and the words 'so empowered' were repealed the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] shall lie to the Collector and shall be made within sixty days from the date of the order appealed against. Such appeal, if from the decision of the Collector, shall lie to the [\* \* \*] [The word 'Revenue' was repealed by the Amending Act, 1895 (16 of 1895).] [Commissioner] [This word was substituted for the words 'State Government' by Bombay 8 of 1958, Section 3, Schedule.], shall be made within ninety days from the date of the order appealed against. In computing the above periods the time required to prepare a copy of the order or decision appealed against shall be excluded.

## 78. Copy of order to accompany petition of appeal. Appeal may be summarily rejected.

- Every petition of appeal shall be accompanied by a copy of the order or decision appealed against: and it shall be competent for the officer before whom the appeal is presented to reject the appeal if on perusal of the petition it appears to him that there is no sufficient ground for questioning the correctness of the decision, or for interfering with the order appealed against.

## 79. [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may call for proceedings.

- [The [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] may call for and examine the record of the proceedings of any, officer for the purpose of satisfying itself as to the legality or propriety of any order passed, and may reserve or modify the order as shall seem fit, or if it seem necessary, may order a new inquiry. [The State Government may delegate all or any of its powers under this section to any Commissioner and such Commissioner may thereupon exercise such powers within the local limits of his jurisdiction, subject to the revisional powers of the State Government under this section, and to any restrictions that the State Government may deem fit to impose.] [This Paragraph was added by Bombay 8 of 1958 3 Schedule.]



## **80. Notice how to be served.**

- Service of any notice given under this Act shall be deemed to have been made by the notice being affixed in writing to the wall of the village chavdi or other public place in the village not less than seven days before action is required to be taken by any person thereon.

## **81. Recoveries how to be made.**

- All recoveries of profits from land, assessments, emoluments or penalties under this Act, may be made as provided by any law for the time being in force relating to the recovery of the land-revenue.

## **82. [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government to frame rules.**

- [The [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] may frame rules not inconsistent with this Act for the guidance of its officers in cases not expressly provided for, and may from time to time modify or revoke any such rules.

## **83. [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government to determine duties of hereditary officers.**

- Except as is otherwise provided in section 18 [\* \* \*] [The words 'of this Act' were repealed by the Bombay General Clauses Act, 1886 (Bombay 3 of 1886). Schedule B. This Schedule has been printed as an Appendix to the 'Bombay General Clauses Act, 1904 (Bombay 1 of 1904).] [The [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] shall have power, in case where doubt exists, to determine what duties appertain to any hereditary office.

## **84. Grant of powers to Special Officer.**

- [The [State] [The words 'the Provincial Government' were substituted for the word 'Government' by the Adaptation of Indian Laws Order in Council.] Government] may from time to time confer on any officer specially selected for the purpose [or, so far as concerns any alienated village, on the holder or on any of the holders of such village or on any agent of the holder of such village] [These words were inserted by 15(1) of the Bombay Hereditary Offices (Amendment) Act, 1886 (Bombay 5 of 1886).] all or any of the powers and duties which under this Act are required to be performed by [a Commissioner or] [These words were inserted by Bombay 8 of 1958 s 3 Schedule.] a Collector, and may authorise the delegation to any Mamlatdar or Mahalkari of the power to fine hereditary village officers in sums not exceeding two rupees.[Powers and duties conferred under this section shall be exercised or performed subject to such conditions, if any, in addition to those specified in this Act, as the [[State] [This paragraph was added by 15(2) of the Bombay Hereditary Offices

(Amendment) Act, 1886 (Bombay 5 of 1886).] Government] shall from time to time think fit to prescribe, and any order conferring powers and duties under this section may at any time be cancelled by [the [State] [The words 'Provisional Government' were substituted for the words 'Governor In Council' by the Adaptation of Indian Laws Order in Council.] Government].]

## 85. Act not to affect Bombay Act VIII of 1867.

- Nothing in this Act contained shall be deemed to affect [Bombay Act VIII of 1867] [The Bombay Village Police Act 1867.] or any other law for the time being in force, defining the duties, and powers of village officers or imposing penalties for misconduct and all references in such laws to [Act XI of 1843] [Act 11 of 1843 was repealed by Section 2 of this Act.] shall be taken as made to this Act.

## Schedule

[Enactments repealed ] Rep. Act XII of 1876. Second Schedule [This schedule was added by Section 16 of the Bombay Hereditary Offices (Amendment) Act, 1866 (Bombay 5 of 1886).] Offences referred to in section 60

Description of offence.	Sections of the Penal Code under which punishable.
(1) Every offence described in Chapter VI of the [Indian Penal Code.] [Central Acts.]	121, 121A; 122-124A, 125-130
(2) Causing disappearance of evidence of any offence committed, or giving false information touching it to screen the offender, when the offence committed is a capital offence, or punishable with transportation for life or imprisonment for ten years.	201
(3) Harboursing an offender, if such offender's offence be capital; or punishable with transportation or imprisonment for ten years.	212
(4) Taking gift, etc., to screen an offender from punishment, if such offender's offence be capital, or punishable with transportation for life or with imprisonment for ten years.	213
(5) Harboursing an offender who has escaped from custody, or whose apprehension has been ordered, if such offender's offence be capital or punishable with transportation for life or with imprisonment for ten years.	216
(6) [ Harboursing robbers and dacoits [This entry was added by Section 2(11) of the Bombay Office Hereditary Offices Act, 1910 (Bombay 3 of 1910).]	216A]
Notifications G.N., R.D., No. 1861-F/39, dated 12th March, 1940 (B.G., Part IVA, pages 405) - In exercise of the powers conferred by section 82 of the Bombay Hereditary Offices Act (Bombay III of 1874), the Government of Bombay is pleased to make the following rule namely: - "A deputy or a	

substitute or a temporary officiator appointed on behalf of Government under the provisions of the Bombay Hereditary Offices Act, 1874, or the Matadars' Act, 1887, to officiate as Patel or Kulkarni shall, before he assumes charge of his office, execute in the form appended hereto a bond for Rs. 500 or such smaller amount as the Collector may in any particular case deem reasonable and sufficient with two sureties for the same amount, for the due discharge by him of the trusts of the said office: Provided that the Commissioner by a special case, exempt any deputy, substitute or temporary officiator from furnishing any security. Form of Security Bond to be executed by a deputy or a substitute or a temporary Officiator appointed on behalf of Government under the Bombay Hereditary Offices Act or the Matadars' Act to officiate as Patel or Kulkarni Whereas I,

\_\_\_\_\_ residing at \_\_\_\_\_ have been appointed to the office of \_\_\_\_\_ and have been called upon to furnish security in accordance with the rule published in Government Notification, Revenue Department, No. 1861□F/39, dated 12th March, 1940, for the due discharge of the trusts of the said office and for the due accounting of all moneys, papers and other property which shall come into my possession or control by reason of such office, I hereby bind myself to pay to the Governor of Bombay (hereinafter referred to as 'the Government'), the amount of any loss or defalcation in my accounts, and to deliver up any papers or other property within such time, and to such person as shall be demanded by the Mamlatdar of \_\_\_\_\_ such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein I bind myself to forfeit to the Government the sum of \_\_\_\_\_ rupees (Rs.): Provided always that nothing herein contained nor the security hereby given shall be deemed to limit my liability in respect of the matters aforesaid to the forfeiture of the said sum of rupees only, and that should that sum be insufficient to recoup the Government in full for any loss or damage sustained by it in respect of the matters aforesaid, I agree to pay to it on demand such further sum as shall be deemed by the said Mamlatdar to be necessary, in addition to the said sum, to cover such loss or damage as aforesaid. Place Dated (Signature) We, (1) residing at \_\_\_\_\_ and (2) residing at \_\_\_\_\_ hereby declare ourselves sureties for the abovesaid that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein, we hereby bind ourselves jointly and severally to forfeit to the Governor of Bombay (hereinafter referred to as 'the Government') the sum of [Amount to be specified] \_\_\_\_\_ rupees, in which the abovesaid \_\_\_\_\_ has bound himself, or such smaller or further sum as shall be deemed sufficient by the \_\_\_\_\_, to cover any loss or damage which the Government may sustain by reason of such default. Place Dated

1.

\_\_\_\_\_

2.

\_\_\_\_\_ (Signatures). "G.N., R.D., No. 4247, dated 22nd July, 1881 (B.G., Part I, pages 397) - Under the provisions of sections 5 and 6 of the Pensions Act, 1871, His Excellency the Right Honourable the Governor in Council is pleased to authorize the Deputy and Assistant Collectors of Salt Revenue in charge of Ranges to hear and dispose of claims and grant certificates empowering a

Civil Court to take cognizance of claims relating to grants of money payable on the part of Government in the Salt and Continental Customs Revenue Department, and under the provisions of section 84 of the Bombay Hereditary Offices Act, 1874, His Excellency the Right Honourable the Governor in Council is pleased to confer on the Collector of Salt Revenue all such of the powers and duties of a Revenue Commissioner and on the aforesaid officers all such of the powers and duties of a Collector under that Act as are necessary for the lawful control of and are applicable to hereditary offices connected with the said Department. G.N., R.D., No. 9247/, dated 17th December, 1943 (B.G., Part IV-B, pages 438) - In exercise of the powers conferred by section 84 of the Bombay Hereditary Offices Act (Bombay Ili of 1874), the Government of Bombay is pleased to confer on Assistant and Deputy Collectors all the powers and duties which under the said Act are required to be performed by a Collector, other than the power to hear an appeal under section 77 of the said Act.