

# **The Rajasthan Divisional Commissioner (Office Abolition) Act, 1962**

RAJASTHAN

India

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### **Act 8 of 1962**

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The Rajasthan Divisional Commissioner (Office Abolition) Act, 1962 Rajasthan Act No. 8 of 1962[Received the assent of the President on the 21st day of April, 1952].An Act to provide for the abolition of the office of Divisional Commissioner in the State of Rajasthan and for other matters consequent on such abolition.Be it enacted by the Rajasthan State Legislature in the Thirteenth Year of the Republic of India as follows:-

### **1. Short title and extent.**

(1)This Act may be called the Rajasthan Divisional Commissioner (Office Abolition) Act, 1962.(2)It extends to the whole of the State of Rajasthan.

### **2. Definitions.**

- In this Act, unless the subject or context otherwise requires,-(a)"appointed day" means the sixteenth day of November, 1961;(b)"Board" means the Board of Revenue for the State of Rajasthan;(c)"division" means a division under the administrative charge of a Commissioner, constituted or deemed to be constituted under section 15 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956);(d)"Divisional Commissioner" means the Commissioner of a division and includes an Additional Commissioner; and(e)"existing law" means any law, act, ordinance, regulation, rule, notification, order, bye-law, scheme or instrument having the force of law, pertaining to matters specified in Lists II and III of the Seventh Schedule to the Constitution of India, in force in the whole or any part of the State of Rajasthan immediately before the appointed day.

### **3. Abolition of office of Divisional Commissioner.**

- As from the appointed day-(a)the office of the Divisional Commissioner shall stand abolished, and(b)the various divisions in the State of Rajasthan shall cease to exist.

### **4. Amendment of certain laws.**

- As from the appointed day-(a)every existing law mentioned in the Schedule annexed hereto shall have effect as if such law were amended in the manner and to the extent specified in that Schedule, and(b)all rules, regulations, bye-laws, orders and notifications made or issued under such existing law shall be deemed to have been amended accordingly.

### **5. References to Divisional Commissioner in other laws.**

- In all existing laws, other than the existing laws for which provision has been made in section 4, as from the appointed day,-(a)references to division shall be deemed to be omitted, and(b)references to Divisional Commissioner shall, unless the State Government in any case directs otherwise, be construed as being references to Collector; Provided that, where in any such existing law, a reference to a Divisional Commissioner shall have occurred as being the officer competent to hear appeals, revisions or references against the orders of a Collector under that law, such reference shall, unless the State Government in any case directs otherwise, be construed as from the appointed day, as being a reference to, and the powers of appeal, revision or reference thereby conferred shall, as from that day, vest in, and be exercised by, the revenue appellate authority.

### **6. Provision as to delegated powers of Divisional Commissioner.**

(1)Any powers conferred upon or delegated to a Divisional Commissioner under or in pursuance of any existing law or any rule, regulation, bye-law order or notification, there under shall, subject to the provision contained in the proviso to section 5 be deemed, as from the appointed day, to have been conferred upon or delegated to, the Collector or the revenue appellate authority, as the case may be: Provided that, any such power may be conferred or delegated by the State Government upon or to any other officer or authority. (2) If, under or in pursuance of any existing law or any rule, regulation, bye-law, order or notification made or issued thereunder, a Divisional Commissioner shall have been appointed for the purpose there of to be a competent authority or a prescribed authority or any other authority, than, subject to the provision contained in the proviso to section 5 and further subject to the provision contained in the proviso to sub-section (1) of this section the Collector or the revenue appellate authority, as the case may be shall, as from the appointed day, be deemed to have been appointed as such competent, prescribed as other authority.

### **7. Pending proceedings.**

- All proceeding under any existing law, whether by way of appeal, revision, review, reference or otherwise pending before a Divisional Commissioner immediately before the appointed day shall on

that day stand transferred to the officer or authority in whom the powers of such Commissioner, under such existing law, have been vested by the provisions of this Act and shall be disposed of by such officer or authority in accordance with law.

## **8. References documents etc.**

- All instruments or documents executed or made before the appointed day under or with reference to any existing law shall, unless the subject or context otherwise requires, be construed as if references there in to the Divisional Commissioner were, as from the appointed day, references to the Collector or to such officer or authority as the State Government may in any particular case direct.

## **9. Legal proceedings.**

- If on the appointed day, any legal proceedings are pending to which a Divisional Commissioner is a party, the Collector or such other officer or authority as the State Government may direct shall as from the appointed day, be deemed to be substituted for such Commissioner in the said proceedings.

## **10. Savings.**

- Any appointment, notification, order, rule, regulation bye-law, form, instrument or document made, prescribed, issued or executed before the appointed day by a Divisional Commissioner under or with reference to the provisions of any existing law shall as from that day be deemed to have been made, prescribed, issued or executed by the officer or authority in whom the powers of such Commissioner under such existing law have been vested by the provisions of this Act and shall be valid and in operation unless and until superseded or modified by any appointment, notification, order, rule, regulation, bye-law. form, instrument or document made, prescribed, issued or executed by the officer or authority competent to do so after the appointed day in accordance with the provisions of this Act.

## **11. Rule of constitution.**

- Notwithstanding the fact that this Act makes no provision or makes insufficient provision in any respect for the application of any existing law as modified by this Act, any court, tribunal authority or officer, when, required to administer the provision of such existing law, may construe the same mutatis mutandis, with such further modification, not affecting the substance, as may be necessary or appropriate in the circumstances.

## **12. Power to remove difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act or of any existing law with reference to the modifications made therein, by virtue of the provision of this Act, the State

Government may, by order notified in the official Gazette, make such provisions or give such directions as may appear to it to be necessary for the removal of the difficulty.

### 13. Repeal.

- The following enactments are hereby repealed, namely (1) The Rajasthan City Municipal Appeals (Regulation) Act, 1950 (Rajasthan Act 3 of 1950). (2) The Rajasthan Divisional Commissioner (Office Abolition) Ordinance, 1961 (Rajasthan Ordinance No. 6 of 1961). (3) The Rajasthan Divisional Commissioner (Office Abolition) Amendments Ordinance, 1961 (Rajasthan Ordinance No. 8 of 1961). (4) The Rajasthan Land Revenue (Amendment) Ordinance, 1961 (Rajasthan Ordinance No. 9 of 1961). The Schedule (See Section 4) (1) The Rajasthan Court of Wards Act, 1961 (Rajasthan Act 28 of 1961). Section 7. - (1) In sub-section (1), omit "the Commissioners of the divisions or" (2) In sub-section (2), omit "Commissioner or" (2) The Rajasthan Public Demands Recovery Act, 1952 (Rajasthan Act 5 of 1952). Section 23A. - (1) Substitute "revenue appellate authority" for "Commissioner of the division concerned" occurring in sub-section (1). (2) Substitute "revenue appellate authority" for "Commissioner" occurring in sub-section (3). (3) The Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 (Rajasthan Act 6 of 1952). Section 42A. - In sub-section (1) omit "the Commissioner" (4) The Rajasthan Minor Irrigation Works Act, 1953 (Rajasthan Act, 12 of 1953). Section 48. - Omit "the Commissioner or" occurring twice. (5) The Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953). Section 45. - In sub-section (3) omit "or the Commissioner" and "Commissioner" (6) The Rajasthan District Boards Act, 1954 (Rajasthan Act 2 of 1954). Section 29. - Substitute "Collector" for "Commissioner" wherever occurring. Section 30. - Substitute "Collector" for "Commissioner" occurring in clause (b) of sub-section (1). Section 58. - Omit "the Commissioner" in sub-sections (3) and (4). Section 198. - Omit "or to the Commissioner in respect of any specified Board or Boards in his division" (7) The Rajasthan Sales of Motor Spirit Taxation Act, 1954 (Rajasthan Act 6 of 1954). Section 22. - In sub-section (1), clause (a), omit "to the Commissioner or". (8) The Rajasthan Religious Buildings and Places Act, 1954 (Rajasthan Act 18 of 1954). Section 8. - Substitute "revenue appellate authority" for "Commissioner" wherever occurring. Section 9. - Substitute "revenue appellate authority" for "Commissioner". (9) The Rajasthan Irrigation and Drainage Act, 1954 (Rajasthan Act 21 of 1954). Section 19. - In sub-section (2), substitute "revenue appellate authority" for "Commissioner". Section 27. - Substitute "revenue appellate authority" for "Commissioner". (10) The Rajasthan Agricultural Lands Utilisation Act, 1954 (Rajasthan Act 22 of 1954). Section 5. - Substitute "revenue appellate authority" for "Commissioner" wherever occurring. (11) The Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Rajasthan Act 24 of 1954). Section 10. - In sub-section (2), substitute "revenue appellate authority" for "Commissioner of the division". (12) The Rajasthan Colonisation Act, 1954 (Rajasthan Act 27 of 1954). Section 2. - Omit clause [iii]. Section 22. - Substitute "State Government" for "Commissioner". The Schedule - [1] In clause 3, substitute "Revenue Appellate Authority" for "Commissioner". [2] In clause 5, substitute "Board" for "Commissioner". (13) The Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955). Section 5. - (1) Omit clause (8). (2) After clause (34), insert the following new clause: - "(34-A) 'revenue appellate authority' shall mean the officer appointed as such authority under section 20-A of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956)". (3) In clause (35), for "Commissioner" substitute "revenue appellate authority". Section 229. - Substitute "revenue appellate authority" for "Commissioner" wherever occurring. Section 216. - For

sub-section (2), substitute the following:-"(2) A revenue appellate authority shall sit at such place or places as the State Government may, from time to time, direct."Section 218. - In clause (i), substitute "revenue appellate authority" for "Commissioner".Section 221. - Omit clause (a).Section 223. - Substitute "revenue appellate authority" for "Commissioner".Section 224. - Substitute "revenue appellate authority" for "Commissioner" wherever occurring.Section 225. - Substitute "revenue appellate authority" for "Commissioner" wherever occurring.Section 228. - Substitute "revenue appellate authority" for "Commissioner" in sub-section (2).Section 232. - Omit "Commissioner or the".Section 234. - Omit the whole.Section 236. - Omit the whole.

### **III. - (1) In serial No. 80, omit part (iii).**

(2)In serial Nos. 88, 89 and 90, substitute "revenue appellate authority" for "Commissioner".(14)The Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955).Section 32. - (1) Omit clause (14) and (29) of sub-section (1).(2)After clause (67), insert the following new clause:-"(67-A) "revenue appellate authority" shall mean the officer appointed as such authority under section 20-A of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956)."(15)The Rajasthan Jagir Decisions and Proceedings (Validation) Act, 1955 (Rajasthan Act 18 of 1955).Section 5. - For "Commissioner" occurring in sub-section (2), substitute "Board".Section 6. - For "Commissioner" wherever occurring, substitute "Revenue appellate authority".Section 7. - Substitute "revenue appellate authority" for "Commissioner" wherever occurring.Section 8. - Substitute "revenue appellate authority" for "Commissioner" wherever occurring.Section 9. - Substitute "revenue appellate authority" for "Commissioner".Section 10. - Substitute "revenue appellate authority" for "Commissioner".(16)The Rajasthan Land Revenue Act. 1956 (Rajasthan Act 15 of 1956).Section 3. - After clause (iii), Insert the following new clause- "(iii-a) "revenue appellate authority" shall mean the officer appointed as such authority under section 20A,".Section 25. - (i) In sub-section (1), substitute "districts" for "divisions"(ii)Omit sub-section (2).(iii)In sub-section (5), omit "divisions".(iv)In sub-section (6), omit "divisions".(v)In sub-section (7), omit "divisions" wherever occurring.Section 26. - Omit "divisions"Section 17. - Omit the whole.Section 20A. - After section 20, insert the following new section:-"20-A. Revenue appellate authority. - (1) The State Government may appoint such number of officers, not being less than three, as may be found necessary, to receive, hear and dispose of appeals, revisions, and references in revenue judicial cases and other matters specifically provided for by law.(2)Every officer so appointed shall be designated as revenue appellate authority and shall, for the exercise of his jurisdiction and the performance of his duties, sit at such place or places, as the State Government may from time to time direct."Section 21. - After "section 20" insert "or section 20A".Section 24. - Omit clause (1).Section 25. - (1) In sub-section (1) omit "Commissioner or a".(2)In sub-section (6), omit "Additional Commissioner or an" and "Commissioner of", both occurring twice.Section 26. - (1) In sub-section (1), omit clause (g).(2)In sub-section (4), omit "division" wherever occurring.Section 27. - In clause (a), substitute "revenue appellate authority" for "Commissioner".Section 28. - Omit "a Commissioner or" occurring twice and the word "division".Section 51. - After "may" occurring in sub-section (1), insert "subject to the provisions contained in section 20A".Section 53. - Omit "or a Commissioner" occurring twice.Section 56A. - After section 56, insert the following new section-"56A. Presentation of applications, appeals etc. - (1) All applications, appeals and proceedings shall, in the absence of a provision to the contrary effects, be presented to the Court, officer or authority to which or to whom

such applications, appeals or proceedings lie under any provision of this Act or the rules there under so of any other law for the time being in force or of the rules made under such law: Provided that, if under any such provision any application, appeal or proceeding lies to a revenue appellate authority, such application, appeal or proceeding may be presented to and received by, the Collector of the district in which the cause of action for such application, appeal or proceeding arises wholly or in part. (2) Upon receipt of an application appeal or proceeding under the proviso to sub-section (1), the Collector shall examine the same to see if it bears the proper court fee, has been presented to him within the time limit, if any, prescribed for such presentation, is accompanied with all the necessary certified copies of judgments, decrees and orders and has been presented in proper form by the person competent to do so under section 56, and thereafter, if the application appeal or proceeding is found to be in order or after the defects, if any, noticed by the Collector have been removed wherever possible, the Collector shall forward the application, appeal or proceeding together with the record of the case, to the revenue appellate authority for the time being competent to hear and dispose of the same.

"Section 68. - Substitute "a revenue appellate authority" for a "Commissioner, an Additional Commissioner".

Section 75. - In sub-section (1), - (a) in clause (b), substitute "revenue appellate authority" for "Commissioner", and (b) In clause (g), substitute "revenue appellate authority" for "Commissioner".

Section 76. - (1) In clause (a), substitute "revenue appellate authority" for "Commissioner". (2) In clause (d), substitute "revenue appellate authority" for "Commissioner of a Division".

Section 78. - In clause (b), substitute "revenue appellate authority" for better "Commissioner".

Section 82. - (1) In the marginal note, omit "of Commissioner etc." (2) Omit "A Commissioner or."

Section 88. - In sub-section (1), substitute "State Government" for "Commissioner".

Section 189. - Omit "if they are in the same division, the Commissioner or if in different divisions."

Section 260. - For the existing provision substitute the following, namely:-

Delegation. - (1) The State Government may, by notification in the official Gazette, - (a) delegate all or any its powers under this Act, except the power to make rules, to the Board or the Settlement Commissioner or the Director of Land Records or a Collector, or (b) direct that any duties imposed and powers conferred by this Act or the rules made thereunder or by any other law for the time being in force or the rules made under such other law on any officer or authority appointed or constituted under this Act or the rules made thereunder shall be performed and exercised by any other lawfully appointed or constituted officer or authority specified in the notification, whether such other officer or authority shall have been appointed or constituted under this Act or the rule made thereunder or under any other law for the time being in force or the rules made under such other law, or (c) require the Board or any other officer to perform the duties and exercise the powers imposed and conferred by this Act or the rules made thereunder on the Settlement Commissioner or the Director of Land Records, or (d) authorise any authority or officer lawfully constituted or appointed to delegate its or his powers under this Act or under any other law for the time being in force, except the power to make rules under this Act or under such other law, to any other authority or officer constituted or appointed under this Act or the rules made thereunder or under any other law for the time being in force or the rules made under such other law. (2) Doubts having been expressed as to the scope of the power of delegations, provided for in this section as it stood before the 16th day of November, 1961, it is hereby enacted, for the removal and clarification of such doubts, that, notwithstanding anything contained in any judgment, order or decision of any court (civil or revenue), tribunal or other competent authority and notwithstanding any defect or omission or form, language or reference in any notifications issued by the State Government under

this section previously to the said day or any rule of law or interpretation.(a)all delegations of powers and duties made by the State Government under this section before the sixteenth day of November, 1961, shall be deemed to have been lawfully and validly made in terms of Sub-section (1) as hereby amended as if such amendments had then been made, and(b)all notifications delegating such powers and duties shall until superseded, continue to be operative and to have effect according to their tenor.

First Schedule. - In item 1, substituted "88" for "89".(17)The Rajasthan Mining Settlement Act, 1956 (Rajasthan Act 33 of 1959).Section 22. - Omit "the Commissioner and subject to the control of", occurring in sub-section [1],Section 22. - Substitute "Collector" for Commissioner" wherever occurring.(18)The Rajasthan Zamindari and Biswedari Abolition Act, 1959 [Rajasthan Act 8 of 1959].Section 24. - Substituted "revenue appellate authority" for Commissioner" wherever occurring.Section 25. - Substitute "revenue appellate authority" for "Commissioner".Section 26. - Substituted "revenue appellate authority" for "Commissioner".Section 5. - (1) In sub-section [1], substitute, "Collector of Udaipur district" for "Commissioner of Udaipur division".(2)In sub-section [2], substitute "Collector" for "Commissioner".(3)In sub-section [4], substitute "Collector" for "Commissioner".(20)The Rajasthan Panchayat Samiti and Zila Parishad Act, 1959 [Rajasthan Act 37 of 1959].Section 2. - Omit clauses [2] and [3-A],Section 44. - Substitute "Collector" for "Commissioner" wherever occurring.Section 45. - For the words "the Commissioner of the division in which the Zila Parishad lies at which the Commissioner or Additional Commissioner or any other subordinate officer specially appointed for the purpose by the State Government shall preside as the Commissioner may nominate", substitute "any officer specially appointed by the State Government for the purpose, at which such officer himself or any other officer nominated by him shall preside".Section 49. - Omit "Collector" and "Commissioner".(21)The Rajasthan Municipalities Act 1959 (Rajasthan Act 38 of 1959).Section 164. - In sub-section [5], substitute "to the Collector", for "to the Commissioner in the case of a city or to the Collector in any other case".Section 265. - Substitute "to the Collector" for "to the Commissioner in the case of a city or to the Collector in any other case".Section 241. - In sub-section [4], substitute "Collector" for "Commissioner".Section 248. - In sub-section [5], substitute "to the Collector" for "to the Commissioner in the case of a city or to the Collector in any other case".Section 296. - In clause [a], substitute "Collector" for "Commissioner" and "district" for "division".Section 300. - (1) In sub-section [1].(a)Substitute "any officer or authority authorised in this behalf by the State Government" for "In the case of a city the officer or authority authorised in this behalf by the State Government or in the case of any municipality the Commissioner", and(b)omit "a Commissioner or"(2)In sub-section [2], omit "or the Commissioner".Notifications[Notification No. F. 1(52) Home (D) 191, dated 2-5-1962, Published in the Rajasthan Gazette, Part IV-C, Supplement No. 8, dated 24-5-1962]. - The offices of the Divisional Commissioners having been abolished in pursuance of the Rajasthan Divisional Commissioners (Office Abolition) Ordinance, 1961 (Ordinance No. 6 of 1961), the State Government shall be deemed to be the immediate official superior of the Licensing Authority (District Magistrate) for the purposes of filing appeals under rule 41 of the Indian Arms Rules, 1971 and consequently with effect from 1st June 1961, the date of the abolition of the offices of the Divisional Commissioners, all appeals under the said rules will be heard and decided by the State Government.[Notification No. F. 16(71) Revenue /B/58, dated 8-3-1966, Published in Rajasthan Gazette, Part IV-C, Dated 2-6-1966, P. 152]. - In exercise of the powers conferred by clause (b) of Section 5 of the Rajasthan Divisional Commissioner (Office Abolition) Act, 1962 (Rajasthan Act 8 of 1962), the State Government hereby directs that the reference to the Divisional Commissioner in

clause 6(vi) of Form 'C' appended to the Rajasthan Land Revenue (Brick Kiln in Non-Project Areas) Conditions, 1960 [as originally published under this department's notification No. F. 16(71) Revenue B/58, dated 26-10-1960, on Part IV-C of the Rajasthan Gazette, dated the 2nd February, 1961], shall be construed as being a reference to the Board of Revenue for Rajasthan.