

The Gujarat Land Improvement Schemes Act, 1942

GUJARAT

India

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Act 28 of 1942

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1. [Amended by Gujarat Co-operative Societies and the Bombay Land Improvement Schemes (Amendment) Act, 1969 (Act 21 of 1969) on 17 December 1969]

The Bombay Land Improvement Schemes Act, 1942(Bombay Act No. 28 of 1942)[Dated 25th January, 1943]These Acts were repealed and re-enacted by Bombay 29 of 1948, section 2.For Statement, see Bombay Government Gazette. 1943, Part IV, Part 44.These Acts were repealed and re-enacted by Bombay 29 of 1948, section 2.These Acts were repealed and re-enacted by Bombay 29 of 1948, section 2.For retrospective operation of this Act, see section 22, Bombay 7 of 1945.An Act to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenues of the Province.Whereas it is expedient to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenues of the Province:And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;Now, Therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Bombay Land Improvement Schemes Act, 1942. (2) [It shall extend to the whole of the [State of Gujarat] [This sub-section was substituted by Bombay 30 of 1958, section 3(1).] (3) It shall come into force in such area and on such date as the [State] [This words was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by notification in the Official Gazette, direct: [Provided that on the commencement of the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958 (Bombay XXX of 1958), it shall come into force at once in those areas in which [* * * * *] [This Proviso was added by Bombay 30 of 1958, section 4(1).] the Saurashtra Land Improvement Schemes Act, 1954 was in force immediately before such commencement. (Saurashtra Act No. XIX of 1954).]

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, - (1) "Board" means a Board constituted under section 3; (1A) ["Collector" includes a Deputy Commissioner;] [This clause was inserted, by Bombay 30 of 1958, section 2(1).] (1B) ["Company" means the Gujarat State Land Development Corporation Limited, and any other company owned or controlled by the State, the purpose of which is execution or financing or both execution and financing of the schemes under this Act; [Clauses (1B) and (1C) was inserted by Gujarat 26 of 1951, section 2(1).] (1C) "Company Officer" means any officer of the Company duly appointed by it for all or for any of the purposes of this Act;] (2) ["Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture and includes any officer appointed by the [State] [Clauses (2), (2A), and (2B), were substituted for a Clause (2) by Bombay 73 of 1948, section 2.] Government to perform the duties of the Director of Agriculture under this Act;] (2A) "Divisional Soil Conservation Officer" means the officer appointed for the time being to be the Divisional Soil Conservation Officer [and includes any other officer authorised by the State Government to exercise the powers and perform the duties of a Divisional Soil Conservation Officer under this Act;] [These words were inserted by Gujarat 25 of 1963, section 2.] (2B) "District Agricultural Officer" means the officer appointed for the time being to the District Agricultural Officer;] (2C) ["Executing Officer" means an officer appointed by the Board or the Company under sub-section (1) of section 11 and shall be construed according as the schemes are executed at the expense of the State Government or the Company;] [Clause (2C) was substituted by Gujarat 26 of 1981, section 2(2).] (3) "Inquiry Officer" means an officer appointed as such by the Board; (4) ["Owner" includes an owner in severalty, in common or joint, an occupant, a tenure holder, pattadar, tenant, and a mortgagee in possession and the expressions 'owning' and 'own' shall be construed accordingly;] [This clause was substituted for the original by Bombay 30 of 1958, section 4(2).] (5) "prescribed" means prescribed by rules made under this Act; [(5A) "Code" means the Bombay Land Revenue Code, 1879 (Bombay V of 1879);] [Clauses (5A) and (5B) were inserted by Bombay 30 of 1958, section 4(3).] [(5B) "relevant territory" means - (i) in the pre-organisation State of Bombay, excluding the transferred territories, the Bombay Tenancy and Agricultural Lands Act, 1948 (Bombay LXVII of 1948); [* * * * *] [Sub-clauses (ii) and (ii) of clause 5(B) were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.] * * * * *] (iv) in the Saurashtra Area of the State of Bombay, the Saurashtra Prohibition of Leases of Agricultural Lands Act, 1953 and the Saurashtra Gharkhed, Tenancy Settlement and

Agricultural Lands Ordinance, 1949 (Sau. Act No. XXIII of 1953); and (v) in the Kutch Area of the State of Bombay, the Bombay Tenancy and Agricultural Lands Act, 1948 (Saurashtra Ordinance No. LVI of 1949) as extended to that area;] [* * * * *] [Clause (6) was deleted by Bombay 53 of 1949, section 2, First Schedule.](7)"Scheme" means a land improvement scheme prepared under this Act;(7A) ["Soil Conservation Officer" means the officer appointed for the time being to be the Soil Conservation Officer;] [Clause (7A) was inserted by Bombay 73 of 1948, section 2(d).](7B) ["tenant" means a tenant within the meaning of the relevant tenancy law;] [This clause was substituted by Bombay 30 of 1958, section 4(4).](8)the words and expressions used in this Act, but not defined, shall have the meaning assigned to them in [the Code.] [These words were substituted for the words 'the relevant Land Revenue Act' by Gujarat 26 of 1981, section 2(4).].

Chapter II

Constitution of Boards and Preparation of Land Improvement Schemes

3. Constitution of Boards.

- [(1) The [State] [Sub-section (1) and (1A) were substituted for sub-section (1), by Bombay 30 of 1958, section 4(5).] Government shall constitute in each district a Board consisting of the Collector, the District Agricultural Officer, the Divisional Soil Conservation Officer and such non-official persons not exceeding two as may be appointed by the [State] [This words was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government.(1A)The Divisional Soil Conservation Officer shall be the Secretary of the Board.](2)If there is difference of opinion among the members of the Board regarding any question under the provisions of this Act, the decision of the majority of the members shall prevail.

4. Power of Board to direct preparation of land improvement scheme and matters for which scheme may be prepared.

(1)The Board [or the company] [These words were inserted by Gujarat 26 of 1981, section 3(1) (i).] may direct the preparation of a land improvement scheme for any area within its jurisdiction. A scheme may make provision for any of the following matters, namely:--(i)preservation and improvement of soil;(ii)prevention of erosion of soil;(iii)improvement of water supply [including the construction or improvement of wells and other undergrounds water resources and exploitation of those resources.] [These words were inserted, by Gujarat 26 of 1981, section 3(1)(ii).](iiia)[development of land for better utilisation of the irrigation potential to be specified in the scheme;] [Item (iiia) was inserted, by Gujarat 26 of 1981, section 3(1)(ii).](iv)introduction of dry farming methods;(v)improvement in the methods of cultivation;(vi)reclamation of water logged land or of land from the sea;(vii)prohibition or control of grazing;(viii)control and maintenance of tree growth;(viiia)[regulation or prohibition of firing of vegetation;] [Clause (viii-a) was inserted by Bombay 7 of 1945, section 4(i) read with Bombay 29 of 1948, section 2.](viiib)[cultivation of waste or fallow land;] [This clause was inserted by Bombay 73 of 1948, section 4.](viiic)[eradication of

hariyali or any other kind of weed or vegetation which is likely injuriously to affect, or interfere with cultivation;] [This clause was inserted by Bombay 38 of 1949, section 2.](ix)such other matters not inconsistent with the objects of this Act as may be prescribed.(2)[On such direction being [issued in the Board or the Company, the Board or the Company] [Sub-section (2) was substituted by Bombay 7 of 1945, section 4(iii), read with Bombay 29 of 1948, section 2] shall appoint an officer to prepare, in accordance with such instructions as it may issue, a draft scheme containing the following particulars, namely:-(i)the objects of the scheme;(ii)the approximate area of the lands to be included in the scheme;(iii)the work or kind of work to be carried out under the scheme;(iv)the agency or agencies through which the work shall be carried out;(v)such other particulars as may be prescribed]

5. [Publication of scheme and inviting objections. [Sections 5 and 6 were substituted for the original sections by Bombay 7 of 1945, section 4(iii), read with Bombay 29 of 1948, section 2.]

- [(1) The draft scheme prepared under section 4 and submitted by the officer appointed by the Board or the officer appointed by the Company to the Board or, as the case may be, the Company shall either approve the scheme with or without modifications or reject it and where the Board approves the scheme it shall appoint an Inquiry Officer.](2)The scheme approved by the Board [or the Company] [These words were inserted, by Gujarat 26 of 1984, section 4(2).] under sub-section (1) shall be published in the Official Gazette and in the village and at the headquarters of the [taluka, tahsil] [These words were substituted for the word 'taluka' by Bombay 30 of 1958, section 5.] or mahal and of the district in which the lands proposed to be included in the scheme are situate.(3)The Board [or the Company] [These words were inserted by Gujarat 26 of 1981, section 4(3)(i).] shall, [simultaneously with the publication of the scheme in the [village] [These words, brackets and figure were substituted for the words 'on publication of the Scheme' by Bombay 73 of 1948, section 5(a).] under sub-section (2)] require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to the Inquiry Officer [or as the case may be, the Company Officer] [These words were inserted by Gujarat 26 of 1981, section 4 (3) (ii).] or appear before him, within [seven days] [These words were substituted for the words 'twenty-one days' by Gujarat 25 of 1963, section 3.] of [such publication.] [These words were substituted for the words 'the publication of the Scheme in the Official Gazette under sub-section (2)' by Bombay 73 of 1948, section 5(a).]

6. Report of Inquiry Officer.

(1)The Inquiry Officer [or the Company Officer] [These words were inserted by Gujarat 26 of 1981, section 5(1) (i).] shall hear such objections as are made to him in person, consider all objections duly submitted under section 5 and submit his report together with the objections to the Board [or, as the case may be, to the Company.] [These words were inserted, by Gujarat 26 of 1981, s. 5(1) (ii).](2)The Inquiry Officer [or, the Company Officer] [These words were inserted by Gujarat 26 of 1981, section 5(2) (i).] may, while submitting his report under sub-section (1) recommend any modifications which in his opinion are required in any of the particulars contained in the scheme approved by the

Board [or the Company] [These words were inserted by Gujarat 26 of 1981, section 5(2) (ii).] under sub-section (1) of section 5.]

7. [Decision of disputed claims].

- Rep. by Bombay 7 of 1945, section 6 read with Bombay 29 of 1948, section 2.

8. [Report of Inquiry Officer].

- Rep. by Bombay 7 of 1945, section 6 read with Bombay 29 of 1948, section 2.

9. [Power of Board to sanction scheme with or without modifications. [This section was substituted for the original by Bombay 7 of 1945, section 7 read with Bombay 29 of 1948, section 2.]

(1)After consideration of the objections and the report submitted under sub-section (1) of section 6 and of any further report [which the Board or the Company may require the Inquiry Officer or Company Officer to submit to, the Board or, as the case may be, the Company] may sanction the scheme with or without modifications or reject it:Provided that if not less than [49 per cent] [These figures and words were substituted for the figures and words '33 per cent' by Gujarat 25 of 1963, section 4.] of the total number of the owners of the land included in the scheme other than the [Government] [This words was substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] or owners other than the [Government] [This word was substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] owning in the aggregate not less than [49 per cent] [these figures and words were substituted for the figures and words '33 per cent' by Gujarat 25 of 1963, section 4.] of the land included in the scheme have made objections to the scheme or part thereof, the Board [or, as the case may be, the Company] [These words were inserted by Gujarat 26 of 1981, section 6(2).] shall submit the scheme to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government for its orders. The [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may thereupon sanction the scheme with or without modifications or reject it.(2)The scheme as sanctioned under sub-section (1) shall be published in the Official Gazette, and in the village and at the headquarters of the [taluka, tahsil] [These words were substituted for the word 'taluka' by Bombay 30 of 1958, section 5.] or mahal and of the district in which the lands included in the scheme are situate and shall on such publication be final.]

10. Effect of scheme.

- On the date on which the scheme is published in the [village] [The word were substituted for the words 'Official Gazette', by Gujarat 25 1963 section 5.] under sub-section [(2)] [The brackets and figures were substituted for the brackets and figures '4(3)' by Bombay 7 of 1945, section 8, read with Bombay 29 of 1948, s. 2.] of section 9, it shall come into force and shall have effect as if it were enacted in this Act.

10A. [Power of [State] [This section was inserted by Bombay 3 of 1944, section 2, read with Bombay 29 of 1948, section 2.] Government or of the Board to make regulations.

- [For the purpose of carrying out the objects of a scheme which has come into force under section 10-(a)the State Government, or(b)the Board or the Company, in consultation with the State Government, may make.]regulations requiring any person [* * *] [This section was substituted for the original by Bombay 7 of 1945, section 10, read with Bombay 29 of 1948, section 2.] persons or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.] [This portion was substituted for the portion beginning with the words 'for the purpose of' and ending with the words 'the Board made' by Gujarat 26 of 1981, section 7.]

Chapter III

Execution of the Scheme

11. [Power to enforce scheme. [The words 'class of' were deleted by Bombay 73 of 1948, section 6.]

(1)After a scheme has come into force under section 10, the Board [or, as the case may be, the Company] shall appoint an officer to execute it.(2)Every owner of land included in the scheme shall pay the costs or part costs, as the case may be of the works which under the scheme are carried out by the [Government] [This words was substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] [or, as the case may be, the Company] [These words were inserted by Gujarat '26 of 1981, section 8(2).] in his land at the cost or part cost of the owner.(3)If any owner of the land included in the scheme desires to carry out himself any works which under the scheme are to be carried out in his land by the [Government] [This words was substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] [or, as the case may be, the Company] [These words were inserted by Gujarat 26 of 1981, section 8(3)] at the cost or part cost of the owner, he shall give notice in writing to that effect to the Executing Officer within [seven days] [These words 'seven days' were substituted for the words 'twenty-one days' by Gujarat 25 of 1963, section 6.] of the publication of the scheme in the [village] [These words were substituted for the words 'Official Gazette', by the Adaptation of Laws Order, 1950.] under section 9.(4)On receipt of such notice, the Executing Officer shall inform the owner of the words which are to be carried out in his land, and shall fix the date before which the owner shall carry out the works.(5)If such owner fails to carry out any work to the satisfaction of the Executing Officer before the date fixed by him or at any time expresses in writing to the Executive Officer his inability to do so, the Executing Officer may himself get the work carried out and the expenses incurred by the Executing Officer for the purpose shall be recovered from the owner.(6)Where the owner of any land included in the scheme is the [Government] [This words was substituted for the word 'Crown by the Adaptation of Laws Order, 1950.], the Department of Government which has the control or management of such land, or the Executing Officer directed in this behalf by [the Board, the State Government or the Company,] [These words were substituted for

the words 'the Board or the State Government' by Gujarat 26 of 1981, section 8(4).] as the case may be, shall carry out the works which the [Government] [This word was substituted for the word 'Crown' by the Adaptation of Laws Order, 1950.] is liable to carry out under the Scheme.]

12. Liability of persons whose lands are not included in scheme to contribution.

(1) If, in consequences of any work carried out [* * *] [The words 'by the owner of any land' were deleted by Bombay 7 of 1945, section 11 (i), read with Bombay 29 of 1948, section 2.] under the Scheme [any person, including the [Government] [These words were substituted for the words 'any other person, including the Crown,' by Bombay 7 of 1945, section 11 (ii).] other than the owner of the land in which the work is done,] is likely to be benefited, he shall pay such amount [[as the State Government or the Company] [These words were substituted for the words 'to the owner of the land as contribution as the Board may determine' by Bombay 73 of 1948, section 7(a).] may determine as contribution to the owner of the land, if the work has been carried out by the owner, or [to the State Government or the Company] [These words were substituted for the words 'to the State Government' by Gujarat 26 of 1981, section 9(1)(ii)], if the work has been carried out by the Executing Officer]: Provided that the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may excuse payment of such contribution in whole or part in respect of any work carried out by it [in land belonging to the [Government] [These words were inserted by Bombay 7 of 1945, section 11 (iv), read with Bombay 29 of 1948, section 2.]: [Provided further that where the work is carried out at the expense of the Company and the State Government excuses payment of the contribution, the State Government shall pay to the Company an amount equal to the amount of the contribution so excused. (2) [The amount shall be paid within such time as may be specified by the [State] [This proviso was added by Gujarat 26 of 1981, s.9 (1)(iii).] Government [or, as the case may be, the Company] [These words were inserted by Gujarat 26 of 1981, section 9(2).].]

12A. [Penalty. [This section was inserted by Bombay 3 of 1944, section 3, read with Bombay 29 of 1948, section 2.]

- Any person who contravenes or causes any contravention of any of the provisions of a Scheme which has come into force under section 10, or any of the regulations made under section 10A, or does any act which causes damage to any of the works carried out under the Scheme, or fails to fulfil any liability imposed upon him under section 13 [or 13A] or sub-section [(4)] [These brackets and figures were substituted for the brackets and figures '(5)' by Bombay 7 of 1945, section 12 read with Bombay 29 of 1948, section 2.] of section 25 [or of section 25A] [The words, figures and letter were inserted by Bombay 51 of 1954, s.2.] shall on conviction, be punishable with fine which may be extended to fifty rupees or with simple imprisonment for a period which may extend to one month, or with both.]

Chapter IV

Maintenance, Repair and use of Works Carried out under the Scheme

13. [Statement. [This section was substituted for the original by Bombay 7 of 1945, section 13.]

- [In the case of any work under a scheme, wholly carried out before the commencement of the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958 (Bombay XXX of 1958), the Executing Officer,] shall prepare a statement giving any specified area the following particulars:- (a) (i) to work done; (ii) the cost thereof; (iii) the total amount to be recovered from the owners; (iv) the general rate per acre or per rupee of assessment per annum at which such amount is to be recovered from the owners; (v) the period within which such amount is to be recovered; (vi) [the work which, in his opinion, shall be maintained and repaired individually or jointly and the names of such person or persons;] [This clause was substituted for the original by Bombay 73 of 1948, section 8.] (b) if in the case of any survey number or sub-division of a survey number the owner is not liable to maintain or repair works therein, or if the cost is to be recovered from an owner at a rate other than the general rate, a list of such survey numbers or sub-divisions and the rate at which the cost is to be recovered from the owner of such survey numbers or sub-divisions; (c) a map showing the work carried out in the village; (d) such other matters as may be prescribed. (2) When the statement is prepared under this section any rights and liabilities shown therein shall be entered in the Record of [or where there is no Record of Rights, in the prescribed village record] [Rights These words were substituted for the words, figures and letter 'maintained under Chapter X-A of the Bombay Land Revenue Code, 1879' by Bombay 30 of 1958, section 8(2)(a).] and in the village accounts in such manner as the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may prescribe and shall thereupon form part of such Record of Rights [or as the case may be, of such village record and of the village accounts.] [These words were substituted for the words 'and of the village accounts' by Bombay 30 of 1958, section 8(2) (b).]

13A. [Executing Officer to prepare recovery statements and entries to be made in Record of Rights, etc. [This section was inserted by Bombay 30 of 1958, section 9.]

(1) Save as otherwise provided in section 13, the Executing Officer shall, on the completion of part of any work to be carried out, under a scheme prepare an interim statement specifying therein- (i) the part of the work carried out; (ii) the cost of such part calculated on the basis of the works cost as recorded in the works register maintained by the Executing Officer; (iii) the interim amount to be recovered from the owner in respect of the work so carried out; (iv) the period within which such amount is to be recovered; (v) the general rate per acre or per rupee of assessment, per annum at which such amount is to be recovered from the owners; (vi) if in the case of any survey numbers or sub-divisions of survey numbers, the amount to be recovered under clause (iii) is to be recovered at

a rate other than the general rate, such rate;(vii)the names of the persons from whom such amount is recoverable;(viii)such other particulars as may be prescribed.(2)After the whole of the work under such scheme is carried out the Executing Officer shall prepare-(a)the final statement specifying therein-(i)the work carried out;(ii)the total cost of the whole work;(iii)the balance after deducting from the total cost the interim amount set out in the interim statement [including the rate of interest and the amount to be recovered at such rate and any matter incidental thereto;](iv)in relation to such balance, the balance amount to be recovered from the owners as cost or part cost;(v)the period within which such amount is to be recovered;(vi)the names of persons from whom such amount is recoverable;(vii)the general rate per acre or per rupee of assessment, per annum at which the amount specified under clause (iv) should be recovered;(viii)if in the case of any survey number or sub-division of a survey number the amount recoverable from the owner thereof is to be recovered at a rate other than the general rate, such rate and a list of all such survey numbers or sub-divisions;(ix)the work which, in his opinion, shall be maintained and repaired individually or jointly and the names of such persons;(x)such other particulars as may be prescribed;(b)a map showing the work carried out in the village.(3)The rights and liabilities shown in the interim statement and the final statement shall be entered in the Record of Rights or where there is no Record of Rights in the prescribed village record and in the village accounts in such manner as the State Government may prescribe and shall thereupon form part of such record of rights or as the case may be, the village record and of the village accounts.]

14. [Obligation of persons to maintain and repair works. [This section was substituted for the original by Bombay 7 of 1945, section 14, read with Bombay 29 of 1948, section 2.]

(1)Every person shown in the statement prepared under section 13 [or 13A] as liable to maintain and repair work shall, to the satisfaction of [the Divisional Soil Conservation Officer] [These words were substituted for the words 'the Land Improvement Officer' by Bombay 53 of 1949, section 3, Second Schedule.] [or the Company Officer] [These words 'or the Company Officer' were inserted after the words 'Divisional Soil Conservation Officer' wherever they occur in section 14 by Gujarat 26 of 1981, section 11(1).] and within such time as the said officer may fix, maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the said statement.(2)If such person fails to maintain or repair the work within the time fixed by [the Divisional Soil Conservation Officer] [These words were substituted for the words 'the Land Improvement Officer' by Bombay 53 of 1949, section 3, Second Schedule.] [or the Company Officer] [These words 'or the Company Officer' were inserted after the words 'Divisional Soil Conservation Officer' wherever they occur in section 14 by Gujarat 26 of 1981, section 11(1).] under sub-section (1), [the Divisional Soil Conservation Officer] [These words were substituted for the words 'the Land Improvement Officer' by Bombay 53 of 1949, section 3, Second Schedule.] [or the Company Officer] [These words 'or the Company Officer' were inserted after the words 'Divisional Soil Conservation Officer' wherever they occur in section 14 by Gujarat 26 of 1981, section 11(1).] shall himself get the work maintained or repaired and the cost of so doing shall be recovered from the person.](3)[If [the Divisional Soil Conservation Officer] [These sub-section were added by Bombay 73 of 1948, section 9.] [or the Company Officer] [These words 'or the Company Officer' were inserted after the words 'Divisional Soil Conservation Officer' wherever they occur in section 14 by Gujarat 26 of 1981, section 11(1).] is

of the opinion that an emergency has arisen and that the immediate repair of any work referred to in sub-section (1) is necessary in the general interest, he shall carry out such repair and the cost of such repair shall be paid by the owner of the land on which the repair has been carried out.(4)[The Divisional Soil Conservation Officer] [These words were substituted for the words 'the Land Improvement Officer' by Bombay 53 of 1949, section 3, Second Schedule.] [or the Company Officer] [These words 'or the Company Officer' were inserted after the words 'Divisional Soil Conservation Officer' wherever they occur in section 14 by Gujarat 20 of 1981, section 11(1).] shall, as soon as practicable, make report to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government [or the Company] [The words 'or the Company' were inserted by Gujarat 20 of 1981, section 11(2).] regarding such repair.]

Chapter V

Miscellaneous

15. [Payment and recovery of amount. [This section was substituted for the original by Bom 73 of 1948, section 10.]

- Any amount or instalment thereof payable under sections 11, 12 [or 14] which is not paid on the date when it becomes due under this Act shall be deemed to be an arrear of land revenue due on account of the land for the benefit of which the Scheme has been sanctioned under this Act or the work is or repairs are carried out and shall be recoverable as such arrear by any of the methods [provided on the Code.] [The words 'provided in the relevant land Revenue Act' were substituted for the words and figures' specified in section 150 of the Bombay Land Revenue Code, 1879' by Bombay 30 of 1958, Section 11.]]

15A. [Amount due to Company to be first charge on land of defaulters. [Section 15A, 15B, 15C were inserted by Gujarat 26 of 1981, section 13.]

- The amount or instalment thereof due from any owner in respect of land payable under section 11, 12 or 14 to the Company shall, subject to the prior payment of land revenue (if any) due to the State Government thereon, and subject to the provisions of section 7 of the Gujarat Agricultural Credit (Provision of Facilities) Act, 1979 be a first charge upon that land to which every other charge created in respect of that land shall be postponed, and such amount or instalment may be recovered according to the provisions of sections 15B.

15B. Recovery of money due to Company as arrears of land revenue.

- Where any amount or any instalment thereof payable to the Company by or under this Act is not paid on the date when it becomes due-(a)and the claim is not disputed, the Company Officer may send to the Collector a certificate under his hand indicating therein the sum which is due to the Company or is claimed by the Company, as the case may be, and thereupon, the Collector shall recover the sum due or claimed as arrear of land revenue;(b)and the claim disputed, it shall be

referred to an officer authorised in this behalf by the State Government for the purpose; and such officer shall after making such inquiry as he deems fit, and after giving to the person by whom the amount is alleged to be payable an opportunity of being heard, decide the question; and the decision of such Officer shall be final; and thereupon the amount, if any, determined to be due to the Company may be recovered in the manner provided under clause (a) as if the claim is not disputed.

15C. Where loan is given by scheduled bank, transfer of rights of Company to the bank for speedy recovery of its dues from the owners of land benefited.

(1) Notwithstanding anything contained in this Act, where any work under any scheme is to be carried out or is completed by the Company, by use of the funds borrowed by it from any scheduled bank and in consequence thereof a charge is created upon any land in favour of the Company under section 15A all the rights and liabilities of the Company for recovery of cost (including interest) of the said work or of any part thereof, with the priority therefor under section 15A, shall stand transferred to and vest in the scheduled bank-(a) upon the Company preparing an interim or final statement under section 13A and notifying the same to the scheduled bank from which the funds are borrowed by the Company; or (b) upon such scheduled bank notifying to the Company its acceptance of all owners or any of the owners named in the statement as its debtors, instead of being debtors of the Company: Provided that, where the scheduled bank does not accept all the owners but accepts only some of the owners, named in the statement as its debtors, then the rights and liabilities of the Company, with the priority therefor, in respect of lands of only those owners who are accepted as its debtors, by the scheduled bank shall stand transferred to and vest in the scheduled bank. (2) On such transfer, the Company shall inform the owners concerned of the same, and then the amount shown in the interim or final statement, as the case may be, as recoverable against each owner, who is accepted as its debtor by the scheduled bank, shall be paid by the respective owner to the scheduled bank on due dates in such instalments, and with interest at such rate, as may be specified in the statement. (3) Where the rights and liabilities of the Company, in respect of any owners are transferred to and vest in a scheduled bank, the bank shall give an intimation to the talati, or such revenue officer as may be designated by the State Government in this behalf, of the particulars of the lands and the names of such owners and of the charges or mortgage created thereon in its favour. The talati or designated officer shall show in the record of rights or, where there is no record of rights, in the prescribed village record and in the village accounts the name of the bank as the mortgagee of the lands and make a note of other particulars of the charge created or mortgage given. The bank shall likewise give an intimation to the talati or designated officer as soon as the whole amount due from any owner ceases to be outstanding, and thereupon the talati or the designated officer shall make a suitable note in the record of rights or the village record and accounts about release of the land from the charges or mortgage, as the case may be. (4) The provisions of sections 15A and 15B shall apply mutatis mutandis to any amount or instalment thereof payable by any owner of land to any scheduled bank under this section, as if references in those sections to the Company and the Company Officer were references to the scheduled bank and the bank officer, respectively. Explanation. - For the purposes of this section "scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (11 of 1934) and "bank officer", in relation to such bank means any officer of such bank duly appointed by it for the purposes of this

Act.]

16. Right of entry.

- For the purpose of preparing, sanctioning or executing any scheme [for repairing or maintaining any works under any scheme] [These words were inserted by Bombay 7 of 1945, section 15(i). read with Bombay 29 of 1948. section 2.], any person authorised by [the Board, [the Collector, the Divisional Soil Conservation Officer or the Company] [These words were substituted for the words 'the Board or the Collector', by Gujarat 26 of 1981, Section 15(i).] may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land, and do all acts necessary for such purpose.

17. Inquiries to be held summarily.

(1) Any authority other than a Board empowered under this Act to make an inquiry shall make the inquiry in the manner provided for holding a summary inquiry under [[the Code] [The words 'the relevant land revenue Act' were substituted for the words and figures 'the relevant Land Revenue Code, 1879' by Bombay 30 of 1958, section 12 (1).]] and all the provisions contained in [such Act] [These words were substituted for the words 'the said Code' by Bombay 80 of 1958 section 12(2).] relating to the holding of a summary inquiry shall, so far as may be, apply. (2) Such authority as well as a Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under [[the Code] [The words 'the relevant land revenue Act' were substituted for the words and figures 'the relevant Land Revenue Code, 1879' by Bombay 30 of 1958, section 12 (1).]].

18. Permission to owners to increase rent on account of improvements effected.

- Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the owner of any land included in a scheme to enhance the rent payable by a tenant of the land by such amount and subject to such conditions as may be prescribed.

19. Registration of document plan or map in connection with land improvement scheme not required.

(1) Nothing in the Indian Registration Act, 1908 (XVI of 1908), shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force. (2) All such documents, plans and maps shall, for the purpose of sections 48 and 49 of the Indian Registration Act, 1908 (XVI of 1908), be deemed to be registered in accordance with the provisions of that Act: Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

20. [Delegation of powers by Provincial Government].

- Repealed by Bombay 7 of 1945, section 16, read with Bombay 29 of 1948, section 2.

21. [Delegation. [This section was substituted for the original by Bombay 73 of 1948, section 11.]

- The [State] Government and subject to the control of the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government the Collector or [the Divisional Soil Conservation Officer] [These words were substituted for the words 'Land Improvement Officer' by Bombay 53 of 1949, section 3, Second Schedule.] may delegate to any officer any of the powers conferred on it or him or any of the functions to be performed by it or him by or under this Act.]

22. Certain officers to be public servants.

- The members and Secretary of a Board, the Inquiry Officer and any officer or person authorised or appointed by the Board, [the Company,] [These words were inserted by Gujarat 26 of 1981, section 16.] the Collector, [the Divisional Soil Conservation Officer] [These words were substituted for the words 'Land Improvement Officer' by Bombay 53 of 1949, section 3, Second Schedule.] or the [State] [This words was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government under sub-section (2) of section 4, sub-section (1) of section 11, [* * * *] [The words, brackets and figures 'sub-section (2) of section 12' were deleted by Bombay 53 of 1949, section 2, First Schedule.] section 16, [section 21] [These word and figures were inserted by Bombay 73 of 1948, section 12.] or sub-section (2) of section 25 (XLV of 1860), as the case may be, shall be deemed to be public servants within the meaning of the Indian Penal Code.

23. Protection of persons acting in good faith and limitation of suits and prosecutions.

(1)No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.(2)No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

24. Power to make rules.

(1)The [State] [This words was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by notification published in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power such rules may be made to determine the following matters,

namely:-(i)[the matters to be prescribed under clause (ix) of sub-section (1) and clause (v) of sub-section (2) of section 4; [Clauses (i) to (vi) were substituted for the original clauses (i) to (viii) by Bombay 7 of 1945, section 19 read with Bombay 29 of 1948, Section 2.](ii)the matters to be prescribed under clause (d) of sub-section (1) of section 13;](iii)[other particulars to be prescribed under sub-sections (1) and (2) of section 13A; [Clauses (ii) and (iii) were substituted for the original by Bombay 30 of 1958, d. 13.](iiia)the manner in which the rights and liabilities shown in the statements prepared under sections 13 and 13A shall be entered in the Record of Rights or village record and in the village accounts.(iv)the manner of giving notice under section 16;(v)the manner in which documents, plans and maps shall be made accessible to the public under section 19;][* * * *] [Clause (v) was deleted by Bombay 8 of 1953, section 3.][* * * *] [Clause (vii) inserted by Bombay 3 of 1944, section 5(2), was repealed by Bombay 7 of 1945, section 19, read with Bombay 29 of 1948, section 2.](3)The rules made under this section shall be subject to the condition of previous publication.

25. [Powers of State Government to direct preparation of scheme in certain circumstances. [Section-25 was substituted for the original sections 25 and 25A by Bombay 8 of 1953, section 4.]

(1)Notwithstanding anything contained in this Act, the State Government may direct the preparation of a scheme providing for any of the matters specified in sub-section (1) of section 4 in any area in the following cases, namely(i)where [the State Government, the Company or any trust] contributes not less than 25 per cent of the cost of the scheme;(ii)if any person or authority is willing to contribute not less than 25 per cent of the estimated cost of the scheme.[* * * * *] [Clause (iii) was deleted by Bombay 51 of 1954, section 3.](iv)if in the opinion of the State Government land improvement is necessary in the interest of any persons who are members of the armed forces of the Union or who were such members and have retired or the dependents of such person; or(v)if in the opinion of the State Government the scheme is necessary in the interest of the public.(2)Alongwith such direction or any time thereafter, the State Government may authorise the Board to appoint an officer to prepare, in accordance with such instructions as the Board may issue, a draft scheme containing the particulars specified in sub-section (2) of section 4. The officer so appointed shall prepare a draft scheme accordingly and submit it to the Board for approval.(3)After the scheme is submitted to the Board for approval under sub-section (2), the provisions of section 5 and the sections following the said section and the rules made under section 24 shall, so far as they can be made applicable, apply in respect of such scheme.(4)Notwithstanding anything contained in sub-section (3), the owner of the land in which any work has been carried out for the purposes of a scheme under this section be liable, pending the preparation of the statement under section 13 [or 13A] to maintain the work to the satisfaction of the Divisional Soil Conservation Officer [or the Company Officer] and repair it to his satisfaction within such time as he may fix.The provisions of sub-section (2) of section 14 shall apply in respect of the owner's liability under this sub-section.]

25A. [Power of State Government to direct preparation and execution of scheme in area declared to be famine or scarcity area. [Section 25A and 25B were inserted by Bombay 51 of 1954, section 4.]

(1)Notwithstanding anything contained in this Act, if the State Government is of opinion [that a scheme is necessary in the interest of the public or] that a state of famine or scarcity prevails or is likely to prevail in any area [or that it is necessary to provide suitable work to relieve rural unemployment in any area] [These words were inserted by Bombay 30 of 1958, section 18(1).] it may make a declaration to that effect. Such declaration shall be published in the Official Gazette. On the publication of such declaration, the State Government may direct the Collector [or the Company] [These words were inserted by Gujarat 26 of 1981, section 18(1)(a).] to appoint an officer as the Executing Officer for the purpose of immediately constructing embankments in such villages as may be specified. Such direction shall also require the Board [or, as the case may be, the company] [These words were inserted, by Gujarat 26 of 1981, section 18 (1)(b).] to prepare a scheme providing for matters specified in clauses (i) and (ii) of sub-section (1) of that section in such villages.(2)On the issue of direction under sub-section (1), the Board [or, as the case may be, the Company] [These words were inserted by Gujarat 26 of 1981, section 18(2)] shall ask the Executing Officer to prepare a draft scheme, including therein all the works undertaken by him under sub-section (1), and other works in accordance with such instructions as the Board [or, as the case may be, the Company] may issue, containing the particulars specified in sub-section (2) of section 4. Such Executing Officer shall prepare a draft scheme accordingly and submit it to the Board [or, as the case may be, the Company] for its approval.(3)The draft scheme submitted to the Board [or, as the case may be, the Company] [These words were inserted, by Gujarat 26 of 1981, section 18(3)(a).] may be approved by it without modification or with such modification as shall not affect the work carried out by the Executing Officer under sub-section (1). The scheme so approved by the Board [or, the Company] [The word, figures and letter were inserted by Bombay 30 of 1958, section 15(2).] shall be published in the Official Gazette, and in the village in which the lands included in the scheme are situate. On the date on which the scheme is published in the village it shall come into force and shall have effect as if it were enacted in this Act. The provisions of section 10A and the sections following the said section and the rules made under section 24 shall, so far as they can be made applicable apply, in respect of such scheme as if it were a scheme which has come into force under section 10.(4)Notwithstanding anything contained in sub-section (3) the owner of the land in which any work has been carried out for the purposes of a scheme under this section shall be liable, pending the preparation of the statement under section 13 [or 13A] [The words were inserted by Gujarat 26 of 1981, section 18(4).] to maintain the work to the satisfaction of the Divisional Soil Conservation Officer [or, as the case may be, the Company Officer] [These words were inserted by Gujarat 26 of 1981, section 18(4).] and repair it to his satisfaction within such time as he may fix and the provisions of sub-section (2) of section 14 shall apply in respect of the owners liability under this section.

25B. Power to revoke scheme.

- If upon an application made by a Board [or, as the case may be, the Company] [These words were inserted, by Gujarat 26 of 1981, section 19.] the State Government is satisfied that it is necessary so to do the State Government may, at any time, by notification in the Official Gazette, revoke any scheme after it has come into force and upon such revocation the provisions of this Act, except section 15, shall cease to apply to such scheme. Such notification shall also be published in the village and at the headquarters of the [taluka, tahsil] [These words were substituted for the word

taluka by Bombay 30 of 1968, section 16.] or mahal and of the district in which the lands included in such scheme are situate].

26. Expenditure incurred by [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government to be charged on [Consolidated Fund of State].

- The expenditure incurred by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in pursuance of anything done under this Act shall be charged on the [Consolidated Fund of the State] [These words were substituted for the words 'revenue of the State' by Bombay 30 of 1958, section 17].

26A. [Effect of transfer of rights and liabilities of Government to State Land Development Bank. [Section 26A was inserted by Gujarat 21 of 1969, section 3.]

- Where rights and liabilities of the State Government in relation to the recovery of cost or part cost of the works carried out under any scheme from any owners of lands included in such scheme stand transferred to the State Land Development Bank under section 143A of the Gujarat Co-operative Societies Act, 1961 (Gujarat X of 1962), the rights and liabilities transferred to such Bank shall be entered in the records referred to in sub-section (2) of section 13 or as the case may be, sub-section (3) of section 13A, and notwithstanding anything contained in this Act, every such owner of land shall pay the amount recoverable from him under this Act to such Bank. The amount of such cost or part cost shall be paid to the State Land Development Bank by, and recovered by such Bank from, such owners of lands in accordance with the provisions of section 143A of the Gujarat Co-operative Societies Act, 1961 (Gujarat X of 1962) and such payment to or recovery by, the Bank shall discharge the owners of lands of their liability to make payment to the State Government under this Act to the extent of their respective liability accepted by the Bank.]

26B. [Power of Government to give directions to Board or Company. [Section 26B was inserted by Gujarat 26 of 1981, section 20.]

- The State Government may, by order in writing, give to the Board or the Company such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act and the Board, or as the case may be, the Company shall comply with such directions.]

27. [Savings. [Section 27, 28, and 29 were added by Bombay 73 of 1948,s. 13.]

- All Boards constituted for a division under section 3 shall be dissolved on the day on which the new Boards shall be constituted under section 3 as amended by the Bombay Land Improvement Schemes (Amendment) Act, 1948 (Bombay LXXIII of 1948); Provided that any direction issued, appointments

made, scheme sanctioned, regulation made and all things done by the first mentioned Board shall be deemed to have been lawfully issued, made, sanctioned or done and any scheme so sanctioned shall be executed by the new Board constituted as aforesaid in the district in which the land in respect of which such scheme is made is situate: Provided further that if such land is situate within the limits of more than one district the [State] Government shall decide which of the Boards shall execute the scheme in respect thereof.

28. Validation of constitution and acts of Boards.

- Notwithstanding anything contained in this Act, the Board constituted, any directions issued, appointment made, scheme approved, regulations made and all things done by or on behalf of the Board, before the date on which the Bombay Land Improvement Schemes (Amendment) Act, 1948 (Bombay LXXIII of 1948), came into force shall be deemed to be and to have always been validly constituted, issued, made, approved, or done and shall not be deemed to have been invalidly constituted, issued, made, approved, or done by reason only of the fact that the Agricultural Commissioner or the Director of Agricultural Engineering acted as a member of the Board before the said date.

28A. [Repeal and Savings. [This section was inserted by Bombay 39 of 1958]

(1) On and from the commencement of the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958 (Bombay XXX of 1958), the Hyderabad Land Improvement Act, 1953 (Hyd. Act XIX of 1953), and the Saurashtra Land Improvement Schemes Act, 1954 (Saurashtra Act XIX of 1954), shall, subject to the provisions of sub-sections (2) to (5), stand repealed. (2) Every Board constituted for a district under any of the Acts so repealed shall be dissolved and the members thereof shall vacate office on the day on which a new Board is constituted for such district under section 3 of this Act; Provided that anything done or action taken (including any direction given, any draft scheme approved or published, appointments made, any schemes submitted for sanction or regulations made) by the first mentioned Board shall be deemed to have been lawfully done, taken, made, issued, approved, published or submitted by such new Board under this Act and the provisions of this Act shall apply thereto and any scheme sanctioned under any of the Acts so repealed and to be executed by the first mentioned Board shall be executed by the new Board in accordance with the provisions of this Act; (3) Any statement prepared and entries made in the Record of Rights and in the village accounts of other record under any of the Acts so repealed shall be deemed to have been prepared and made under the corresponding Provisions of this Act. (4) Any right, privilege, obligation or liability acquired, accrued or incurred under any such scheme or statement or under any other provisions of any of the Acts so repealed shall continue as if acquired, accrued or incurred under this Act and the same may be enforced in accordance with the provisions of this Act; Provided that where any act committed prior to the repeal of the Saurashtra Land Improvement Schemes Act, 1954 (Saurashtra Act XIX of 1954) was an offence punishable under section 13 of that Act, any proceeding in respect thereof may be instituted, continued or disposed of as if the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958 (Bombay XXX of 1958) had not been passed. (5) Any appointment, notification, order, rule, notice, report or delegation made or issued under any of the Acts so repealed shall continue in force in so far as such

appointment, notification, order, rule, notice, report or delegation is not inconsistent with the provisions of this Act until it is superseded by an appointment, notification, order, rule, notice, report, or delegation made or issued under this Act.]

29. Savings of Khar lands.

- Nothing in this Act shall apply to Khar lands in respect of which a scheme is or has been sanctioned under the Bombay Khar Lands Act, 1948 (Bombay LXXIII of 1948).]