

Maharashtra Land Improvement Schemes Act, 1942

MAHARASHTRA

India

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Act 28 of 1942

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Maharashtra Land Improvement Schemes Act, 1942 Act No. 28 of 1942 The Act was extended to that part of the State of Bombay to which immediately before the commencement of Bombay 30 of 1958, it did not extend (vide Bombay 30 of 1958, Section 2). These Acts were repealed and re-enacted by Bombay 29 of 1948, Section 2., For Statement see Bombay Government Gazette, 1943, part IV, p. 44. [Received the assent of Governor-General on the 15th day of January 1943; assent first published in the Bombay Government Gazette on the 25th January, 1943.] 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 Maharashtra Land Improvement Schemes Act] [This Short title was substituted for the Short tide 'the Bombay Land Improvement Schemes Act, 1942' by Maharashtra

24 of 2012, Schedule entry No. 22 (w.r.e.f. 1.5.1960).](2)[[This sub-section was substituted for the original by Bombay 30 of 1958, Section 3(1).] It shall extend to the whole of the [State of Maharashtra.] [These words were substituted for the words 'State of Bombay' by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.](3)It shall come into force in such area and on such date as the [State] [This word 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, it shall come into force at once in those areas in which the Hyderabad Land Improvement Act, 1953.] [This proviso was added by Bombay 30 of 1958, Section 3(2).][* * * was in force immediately before such commencement.] [The words 'or as the case may be, the Saurashtra Land Improvement Schemes Act, 1954' were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.]

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)["Code" means the Maharashtra Land Revenue Code, 1966;] [Clause (1A) was substituted for the original by Maharashtra 27 of 1989, Section 2(a).](1B)["Company" means a company owned or controlled by the state which is set up for the purposes of executing or financing (or for both purposes) schemes which have come into force under this Act; [Clause (1B) and (1C) were inserted by Maharashtra 18 of 1973, Section 2(1).](1C)"Company Officer" means any Officer of the Company duly appointed by it for all or 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] [Clauses (2) and (2A) were substituted by Bombay 73 of 1948, Section 2.] any officer appointed by the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] 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;(2B)["District Agriculture Officer" means any officer of a Zilla Parishad(constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act 1961) appointed by the State Government to perform the duties of the District Agricultural Officer under this Act;] [Clause (2B) was substituted by Maharashtra 5 of 1962, Section 286, Tenth Schedule](2C)["Executing Officer" means an officer appointed by the Board [or Company] [Clause (2A) which was renumbered as clause (2C) by Bombay 73 of 1948, Section 2(b), was inserted by Bombay 7 of 1945, Section 2(a), read with Bombay 29 of 1948, Section 2.] under sub-section (1) of section 11;] [and the expression "Executing Officer" shall be construed according as the schemes are executed at the expense of the State Government or the Company;] [This portion was added, by Maharashtra 18 of 1973.](3)"Inquiry Officer" means an officer appointed as such by the Board;(4)["owner" includes an owner in severalty, in common or joint, or occupant, a tenure holder pattadar, tenant and a mortgagee in possession and the expressions "owing" 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)[*****] [Clause (5A) was deleted by Maharashtra 27 of 1989, Section 2 (b).](5B)["relevant tenancy law" means- [Clause (5B) was substituted by Maharashtra 27 of 1989, Section 2(c).](i)in the Bombay area of the State of Maharashtra, the Bombay Tenancy and Agricultural Lands Act, 1948;(ii)in the Vidarbha region of

the State of Maharashtra, the Bombay, Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958; and(iii)in the Hyderabad area of the State of Maharashtra, the Hyderabad Tenancy and Agricultural Lands Act, 1950;](6)["scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 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;] [Clause (6) was inserted by Maharashtra 9 of 1980, Section 2.](7)"scheme" means a land improvement scheme prepared under this Act.(7A)["Soil conservation officer" means the officer appointed for the time being to the Soil Conservation Officer:] [Clauses (7A) and (7B) were 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 for the original by Bombay 30 1958, Section 4(4).](8)The words and expressions used in this Act, but not defined, shall have the meanings assigned to them in the [Code] [This word was substituted for the words 'relevant Revenue Act' by Maharashtra 27 of 1989, Section 2(d).].

Chapter II

Constitution of Boards and Preparation of Land Improvement Schemes

3. Constitution of Boards.

- [(1) The [State] [Sub-sections (1) and (1A) were substituted for sub-section (1) by Bombay 73 of 1948, Section 3.] 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 five] [These words were substituted for the words 'not exceeding two' by Maharashtra 27 of 1989, Section 3.] as may be appointed by the [State] [This word 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 a 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 or Company] [These words were substituted for the words 'Board' by Maharashtra 18 of 1973, Section 4(3).] to direct the preparation of a land improvement scheme and matters for which scheme may be prepared.

- [(1) The Board or the Company] [These words were substituted for the words 'The Board' by Maharashtra 18 of 1973, Section 4(1)(a).] may direct the preparation of a land improvement scheme of 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 underground water resources, and exploitation of those resources;] [This portion was added by Maharashtra 18 of 1973, Section 4(1)(b).](iiia)[development of land for better utilisation of the irrigation potential to be specified in the scheme;] [Clause (iiia) was inserted by Maharashtra 18 of 1973, Section 4(1)(c).](iv)introduction of dry farming methods;(v)improvement in the methods of

cultivation;(vi)reclamation of waterlogged 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 (viiia) 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 by[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.] [the Board or the Company] [These words were substituted for the word 'Board' by Maharashtra 18 of 1973, Section 4(3).] 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 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. - (1) The draft scheme prepared under section 4 shall be published by the Board or the Company in the Official Gazette, and in the village and at the headquarters of the taluka and of the district, in which lands proposed to be included in the above scheme are situate.

(2)The Board or the Company shall, simultaneously with the publication of the scheme in the Official Gazette, 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 appointed by the Board, or as the case may be, to the Company Officer or appear before him within twenty-one days of such publication.] [Section 5 was substituted by Maharashtra 18 of 1973, Section 4.]

6. [Report of Inquiry Officer [or Company Officer]. [Sections 6 was substituted by Bombay 7 of 1945, Section 5.] - (1) The Inquiry Officer [or Company Officer] [This portion was inserted by Maharashtra 18 of 1973, section 5.] 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] [This portion was inserted by Maharashtra 18 of 1973, section 5].

(2)The Inquiry Officer [or Company Officer] [This portion was inserted by Maharashtra 18 of 1973, section 5.] 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 [***] [The words, brackets and figures 'approved by the Board under sub-section(1) of section 5' were deleted by Maharashtra 18 of 1973, Section 5(2)(b).].

7. [Decision of disputed claims.]

- Rep. by Bombay 7 of 1945, Section 6, read with Bombay 29 of 1948, section 52.

8. [Report of Inquiry Officer.]

- Rep. by Bombay 7 of 1945, 5. 6, read with Bombay 29 of 1948, Section 2.

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

(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 Company may require the Inquiry Officer or Company Officer to submit, the Board, or, as the case may be, the Company] [These words were substituted for the words 'which the Board may require the Inquiry Officer to submit, the Board' by Maharashtra 18 of 1973, Section 6(1)(a).] may sanction the scheme with or without modifications or reject it:Provided that if not less than 33 per cent of the total number of the owners of the land included in the scheme other than the [Government] [This word 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 33 per cent. 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 substituted for the words 'the Board' by Maharashtra 18 of 1973, Section 6(1)(b).] 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 order. 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] [These words were substituted for the word 'taluka' by Bombay 30 of 1958, Section 6.] [* *] [The words, 'tahsil or mahal' were deleted by Maharashtra 18 of 1973, Section 6(2).] 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 Official Gazette under sub-section [(2)] [The brackets and figure '(2)' were substituted for the brackets and figure '(3)' by Bombay 7 of 1945, Section 8, read with Bombay 29 of 1948, Section 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 [Board or Company] [These words were substituted for the words 'the Board' by Maharashtra 18 of 1973, Section 6(1)(b).] to make regulations. - For the purpose of carrying out the objects of a scheme which has come into force under section 10, [the [State] [These words were inserted by Bombay 7 of 1945, section 9 read with Bombay, 29 of 1948, section 2.] Government or] the Board [or the Company] [These words were inserted by Bombay 7 of 1945, section 9, read with Bombay 29 of 1948, Section 2.] may make regulations requiring any person or [* * *] [The words 'class of' were deleted by Bombay 73 of 1948, Section 6.] 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.] [The regulations made by the Board or the Company shall be made in consultation with the State Government.] [This portion was added by Maharashtra 18 of 1973, Section 7(1).]

Chapter III

Execution of the Scheme

11. [Power to enforce scheme. - (1) After a scheme has come into force under section 10, the Board [or Company, as the case may be,] [This section was substituted for the original by Bombay 37 of 1945, section 10, read with Bombay 29 of 1948, section 2.] 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 word 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 Maharashtra 18 of 1973, section 8.] in his land as 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 this land by the [Government] [This word 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 Maharashtra 18 of 1973, section 8.] at the cost or part cost of the owner, he shall give notice in writing to that effect to the Executing Officer within twenty-one days of the publication of the scheme in the Official Gazette under section 9. (4) On receipt of such notice, the Executing Officer shall inform the owner of the works which are to be carried out in this 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 Executing 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 word 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 or the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government [or the Company] [These words were inserted by Maharashtra 18 of 1973, section 8.], 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 consequence 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] [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).] Government [or the Company] [These words were inserted by Maharashtra 18 of 1973, section 9] may determine as contribution to the owner of the land, if the work has been carried out by the owner, or to the [State] [This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government [or the Company] [These words were inserted by Maharashtra 18 of 1973, section 8], 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 in 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(1v), read with Bombay 29 of 1948, section 2.]]. [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.] [This portion was added by Maharashtra 18 of 1973, section 9(1)(b).](2)[The amount shall be paid within such time as may be specified by the [State] [This sub-section was substituted for the original by Bombay 73 of 1948, section 7(b).] Government] [or the Company] [These words were inserted by Maharashtra 18 of 1973, section 9.].

12A. [Penalty. - 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] [This section was inserted by Bombay 3 of 1944, section 3, read with Bombay 29 of 1948, section 2.] or sub-section [(4)] [The brackets and figure '(4)' were

substituted for the brackets and figure '(5) by Bombay 7 of 1945, read with Bombay 29 of 1948, section 2.] of section 25 [or of section 25A] [The words, figures and letter 'or of section 25A' were inserted by Bombay 51 of 1954, section 2.] shall, on conviction, be punishable with fine which may extend 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.]. - (1) [In the case of any work under the scheme, wholly carried out before the commencement of the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958, the Executing Officer] [This portion was substituted for the words 'the Executing Officer' by Bombay 30 of 1958, section 8(1).] shall prepare a statement giving for any specified area the following particulars :-

(a)(i)the work done;(ii)the cost thereof;(iii)the total amount to be recovered from the owners [including the rate of interest and the amount to be recovered at such rate and any matter incidental thereto] [This portion was added by Maharashtra 18 of 1973, section 10.];(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 of 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 rights [or where there is no record of rights, in the prescribed village record] [These words were substituted for the words, figures and letter 'maintained under Chapter XA of the Bombay Land Revenue Code, 1879' by Bombay 30 of 1958, section 8(2).] 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 from part of such record of rights [or as the case may be, of such village record and of the village accounts] [These word were substituted for the words 'and of the village accounts' by Bombay 30 of 1958, section 8(2).].

13A. [Executing Officer to prepare recovery statements and entries to be made in Record of Rights, etc. - (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

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(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 owners in respect of the work so carried out [including the rate of interest and the amount to be recovered at such rate and any matter incidental thereto;](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;] [This portion was added by Maharashtra 18 of 1973, section 11.](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 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 from part of such record of rights or as the case may be, the village record and of the village accounts.] [Section 13A was inserted by Bombay 30 of 1958, section 9.]

14. [Obligation of persons to maintain and repair works. - (1) Every person shown in the statement prepared under section 13 [or 13A] [This section was substituted for the original by Bombay 7 of 1945, section 14, read with Som. 29 of 1948, section 2.] 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] [This portion was inserted by Maharashtra 18 of 1973, section 12(1).] and within such time

as the said officer may fix, maintain and repair the work in his own land and in any land 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] [This portion was inserted by Maharashtra 18 of 1973, section 12(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] [This portion was inserted by Maharashtra 18 of 1973, section 12(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] [Sub-section (3) and (4) were added by Bombay 73 of 1948, Section 9.] [or the Company Officer] [This portion was inserted by Maharashtra 18 of 1973, section 12(1).] is of 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 each 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] [This portion was inserted by Maharashtra 18 of 1973, section 12(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 Company] [These words were inserted by Maharashtra 18 of 1973, section 12(2).] regarding such repairs].

Chapter V

Miscellaneous

15. [Payment and recovery of amount. - Any amount or instalment thereof [payable to the State Government under] [This section was substituted for the original by Bombay 73 of 1948, section 10.] section 11, 12 [or 14] [The words and figures 'or 14' were substituted for the figures, word and letter '14 of 25A' by Bombay 13 of 1953, section 2.] 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 in the [Code] [Theses words were substituted for the words and figures 'specified in section 150 of the Bombay Lands Revenue Code, 1879' by Bombay 30 of 1958, section 11.].]

15A. [Amount due to Company to be first charge on land of defaulter. - 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] be a first charge upon that land to which every other charge created in respect of that land shall be postponed, and may be recovered according to the provisions of section 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 or the amount in dispute does not exceed Rs.100, 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 is disputed and the amount in dispute exceeds Rs 100, then it shall be referred to the Tribunal constituted by the State Government for the purpose; and the Tribunal shall after making such inquiry as it 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 the Tribunal shall be final; and thereupon the Collector shall recover the sum determined to be due as arrear of land revenue.]

15C. [Where loan is given by scheduled bank, transfer of rights of Company to the bank for speedy recovery of its dues from owners of lands 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, with the help of the funds borrowed by it from any scheduled bank and a charge is consequently created upon any lands 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; and(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 land 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 Talathi, or such officer as may be designated by the State Government in this behalf, of the particulars of the lands and names of such owners and of the charge or mortgage created thereon in its favour. The Talathi 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 Talathi or designated officer as soon as the whole amount due from any owner ceases to be outstanding, and thereupon the Talathi or 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 charge or mortgage, as the case may be.(4)The provisions of sections 15A and 15B shall apply mutatis mutandis to any amount or installment thereof payable by any owner of and 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.] [Section 15C was inserted by Maharashtra 9 of 1980, section 3.]

16. Rights of entry.

- For the purpose of preparing, sanctioning or executing any scheme [or 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] [These words were substituted for the words 'the Board or the Collector' by Bombay 7 of 1945, section 15(ii).] or [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 Company] [These words were inserted by Maharashtra 18 of 1973, section 15.] 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.] [Sections 15A and 15B were inserted by Maharashtra 18 of 1973, section 14.]

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] [These words were substituted for the words and figures 'the Bombay Land Revenue Code, 1879' by Bombay 30 of 1958, section 12(1).]] and all the provisions contained in [such Code] [These words were substituted for words 'such Act' by Maharashtra 27 of 1989, section 5(a)(ii).] 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] [These words were substituted for the words and figures 'the Bombay 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 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, 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, 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]

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

21. [Delegation. - The [State] [This section was substituted for the original by Bombay 73 of 1948, section 11.] 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 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.] may delegate to any officer, [or person] [These words were inserted by Maharashtra 5 of 1962, section 286, Tenth Schedule.] 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 [or the Company] [These words were inserted by Maharashtra 18 of 1973, section 16.], the Collector [the Divisional Soil Conservation Officer] [These words were substituted for the words 'the Land Improvement Officer' by Bombay 56 of 1949, section 3, Second Schedule.] or the [State] [This word 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] [The word and figures 'section 21' were inserted by Bombay 73 of 1948, section 18.] or sub-section (2) of section 25, as the case may be, shall be deemed to be public servants within the meaning of the Indian Panel Code.

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

(1) No suit, prosecution or other legal proceeding shall be institute against any. public servant of 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.

24. Power to make rules.

(1) [State] [This word 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 or the foregoing power, such rules may be made to determine the following matters, namely: (i) [the matters to be prescribed under clause (ix) of section (1) and clause (v) of sub-section (2) of section 4; [Clauses (i) to (iv) 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-section (1) and (2) of section 13A; (iiia) the manner in which the rights and liabilities shown in the statements prepared under section 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 accessible to the public under section 19; [****] [Clause (vi) was deleted by Bombay 8 of 1953, Section 3.] (3) The rules made under this section shall be subject to the condition of previous publication. (4) [Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period for thirty days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rules or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be: so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule] [Sub-section (4) was inserted by Maharashtra 26 of 1976, section 2].

25. [Power of State Government to direct preparation of scheme in certain circumstances. - (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;(iii)[* * *] [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 of the dependents of such persons; or(v)if in the opinion of the State Government the scheme is necessary in the interest of the public.(2)Along with 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] [The word, Figures and letter 'or 13A' were inserted by Bombay 30 of 1958, section 14.] to maintain the work to the satisfaction of the Divisional Soil Conservation Officer [or Company Officer] [These words were inserted by Maharashtra 18 of 1973, section 17(2).] 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.] [Section 25 was substituted for the original section 25 and 25A by Bombay 8 of 1953, section 4.]

25A. [] [Section 25A and 25B were inserted by Bombay 51 of 1954, section 4.] Power of State Government to direct preparation and execution of scheme [in area declared to be scarcity area]. [These words were substituted by G. N. A. & F. D., No. SCS. 1564-III-8062-F, dated 28th October 1964.] - (1) Notwithstanding anything contained in this Act, if the State Government [is of opinion that a state of scarcity prevails] [These words were substituted by G. N. A. & F. D., No. SCS. 1564-III-8062-F, dated 28th October 1964.] 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 15(1).], [or that it is necessary in the public interest to carry out immediately any work of land improvement in any area for meeting an emergency of any kind whatsoever] [These words were inserted by Maharashtra 44 of 1972, section 2.] 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 Maharashtra 18 of 1973, section 18(1).] to appoint an officer as the Executing Officer for the purpose of immediately [constructing embankments, water courses or any work of land improvement in such villages or areas as may be specified.] [These words were substituted for the words 'constructing embankments in such villages may be specified' by Maharashtra 44 of 1972, section 2.] Such direction shall also require the Board to prepare a scheme providing for matters specified in clauses (i) and (ii) of sub-section (1) of section 4, or any other matters specified in sub-section (1) of that section in such villages [or areas] [These words were inserted by Maharashtra 44 of 1972, section 2.].

(2)On the issue of a direction under sub-section (1), the Board shall ask the [Officer appointed by it for the purpose] [These words were substituted of the words 'Executive Officer' by Maharashtra 18 of 1973, section 18(2)(a).] to prepare a draft scheme, including therein all the works [undertaken by the Executing Officer] [These words were substituted for the words 'undertaken by him' by Maharashtra 18 of 1973, section 18(2)(b).] under sub-section (1), and other works in accordance with such instructions as the Board may issue, containing the particulars specified in sub-section (2) of section 4. Such [Officer] [These words were substituted of the words 'Executive Officer' by Maharashtra 18 of 1973, section 18(2)(c).] shall prepare a draft scheme accordingly and submit it to the Board for its approval.(3)The draft scheme submitted to the Board may be approved by it without modification, or with modifications as shall not affect the work carried out by the Executing Officer under sub-section (1). The scheme so approved by the Board shall be published in the Official Gazette and in the village [or area] [These words were inserted by Maharashtra 44 of 1972, section 2.] in which the lands included in the scheme are situate. On the date on which the scheme is published in the village [or area] [These words were inserted by Maharashtra 44 of 1972, section 2.], 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] [These words were inserted by Bombay , 30 of 1958, section 15(1).], to maintain the work to the satisfaction of the Divisional Soil Conservation Officer [or Company Officer] [These words were inserted by Maharashtra 18 of 1973, section 18(3).] and repair it to his satisfaction within such time as he may fix and within provisions of sub-section (2) of section 14 shall apply in respect of the owner's liability under this section.

25B. Power to revoke scheme.

- If upon an application made by the Board, the State Government is satisfied that it is necessary so to do, the State Government may, at any time [after consulting with the Company, if necessary,] [These words were inserted by Maharashtra 18 of 1973, section 19(1).] 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 [* *]] [These words were substituted for the word 'taluka' by Bombay, 30 of 1958, section 16.] and of the district in which the lands included in such scheme are situated.]

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] [This word was substituted for the words 'Revenues of the State' by Bombay 30 of 1958, section 17].

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] [This word was substituted for the words 'Revenues of the State' by Bombay 30 of 1958, section 17].

26A. [] [Section 26A was inserted by Maharashtra 35 of 1969, section 3.] Effect of transfer of rights and liabilities of Government to [Agriculture and Rural Development Bank.] [These words were substituted for the words 'a Land Development Bank' by Maharashtra 27 of 1989, section 6(a)].

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 [an Agriculture and Rural Development Bank under section 143A of the Maharashtra Co-operative Societies Act, 1960, then 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 by, and recovered from such owners of lands in accordance with the provisions of section 143A of the Maharashtra Co-operative Societies Act, 1960, and the rights and liabilities transferred to the 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.] [These words were substituted for the words 'Land Development Bank' by Maharashtra 27 of 1989, section 6(b).]

26B. [Power of State Government to transfer schemes to Company. - (1) Notwithstanding anything contained in this Act, the State Government may, by notification published in the Official Gazette, transfer to the Company such schemes which have come into force under section 10, subject to such

terms and conditions mutually agreed upon between the State Government and the Company (including any condition regarding giving of any guarantee by the State Government) as may be specified in the notification.

(2) On transfer of the schemes to the Company under sub-section (1), (a) where any work or part thereof under any such schemes is carried out or to be carried out at the cost or part cost of the State Government, and such cost is to be recovered from the owners of lands (other than Government) included in the schemes as shown in the statement prepared under section 13 or in the interim or final statement prepared under section 13A, then the rights and liabilities of the State Government under this Act and the rules and regulations made thereunder for the recovery of such cost or part cost from the owners of lands shall, with effect from the date specified in such notification, stand transferred to the Company in relation to such owners of lands; (b) the Company shall pay to the State Government an amount equal to the cost or part cost of the schemes transferred as aforesaid; (c) the State Government shall inform the owners of lands concerned of such transfer of rights and liabilities; (d) the owners of lands shall pay to the Company the amount or balance of the amount, as the case may be, which is to be recovered from them as aforesaid, and (e) any payments made to the Company accordingly shall discharge the owners of lands of their liability to make payment to the State Government under such schemes. (3) Save as provided in sub-section (2), all the provisions of this Act shall apply in relation to the schemes transferred to the Company under sub-section (2) as those provisions apply in relation to schemes prepared and executed by the Company under this Act.] [Section 26B was inserted by Maharashtra 43 of 1976, section 2.]

27. [Savings. - 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:

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] [Section 27, 28 and 29 were added by Bombay 73 of 1948, section 13.] Government shall decide which of the Boards shall execute the scheme in respect thereof.]

28. Validation of constitution and acts of Board.

- Notwithstanding anything contained in this Act, the Board constituted, any directions issued, appointments 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, 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 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. - (1) On and from the commencement of the Bombay Land Improvement Schemes (Extension and Amendment) Act, 1958, the Hyderabad Land Improvement Act, 1953, and the Saurashtra Land Improvement Schemes Act, 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 or other record under any of the Acts so repealed shall be deemed to have been prepared and made under the corresponding provision 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 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 had not been passed. (5) Any appointment, notification, order, rule, notice, report or delegation made or issued under any of the Act 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.] [Section 28A was inserted by Bombay 30 of 1958, section 18.]

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 [or deemed to be made under the Maharashtra Khar Lands Development Act, 1979.] [These words and figures were substituted for the words and figures 'under the Khar Lands Act, 1948' by Maharashtra 27 of 1989, section 7.]