

# MANUAL ON AGRICULTURE LAW

(Madhya Pradesh)

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## **AGRICULTURE & LAND LAWS**

## **1. The Madhya Pradesh Irrigation Act, 1931**

# The Madhya Pradesh Irrigation Act, 1931

[Act No. 3 of 1931]

## PREAMBLE

An Act to consolidate and amend the law relating to Irrigation in Madhya Pradesh

Whereas it is expedient to consolidate and amend the law relating to irrigation in Madhya Pradesh; and whereas the Governor-General has given his previous sanction to the passing of this Act as required by sub-section (3) of Section 8-A of the Government of India Act.

It is hereby enacted as follows:

### **1. Short title, extent and commencement. –**

(1) This Act may be called the Madhya Pradesh Irrigation Act, 1931.

<sup>1</sup>[(2) It extends to and shall be in force in the whole of Madhya Pradesh.]

## CHAPTER I DEFINITIONS

### **2. Interpretation.**

(1) Unless there is anything repugnant in the subject or context, any expression used in this Act which is defined or explained in <sup>2</sup>[the Central Provinces Land Revenue Act, 1917, or in the Central Provinces Tenancy Act, 1920], shall have the meaning therein assigned to it.

(2) Every expression, which is defined or explained in any part of this Act, is used in every part of this Act in conformity with such definition or explanation.

### **3. Canal.**

"Canal" includes—

- <sup>3</sup>[(a) all canals, channels and reservoirs including submerging tanks, tubewells, drainage works, and lift irrigation works constructed, maintained or controlled by the State Government for the supply or storage of water for irrigation;
- (b) all works, roads, embankments, structures, supply and escape channels connected with or constructed for the purpose of facilitating the construction or maintenance of such canals, channels or reservoirs;
- (c) all uncompleted works which, when completed, will fall within clause (a) or (b); and
- (d) all land acquired or set apart for any of the above, but does not include a water course.

### **4. Water-course.**

"Water-course" means any channel which is supplied with water from a canal but is not maintained at the cost of the Government, and all subsidiary works belonging to such channel <sup>4</sup>[and including a field channel constructed in accordance with the provisions of this Act.]

<sup>1</sup> Subs. by M.P. Extension of Laws Act, 1958.

<sup>2</sup> See now the M.P. Land Revenue Code (20 of 1959).

<sup>3</sup> Subs. by M.P. Act No 42 of 1973.

**<sup>5</sup>[4-A. Field channel.**

"Field channel" means a channel which conveys or distributes water from an outlet or an opening in a water-course for irrigation of fields belonging to private owners.]

**5. Canal system.**

"Canal system" means all canals supplied from one or more common sources or head-works, together with all water-courses supplied therefrom and all lands commanded thereby.

**6. Private irrigation work.**

"Private irrigation work" means a work, which is not the property of the Government, constructed or maintained for the supply or storage of water for irrigation <sup>6</sup>[and includes a private watercourse.]

**7. Grant-in-aid irrigation work.**

"grant-in-aid irrigation work" means a private irrigation work constructed or improved by or on behalf of a permanent holder partly or wholly by means of a grant of money from the Government.

**8. Commanded.**

Land is said to be commanded by a canal when it may be irrigated from that canal by the flow of water under gravity, and without the need of lifting or pumping water:

Provided that the Executive Engineer, with the previous sanction of the Superintending Engineer, may declare any land to be not commanded if it can be irrigated only by an excessive expenditure of water or by means of a water-course which passes through an area which the Executive Engineer considers desirable to avoid.

*Explanation.*—Land which would not otherwise be commanded may become commanded by the construction of a crossing for the passage of water across a natural drainage, channel or ridge.

**9. Wet.**

Land is said to be wet—

- (a) when it is classed in the annual papers of the village under any description which the State Government may, by rules made under this Act, declare to have the meaning of "wet" for the purposes of this definition; or
- (b) when it has been declared by Executive Engineer, to be wet.

**10. Irrigable.**

Land is said to be irrigable when—

- (a) it is commanded by a canal;

<sup>4</sup> Ins. by M.P. Act No. 23 of 1960.

<sup>5</sup> Ins. by M.P. Act No. 23 of 1960.

<sup>6</sup> Ins. by M.P. Extension of Laws Act No. 1958.

- (b) it is under cultivation; and
- (c) it is not wet.

*Explanation.*—Land which has been cultivated with any crop at any time during two years preceding that from which an irrigation agreement has effect shall be deemed to be under cultivation.

## **11. Outlet**

An "outlet" is an opening, constructed by the State Government in a canal, through which water is delivered into a water-course or directly on to any land.

## **12. Chak.**

(1) A "chak" is that area of land on one side of a canal or below a tail, which would be commanded by a single outlet so situated that it would command the greatest possible area of land on that side of the canal in that neighbourhood.

*Explanation.*—The fact that, in order to secure a more efficient flow of water, two more outlets are constructed for one chak, does not convert that chak into two or more chaks.

(2) In cases of doubt, the Executive Engineer shall have power to determine the boundaries of chaks; and in all cases he shall have power so to determine that no single chak shall include land more than one village.

## **12-A. Compulsorily assessed area.**

"Compulsorily assessed area" means an area notified as compulsorily assessed to water rate in accordance with rules under this Act and the expression "compulsorily assessed" shall be construed accordingly.

## **13. Occupier.**

An "occupier" of land is any person holding or professing to hold the right to cultivate such land for the time being,

## **<sup>7</sup>[14. Permanent holder.]**

A "permanent holder" of any land means the Bhumiswami of such land and includes an occupancy tenant thereof.]

## **<sup>8</sup>[15. Canal Revenue.]**

"Canal revenue" includes irrigation cess levied under Chapter VI-B and all sums, payable to the Government for the use of, right to use of, or waste of water from, a canal.]

## **16. Water-rate.**

A "water-rate" is the amount of canal revenue payable for the use of water or for the right to use water for irrigation for a single crop on one acre of land.

<sup>7</sup> Subs. by M.P. Act No. 23 of 1960.

<sup>8</sup> Subs. by M.P. Act No. 42 of 1973.

*Explanation.*—A single crop includes two crops of the same product within the same year.

## CHAPTER II

### CANAL OFFICIAL AND THEIR CHARGES AND POWERS

#### **17. Canal officers.**

There shall be the following classes of canal officers, namely:

- (a) The Chief Engineer;
- (b) Superintending Engineer;
- (c) Executive Engineers;
- (d) Sub-Divisional Officers; and
- (e) Canal Deputy Collectors.

#### **18. Canal charges.**

- (1) The State Government may group together into circles areas in which canals have been or are to be constructed, and may divide circles into divisions, and divisions into sub-divisions.
- (2) The State Government may at any time form new circles, divisions, or sub-divisions, abolish existing circles, divisions or sub-divisions, or alter the limits of existing circles, divisions or sub-divisions.
- (3) The State Government shall appoint a Chief Engineer to be in charge of the irrigation department generally, a Superintending Engineer to be incharge of each circle, an Executive Engineer to be incharge of each division, and a Sub-Divisional Officer to be incharge of each sub-division.
- (4) The State Government may appoint persons to be additional canal officers in any sub-division, division or circle, and may invest them with any or all the powers of a Sub-Divisional Officer, Executive Engineer or Superintending Engineer, respectively.
- (5) The State Government may invest Superintending Engineers with the power to appoint Sub-Divisional Officers to sub-divisions within their circles.

#### **<sup>9</sup>[18-A. Additional Canal Officers.]**

The State Government may, by notification in the Official Gazette, appoint the canal officers of any neighbouring state to be Additional Canal Officers in any Sub-Division or Circle of the state and to exercise such powers and to perform such duties under this Act as may be specified in the notification.]

#### **19. Subordination of canal officers.**

The Chief Engineer shall be subordinate to the State Government;

- all other canal officers shall be subordinate to the Chief Engineer;
- all canal officers in a circle shall be subordinate to the Superintending Engineer; and
- all canal officers in a division shall be subordinate to the Executive Engineer.

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<sup>9</sup> Ins. by M.P. Extension of Laws Act No. 1958.

## **20. Canal Deputy Collectors.**

- (1) The State Government may appoint a Canal Deputy Collector to one or more divisions.
- (2) A Canal Deputy Collector shall be subordinate to Executive Engineer of any division to which he is appointed.
- (3) The State Government may invest a Canal Deputy Collector with any or all of the powers of a Sub-Divisional Officer under this Act, and may invest a Sub-Divisional Officer with all or any of the powers of a Canal Deputy Collector.

## **21. Canal subordinates.**

- (1) The Chief Engineers may, subject to rules this Act, divide a sub-division into subordinate charges, may appoint canal subordinates to such charges, and may prescribe the duties of such subordinates.
- (2) All canal subordinates in sub-division shall be subordinate to the Sub-Divisional Officer.
- (3) The State Government may, by notification, invest any canal subordinate with any of the powers of a canal officer, except a power to decide.
- (4) The Chief Engineer may, subject to rules made under this Act, delegate to Superintending Engineers or to Executive Engineers any or all of his power under this sub-section.

## **22. Power to allot duties among canal officers.**

- (1) When under this Act any duty is to be performed or power is to be exercised by canal officer, and the class of canal officer is not specified, rules made under this Act regulating performance of such duty or exercise of such power may prescribe ass of canal officers by which it is to be performed or exercised.
- (2) In addition to the above, rules may be made under this Act prescribing generally the class of canal officers who is to perform any duty or exercise any which, under this Act, is to be performed or exercised by a canal officer.
- (3) When the class of canal officers who is to perform any duty or exercise any power under this Act is not prescribed under sub-section (1) or -section (2), such duty shall be performed or such power exercised by the Sub-Divisional Officer.

## **23. Appeals.**

- (1) Save as provided for in this Act and the rules made thereunder, no appeal shall lie from an order passed by a Commissioner, Elector, canal officer, or canal subordinate.
- (2) The following appeals shall lie—
  - (a) if an order under Section 34 is passed by a Collector or canal officer, to the Commissioner;
  - (b) if an order under Section 38 is passed by a canal officer subordinate to the Executive Engineer, to the Executive Engineer;
  - (c) if an order under Section 44 is passed by a canal officer, to the Collector;
  - (d) if an order under Section 47 is passed by a canal subordinate, to the Canal Deputy Collector or Sub-Divisional Officer; and, if it is passed by a Canal Deputy Collector or Sub-Divisional Officer otherwise than on appeal, to the Executive Engineer;

- (e) if an order under Section 56 is passed by a Superintending Engineer, to the Chief Engineer;
  - (f) if an order under sub-section (1) of Section 62 is passed by a Collector, to the Commissioner; and
  - (g) if an order under Section 73 is passed by an Executive Engineer, to the Superintending Engineer.
- (3) No appeal shall lie—
- (a) to the commissioner or Chief Engineer—  
after the expiration of sixty days from the date of the order to which objection is made;  
or
  - (b) to the Collector, Superintending Engineer or Executive Engineer after the expiration of thirty days from the date of the order to which objection is made; or
  - (c) to the Canal Deputy Collector or Sub-Divisional Officer after the expiration of ten days from the date of the communication of the order to which objection is made :
- Provided that no appeal shall lie to the Collector against an order passed by an Executive Engineer under Section 44 either after the expiration of thirty days from the date of such order or after the cutting of the crop for whose irrigation the water was supplied.
- (4) An appeal may be admitted after the period of limitation prescribed therefor if the applicant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.
- (5) No appeal to a canal officer shall require to be stamped.
- (6) No legal practitioner shall be permitted to appear in any appeal under this Act or under the rules made thereunder except in appeals before the Commissioner.
- (7) Rules may be made under this Act providing for appeals from the orders of canal officers and canal subordinates regulating the procedure to be followed in such appeals, and prescribing periods of limitation therefor.
- (8) Such rules may require that specified or classes of appeals shall lie only to a specified revenue officer.

#### **24. Revision.**

A Commissioner may, at any time inquire into the propriety of any order passed by a Collector who is subordinate to him, and any canal officer may, at any time, inquire into the propriety of any order passed by a canal officer or canal subordinate who is subordinate to him, and may pass such order in reference thereto as he may think fit:

Provided that he shall not reverse or vary any order so as to affect adversely the rights of any private person without having given to such person an opportunity to be heard.

#### **<sup>10</sup>[25. Canal officers to have certain powers of Civil Court.**

The canal officer conducting an enquiry in the discharge of his duties under this Act, or the rules made thereunder shall have the power of a Civil Court under the Code of Civil

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<sup>10</sup> Subs. by M.P. Act No. 42 of 1973.

Procedure, 1908 (V of 1908), for the purposes of receiving evidence, administering oaths enforcing the attendance of witness and compelling the discovery and production of documents and all such proceedings under this Act and the rules made thereunder shall be deemed to be judicial proceedings within the meaning of Section 228 of the Indian Penal Code, 1860 (No. 45 of 1860).]

### CHAPTER III RIGHTS TO WATER

**26. Rights of the Government in water.**

All rights in the water of any river, natural stream or natural drainage channel, natural lake or other natural collection of water shall vest in the Government, except to the extent to which rights may have been acquired in water affected by a notification published under Section 27 prior to the publication of such notification.

**27 Bar of accrual of rights in water to the detriment of a projected canal.**

When the State Government proposes to construct a canal it shall publish a notification declaring its intention and indicating the site of the head-works, and thereupon no right shall be acquired against the Government under Section 15 or Section 16 of the Indian Easements Act, 1882, in the water of any river, natural stream or drainage channel, lake or other natural collection of water, any of whose waters will supply the canal when constructed.

**28 Bar of accrual of rights in water to the detriment of an existing canal.**

No rights shall be acquired against the Government under Section 15 or Section 16 of the Indian Easement Act, 1882, in the water of any river, natural stream or natural drainage channel, lake or other natural collection of water, any of whose waters supply a canal existing or under construction at the commencement of this Act.

**29. Rights to supply of water from a canal.**

No rights shall be acquired against the Government, whether under Section 15 or Section 16 of the Indian Easement Act, 1882, or otherwise to the supply of water from a canal, save in accordance with the provisions of this Act or under a grant from the Government.

**30. Compensation for damage.**

(1) No claim for compensation shall lie against the Government for any damage arising from—

- (a) the stoppage or diminution of the percolation or flow of water;
- (b) the deterioration of climate or soil; or
- (c) the stoppage of navigation, or of the means of drifting timber or water cattle:

Provided that compensation shall be payable where, as a result of the construction of a canal:

- (i) the rent or revenue of any land has been reduced, or

(ii) the supply of water to or from a tank or other constructed work has been diminished.

<sup>11</sup>[(1-A) In determining the amount of such compensation, regard shall be had to the diminution in the market value, at the time of awarding compensation of the property in respect of which compensation is claimed and where such market value is not ascertainable the amount shall be reckoned at fifteen times the amount of diminution of the annual net profits of such property; caused by the powers conferred by this Act.]

Claims under this section may be enforced by application made to the Collector within one year from the reduction of the rent or revenue, or the diminution of the supply.

(2) Any person aggrieved by the decision of the Collector under sub-section (2) may, within six months from the date of such decision, institute a suit in a Civil Court to have such decision set-aside or modified.

## CHAPTER IV CONSTRUCTION AND MAINTENANCE OF CANALS

### **31. Power to enter and survey, etc.**

Any canal officer, or any person acting under the general or special order of a canal officer may—

- (a) enter upon any lands adjacent to any canal or water-course or through which any canal or water-course is to be made, and undertake surveys or levels thereon;
- (b) dig and bore into the sub-soil;
- (c) make and set up suitable land-marks, level-marks, water-gauges and other apparatus;
- (d) do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal or water-course under the charge of the said canal officer;
- (e) where otherwise such inquiry cannot be completed, cut down and clear away any part of any standing crop, fence or jungle; and
- (f) enter upon any land or building for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with canal revenue and of doing all things necessary for the proper regulation and management of any canal.

Provided that, if such canal officer or person proposes to enter into any building or any enclosed court attached to a dwelling-house, he shall give the occupier of such building or court at least three days' notice in writing of his intention to do so.

(2) After entry under this section, the canal officer shall, before leaving, tender compensation for any damage which may have been caused by any proceeding under this section; and, in case of dispute as to the sufficiency of the amount so tendered, he shall refer the matter for decision by the Collector. Such decision shall be final, and no suit shall lie in a Civil Court to have it set-aside or modified.

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<sup>11</sup> Subs. by A.O. 1957.

**32. Power to enter for repairs and to prevent accidents.**

- (1) In case of any accident happening or being apprehended to a canal, any canal officer or canal subordinate, or any person acting under his general or special orders in their behalf, may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.
- (2) In every such case the Executive Engineer shall tender compensation to the proprietors or occupiers of the said lands for all damage caused thereto. If such tender is not accepted, the Executive Engineer shall refer the matter to the Collector, and compensation for the damage shall be determined as through the State Government had directed the occupation of the land under Part IV of the Land Acquisition Act, 1894.

**33. Power to prohibit obstructions or to order their removal**

Whenever it appears to the State Government that injury to any land or to the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage channel, it may, by notification published in the Official Gazette, prohibit, within limits to be defined in such notification the formation of any obstruction, or may, within such limits, order the removal or modification of such obstruction.

**34. Power to remove obstructions.**

- (1) The Collector or any canal officer authorised by the State Government in this behalf, may after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify it within a time fixed in the order.
- (2) If, within the time so fixed, such person does not comply with the order, the Collector or said canal officer may remove or modify the obstruction, and the expenses incurred in such removal or modification shall be recoverable as arrears of land revenue.

**35. The Government to provide means of crossing canals.**

- (1) In accordance with rules made under this Act a revenue officer and canal officer shall make a joint inspection of the alignment of all canals to be constructed and maintained at the cost of the Government, and shall make a second joint inspection of all such canals after not less than three years from the completion of such canals and shall report to the Collector, where, in their opinion, means of crossing such canals should be provided for the reasonable convenience of the inhabitants of the adjacent lands.
- (2) The State Government shall cause suitable means of crossing such canals to be constructed at the cost of the Government at such places as it thinks fit.
- (3) If, at any time after the second of such inspections, five or more of the permanent holders of such lands apply to the Collector for the construction or further means of crossing, he shall cause an inquiry to be made and if he thinks that further means of crossing should be constructed, he shall forward his opinion to the State Government, which shall cause such measures to be taken as it thinks proper :

Provided that, if the local inhabitants deposit half the estimated cost of constructing such a means of crossing for the passage of traffic, the State Government shall cause it to be constructed, such crossing to be the property of the Government; and if the

estimated cost exceeds the actual cost, the State Government shall refund half the difference :

Provided further that, if the Collector has once caused an inquiry to be made under this section, it shall not be necessary for him to cause a second inquiry to be made into the same matter.

(4) No suit shall lie in a Civil Court against the Government to enforce the construction of a crossing of a canal, or to enforce the alteration of a crossing or for compensation for damage arising from the absence or inadequacy of any crossing, or to modify or set-aside any scheme framed or order passed under this section.

Explanation.—Suitable means of crossing canals include means for the passage of traffic and of water.

### **36. Power to impress labour in emergency.**

(1) Whenever it appears to the Executive Engineer, or to any Sub-Divisional Officer acting under his general or special orders in this behalf, that; unless some work is immediately executed, such serious damage will happen or continue to any canal as is likely to cause, or continue to cause serious public injury or serious interruption of the normal course of irrigation, and the labour necessary for the proper execution thereof cannot be obtained in the ordinary manner in time to prevent such injury or interruption or to remedy it within a reasonable time. The Executive Engineer, or any Sub-Division Officer acting under the said orders, may, by public proclamation by beat of drum, require every permanent holder and occupier of irrigable land resident in any village within five miles of the place where the work is to be executed, and every agricultural labourer employed by them, to attend in person at such place and to carry out such duties as may be allotted to them.

(2) If, in the opinion of the Executive Engineer, or of any Sub-Divisional Officer acting under the said orders, the amount of labour likely to attend in pursuance of an order under sub-section (1) is not sufficient, he may at any time in like manner and subject to the same conditions issue a like order requiring the attendance of all persons resident within five miles of the place where the work is to be executed.

(3) The rates of wages to be paid for such work shall not exceed those current in the neighbourhood for similar work, and any person attending in compliance with the proclamation shall be paid for the whole period during which he is thereby prevented from following his ordinary occupation.

(4) No person shall be required to carry out any duties under this section for which such person is unfit by reason of age, sex or bodily infirmity.

## **CHAPTER V**

### **THE SUPPLY OF WATER FROM CANALS AND CHARGES THEREFOR**

### **37. Purposes for which water may be supplied.**

(1) Water may be supplied from a canal—

- (a) under an irrigation agreement, in accordance with the provisions of Chapter VI;
- (b) on demand, for the irrigation of specified areas;

- (c) to supplement a village tank;
  - (d) for industrial, urban or other purposes not connected with agriculture;
  - (e) for the irrigation of a compulsorily assessed area.
- (2) Charges for the supply of water under clauses (a), (b), (c) and (e) of sub-section (1) shall be paid at such rates as may be fixed by the State Government in accordance with rules made under this Act.

### **37-A. Reduction or remission of charges for supply of water.**

Notwithstanding anything contained in this Act or the rules made thereunder, the State Government may, by notification, reduce or remit the whole or any part of the charges for the supply of water under sub-section (1) of Section 37.

### **<sup>12</sup>[37-B. Submerging tank.]**

- (1) The State Government may, on an application made by not less than fifty percent of the permanent holders and occupiers of land in any particular area for construction of a submerging tank in that area, undertake the construction of such tank at the cost of the Government subject to such terms and conditions as may be prescribed.
- (2) Where the State Government undertakes to construct a submerging tank under sub-section (1), the terms and conditions prescribed under sub-section (1) shall be binding on all the permanent holders and occupiers of land likely to be covered by the submerging tank irrespective of the fact whether they are signatories to the application or not.
- (3) Where submerging tanks constructed and maintained by the State Government are in existence prior to the commencement of the Madhya Pradesh (Irrigation Amendment) Act, 1973, the terms and conditions as prescribed under sub-section (1) shall be binding on all the permanent holders and occupiers of lands covered by the submerging tank.
- (4) The canal officer or any other officer authorised for execution for the purpose of this section shall during the period between 15th September and 1st October every year, in the presence of the permanent holders and occupiers or their representatives-in-interest mark out the land actually submerged under water of the submerging tank in the village map by a contour line and obtain signatures on the map of the permanent holders and occupiers or their representatives-in-interest present on the spot.
- (5) The permanent holders and occupiers of lands within the contour line on the map shall be liable to pay water-rate at such rates as may be determined by rules.]

### **38. Supply of water on demand.**

- (1) Water may be supplied from a canal at any time for the irrigation of specified areas at the discretion of the Executive Engineer.
- (2) Water supplied on demand shall be paid for according to the area actually irrigated. In the determination of such area the decision of the Executive Engineer shall be final and shall not be modified or set-aside by any Civil Court.
- (3) The water-rates for such supply are called "demand rates".

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<sup>12</sup> Ins. by M.P. Act No. 42 of 1973.

(4) Rules may be made under this Act regulating the procedure of canal officers in receiving application for water on demand, in supplying water on demand, and in assessing canal revenue.

**39. Supply of water to supplement village tanks.**

(1) Water may be supplied at any time to supplement a village tank at the discretion of the Executive Engineer.

(2) Rules may be made under this Act prescribing the conditions on which water may be supplied under this section, and regulating the procedure of canal officers in giving such supply.

**40. Supply of water for industrial, urban or other purposes.**—The conditions for the supply of water for industrial, urban or other purposes not connected with agriculture and the charges therefor, shall be as agreed upon between the State Government and the company, firm, private person or local body concerned and fixed in accordance with rules made under this Act.

**40-A. Supply of water to compulsorily assessed area.**

(1) Water may be supplied from a canal at any time to irrigate a compulsorily assessed area in accordance with rules made under this Act.

(2) Rules may be made under this Act prescribing the conditions on which water may be supplied under this section, and regulating the procedure of canal offices in giving such supply.

**41. Control of supply of water from outlets.**

Water for the irrigation of land, or to supplement village tanks, or for an industrial, urban or other purpose not connected with agriculture, may be taken only from such outlets as may be determined from time to time by the Executive Engineer for the special needs of such land, system or purpose.

**42. Power of State Government with regard to irrigation from private irrigation works.**

If, as a result of the construction of a canal, the area irrigated from any private irrigation work in its proximity is increased beyond the area recorded as irrigable at the last settlement, the State Government may, without prejudice to its rights, if any, recorded at such settlement, direct that such water-rate as it may deem fit shall be charged on such increase of area:

Provided that no water-rate shall be charged, if on inquiry it is found that the increase in the area has been due to any improvement of the private work since the settlement.

**43. Unauthorised use and waste of water.**

(1) Water is said to be used in an "unauthorised" manner when its use gives rise to, or may be expected to give rise to, benefits of any kind and—

(a) when it is allowed or caused to flow on to land, or into a village tank, or into a private system of irrigation, or into any system for the supply of water for an industrial, urban or other purpose not connected with agriculture, so that the owners or

- occupiers of such land or system thereby obtain for such land or system water to which they are not entitled under the provisions of this Act or of the rules or of any agreement or contract made thereunder; or
- (b) when it is taken from any canal, outlet or water-course in contravention of any of the provisions of this Act or of the rules made thereunder or of any order by a canal officer passed thereunder.
- (2) Water which is allowed or caused to escape, from a canal, watercourse or field in such a manner that no benefits arise from its consumption is said to be -'wasted".

#### **44. Rates for unauthorized use and waste of water.**

- (1) Cultivated land on which water has been used in an unauthorised manner shall be subject to the payment of water-rates; such rates are called "rates for unauthorised use".
- (2) Rates for unauthorised use shall be payable by the occupiers of the land concerned:
- Provided that, if such occupiers can prove to the satisfaction of a canal officer that the unauthorized use was due to the act or omission of another person, the canal officer may levy such rates, or a portion thereof, from such other person.
- (3) When water is used in an unauthorized manner otherwise than on cultivated land, the Executive Engineer may make an estimate of the volume of water used, and may determine the persons responsible for such use and the person who have been benefited thereby. Such water may be charged for at bulk rates to be prescribed from time to time by the State Government, and the charges shall be distributed among the persons responsible and the persons benefited by such use at the discretion of the Executive Engineer.
- (4) When water is wasted, the Executive Engineer may make an estimate of the volume of water wasted, and may determine the persons responsible for such wastage. Such water may be charged for at bulk rates to be prescribed from time to time by the State Government, and the charges shall be distributed among the persons responsible at the discretion of the Executive Engineer.
- (5) The levy of rates for unauthorized use or for waste shall not bar a prosecution for any offence connected with such use or waste.
- (6) No suit shall lie in a Civil Court contesting any decision made by a canal officer under this section or by the Collector on appeal from such decision.
- (7) Rules may be made under this Act regulating the procedure of canal officers in imposing liability for, and in assessing, canal revenue payable under this section.

#### **<sup>13</sup> [44-A. Discharged waste water to vest in State Government.**

- (1) All rights in the water discharged as waste water after its use for the purpose for which it was supplied under Section 40 shall vest in the Government.
- (2) The use of water by any person other than the one who discharges such water after use shall be subject to payment of water rate at such rates as may be prescribed and such water-rates shall be payable by the person utilising such waste water.

#### **44-B. Water-rate for utilization of drain out water from submerging tank.**

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<sup>13</sup> Ins. by M.P.Act No. 42 of 1973.

The permanent holders and occupiers of land situate outside the boundary of a submerging tank who utilise water discharged from the sluice and escapes of the said tank for purpose of cultivation shall be liable to pay water-rate at such rates as may be prescribed.]

## CHAPTER VI

### IRRIGATION AGREEMENTS

#### **<sup>14</sup>[45. Power to make irrigation agreements.**

(1) Agreements may be made, between the State Government and the permanent holders of land for the supply of water for irrigation either for a short term not exceeding one year or for a long term exceeding one year, at such rates as may be fixed by the State Government, from time to time :

Provided that, if the State Government considers it necessary so to do, short term agreement may also be made with occupiers of land.

(2) Agreements made in accordance with sub-section (1) are called "Irrigation Agreements" and the water rates payable thereunder are called "agreement rates".

(3) The State Government may divide the State into Zones for the purpose of short term agreements and long term agreements and may declare any area wheretbr no agreements shall be made.

(4) Agreements made this section shall be made in accordance with the provisions of this chapter and the rules made thereunder.]

#### **46. Scope of irrigation agreements.**

Irrigation agreements—

(a) shall be for the irrigation of one or more specified crops, which are called "crops under agreements";

(b) shall be made with the permanent holders of all irrigable land in a village, mahal or chak cultivated with the crops under agreement;

(c) when duly made in accordance with the provisions of this chapter, shall be binding, according to the terms of the agreement, on the permanent holders and occupiers of—

(i) all irrigable land in the village, mahal or chak under cultivation with the crops under agreement at the time from which the agreement has effect or at any time during two years prior thereto :

Provided that where a scheme of consolidation has been confirmed in respect of any land under the provisions of the Central Provinces Consolidation of Holdings Act, 1928, the irrigation agreements shall, from the year in which the permanent holders and occupiers, if any, are put into possession of the holdings—

(a) be binding on the permanent holders and occupiers, if any of all cultivable land newly received in exchange for land which has ceased to be under cultivation; and

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<sup>14</sup> Subs. by M.P. Act No. 42 of 1973.

- (b) ceased to be binding on the permanent holders and occupiers, if any, of all land which has ceased to be under cultivation;
- (ii) all land described in sub-clause (i), together with such land as may be cultivated with the crops under agreement at any time during the period of the agreement; land on the permanent holders and occupiers whereof an agreement is binding is called "land under agreement".

#### **47. Main incidents of irrigation agreements.**

In addition to any incidents applying generally to liability for payment, of water-rates, all irrigation agreements shall be subject to the following incidents, namely:

- <sup>15</sup>[(a) canal revenue payable thereunder shall be payable—
  - (i) if the case falls under clause (c)(i) of Section 46, for every year on all land under agreement, whether it has been sown or not and irrigated or not except under the situation where water could not be supplied for irrigation; and
  - (ii) if the case falls under clause (c)(ii) of Section 46, for any year on all land under agreement, which has been sown that year with any of the crops under agreement, whether it has been irrigated or not except under the situation where water could not be supplied for irrigation];
- (b) the canal revenue payable on any land for any year shall be collected from the occupier, or, on his default, from the permanent holder of such land;
- (c) at any time when the amount of water available is deficient, or when damage is anticipated to the canal if a full discharge of water is delivered, its supply may be regulated in such manner as the Executive Engineer may determine;
- (d) no claim shall arise against the Government for compensation for any loss arising from a failure or shortage in the supply of water for irrigation or from an excess of such supply : Provided that rules may be made under this Act providing for the remission of agreement rates where there has been a failure of crops or a failure to deliver water owing to a defect in the head-works or distribution system.

#### **48. Consent to agreement where land is in possession of sub- tenants.**

(1) Where the title of an occupier of irrigable land who is not the permanent holder thereof is such that it will lapse on or before the expiry of the agricultural year next following the date of an irrigation agreement applicable to such land, the consent of the permanent holder to such agreement shall be binding on such occupier in respect of such land.

(2) Where the title of an occupier of irrigable land, who is not the permanent holder thereof, is such that it will continue after the expiry of the agricultural year next following the date of an irrigation agreement applicable to such land, the consent of such occupier shall be necessary to the validity of the consent of the permanent holder.

#### **49. Consent to agreement where land is held jointly by proprietors.**

(1) Where land is held jointly by two or more co-sharers in the proprietary right of a village, the consent of the lambardar or lambardar-gumashta appointed for such land under Section

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<sup>15</sup> Subs. by M.P. Act No. 4 of 1990 (W.E.F. 6-2-1990).

187 of the <sup>16</sup>Central Provinces Land Revenue Act, 1917, shall be binding on every co-sharer in respect of such land if he has received notice of the proposed agreement and has failed, within a week from the receipt of notice, to lodge an objection in writing with the canal officer, taking the agreement.

(2) Notwithstanding anything contained in sub-section (1), when co-sharers holding not less than two-thirds of the interest in land held jointly by two or more co-sharers in the proprietary right of a village or mahal have given their consent to a proposed agreement in accordance with the provisions of this chapter, the consent of the co-sharers holding the remaining interest shall be deemed to have been given.

#### **50. Consent to agreement where land is held by non-resident proprietor.**

Where land is held by a proprietor of a village who does not reside in the village, the consent of the lambardar or lambardar-gumashta appointed for such land under Section 187 of the<sup>17</sup> Central Provinces Land Revenue Act, 1917, shall be binding on such proprietor in respect of such land if after receiving notice of the proposed agreement he fails within a week from the receipt of notice, to lodge an objection in writing with the canal officer taking the agreement.

#### **51. Special rule when all permanent holders do not consent.**

When either the permanent holder of not less than two-thirds of, or not less than 95 percent of the permanent holders of, all the irrigable land in a village, mahal or chak cultivated with crops under agreement have given their consent to a proposed irrigation agreement in accordance with the provisions of this chapter, the proposed agreement, if accepted by a Canal Deputy Collector or by an irrigation inspector specially authorized in this behalf by the Executive Engineer, shall be deemed to be an irrigation agreement binding on the permanent holders of all irrigable land in such village, mahal or chak cultivated with crops under agreement:

Provided that no agreement for a mahal or chak shall be accepted without the general or special consent of the State Government or of a canal officer specially authorized in this behalf by the State Government.

#### **52. No consent to be presumed without previous notice.**

(1) The provisions of Sections 49, 50 and 51 shall not apply unless a notice has been published in the village concerned by a canal officer that he proposes to take an irrigation agreement in that village.

(2) Such notice shall be pasted in writing in some prominent place in the village, and shall be proclaimed by beat of drum at least fourteen clear days before the agreement is finally made.

#### **53. Inclusion of wet land.**

The permanent holder of wet land which is commanded by a canal may apply to a canal officer to have his wet land included in an irrigation agreement relating to the village, mahal or chak in which such land is situated, and, if his application is granted, he shall be entitled to

<sup>16</sup> See now the M.P. Land Revenue Code (20 of 1959).

<sup>17</sup> See now the M.P. Land Revenue Code (20 of 1959).

the supply of water in accordance with the terms of such agreement, but with such deduction, if any, from the agreement rates as may be prescribed by rules made under this Act.

#### **54. Inclusion of land irrigated by lift.**

The permanent holder of land which is not commanded but is capable of being irrigated from a canal or water-course by means of any mechanical contrivance designed to lift the water therein, may apply to a canal officer to have such land included in an irrigation agreement, and, if his application is granted, he shall be entitled to the supply of water in accordance with the terms of such agreement, in so far as they may be applicable, but with such deduction, if any, from the agreement rates as may be prescribed by rules made under this -Act.

#### **55. Cancellation of agreement by mutual consent.**

- (1) An irrigation may be cancelled by mutual consent between the State Government and the permanent holders of not less than two-thirds of, or not less than 95 percent of the permanent holders of the land under agreement at the time of such cancellation.
- (2) The provisions of Sections 48, 49, 50, 51 and 52 shall apply to the cancellation of an irrigation agreement as if consent to the cancellation were consent to the making of such agreement.

#### **56. Cancellation of agreement for failure to maintain water-courses.**

- (1) The Superintending Engineer may, at any time, after giving notice, cancel an irrigation agreement if, in his opinion, the permanent holders and occupiers bound thereby persistently fail to maintain their water-courses in proper repair.
- (2) An order by the Superintending Engineer under this section shall be in writing, and shall be published in the village concerned by beat of drum.
- (3) Thereupon the irrigation agreement shall cease to have effect, and no suit shall lie in a Civil Court contesting the validity of the Superintending Engineer's order or making any claim whatsoever against the Government by reason of such cancellation.

#### **57. General power to cancel agreements.**

- (1) with the previous sanction of the State Government the Superintending Engineer may at any time cancel any irrigation agreement; and in such case the measure of damages in respect of any land under agreement shall be double the amount of the canal revenue which would have been payable in respect of such land for the remainder of the period of the agreement.
- (2) Rules may be made under this Act regulating the distribution among permanent holders and occupiers of the damages payable by the Government and regulating the procedure of canal officers in making such distribution.
- (3) When damages have been distributed and paid or rendered in accordance with the provisions of this section and the rules made thereunder, no suit shall lie in a Civil Court contesting the validity of the cancellation, or making any claim whatsoever against the Government by reasons of such cancellation.

#### **58. Power to make rules.**

In addition to any rules for which provision is made in this chapter, rules may be made under this Act—

- (a) prescribing the periods and the crops for which irrigation agreements may be made;
- (b) prescribing the forms of irrigation agreements, and providing for the inclusion therein of incidents and conditions in addition to but consistent with those contained in this Act; and
- (c) regulating the procedure of canal officer in carrying out their duties under this chapter.

<sup>18</sup> [CHAPTER VI-A  
BETTERMENT CONTRIBUTION

<sup>19</sup>[**58-A-58K. Definition of "New Canal" and "commanded area".**

For the

purposes of this chapter—

(a)the expression "new canal" means :

- (i)a canal, the construction of which has been undertaken on or after the 1st April, 1951; or
  - (ii)such existing canal, the improvement or extension of which has been undertaken on or after the said date; and the cost of construction or improvement or extension, as the case may be, whereof is 5 lakhs of rupees or more or which has an irrigable capacity of one thousand acres or more, and which has been notified as a new canal by the State Government;
- (b)"commanded area" in relation to a new canal means the area comprising of all land which may be irrigated from that canal by the flow of water under gravity and without the need of lifting or pumping the water :  
Provided that in relation to a new canal provided by improving or extending an existing canal, the area which was being irrigated already by such existing canal shall be deemed not to have been comprised in the commanded area.]

**58-B.** <sup>3</sup>[xxx]

<sup>4</sup> [**58-C Levy of betterment contribution.**

- (1) There shall be levied once on every permanent holder of land whose land is situated within the command area, the betterment contribution at such rate which shall be fixed from time to time by the State Government. The rates of betterment contribution shall be recommended by the Collector to the State Government after consultation with the Presidents of the Concerned water Users Association of the District. The rates of betterment contribution shall be applicable from such date as may be notified by the State Government:

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<sup>18</sup> Ins. by M.P.Act No. 23 of 1960.

<sup>19</sup> Subs. by M.P. Act No. 13 of 1968. Further 58A-58 K has been deleted by the Madhya Pradesh Irrigation (Amendment) Act, 2009 by [Act. No. 3 of 2010]

Provided that betterment contribution shall not be levied in respect of such part of the command area where irrigation facility is not received.

- (2) The betterment contribution levied under sub-section (1) shall be payable within three months from the said date.
- (3) If the betterment contribution remains unpaid on the expiry of the period under sub-section (2), it shall carry interest at the rate of twelve per centum with effect from the date on which such period expires.
- (4) If the State Government is satisfied that the levy of betterment contribution is likely to cause hardship to any permanent holder or class of such holders in any command area, the State Government may, by notification, exempt such holder or such class of holders in such area from payment of the amount of betterment contribution or suspend the recovery of betterment contribution in the whole or in part, as may be specified in the notification, subject to such terms and conditions, if any, as the State Government may deem fit to impose.

Explanation—For the purpose of sub-section (4), the levy of betterment contribution shall be deemed to cause hardship if the permanent holder who having already constructed private irrigation work prior to the commencement of the new canal on his land does not desire to avail of the irrigation facilities from such new canal.

Section 58-C as applicable to the State of Chhattisgarh:

#### **58-C. Levy of betterment contribution.—**

(1) As from such date as the State Government may, by notification, appoint, such date being not earlier than three years from the commencement of the operation of a new canal, there shall be levied on every permanent holder of land, whose land is situated within the commanded area, betterment contribution at the following rates—

- (a) Rs. 140 per acre, payable in one lump sum; or
- (b) Rs. 224 per acre payable consecutively for twenty years, excluding the years in which recovery thereof may be postponed by the State Government in accordance with Section 58-1, as under :—
  - (i)Rs. 8 per acre per year for the first five years;
  - (ii)Rs. 12 per acre per year for the next fourteen years;
  - (iii)Rs. 16 per acre from the twentieth year.

(2) The betterment contribution levied under sub-section (1) may, at the option of the permanent holder, be paid by him in one lump sum within three months from the date appointed under sub-section (1) or in twenty annual instalments, the first instalment being payable within two months from the date appointed under sub-section (1) and the subsequent annual instalments being payable within one month from the date on which they would fall due for payment in each subsequent years:

Provided that if the permanent holder who has undertaken to pay the betterment contribution in annual instalment desires, at any time after the payment of the first or subsequent instalment, to make payment in one lump sum, he shall be required to pay per acre in full the amount equal to the difference between Rs. 140 together with interest thereon calculated at the rate of 4.5 percent: per annum for the period from the

date appointed under sub-section (1) till the date of such payment in lump sum and the amount already paid by him by way of such instalments.

(3) Any instalment of betterment contribution or part thereof which remains unpaid on the expiry of the period under sub-section (2) shall with effect from the date of which such period expires, arry interest at the rate of 6 per cent per annum:

Provided that when the recovery of any instalment is postponed under Section 58-1, such instalments shall not be deemed to be remaining unpaid for the purpose of this sub-section during which the recovery thereof remains postponed.

(4) If the State Government is satisfied that the levy of betterment contribution is likely to cause hardship to any permanent holder or class of such holders in any commanded area, the State Government may, by notification, exempt such holder or such class of holders in such area from payment of the amount of betterment contribution in whole or in part, as may be specified in the notification, subject to such terms and conditions, if any, as the State Government may deem fit to impose.

*Explanation,—*For the purpose of sub-section (4), the levy of betterment contribution shall be deemed to cause hardship, if—

- (i) as a result of new canal, the price of land situated in a commanded area has not risen by more than fifty per centum over the prices prevailing prior to availability of irrigation facilities from such canal;
- (ii) the permanent holder who having already constructed private irrigation work, prior to the commencement of the new canal, on his land does not desire to avail of the irrigation facilities from such new canal.

#### **58-D. Notification of commanded area.**

Before the betterment contribution shall become recoverable under sub-section (1) of Section 58-C, the State Government or a revenue officer not below the rank of Sub-Divisional Officer authorized in this behalf by the State Government, shall issue a notification—

- (i) specifying therein the command area defining the boundaries thereof;
- (ii) appointing the place or places at which the particulars of holding of permanent holders whose lands are situated in the comma area specified in clause (i) can be seen; and
- (iii) appointing an officer not below the rank of a Sub-Divisional Officer (hereinafter referred to as the authorised officer), for enquiry in connection with levy of such betterment contribution;
- (iv) specifying a date not less than three months from the date of the publication of such notification and requiring every permanent holder in the said area who objects to the inclusion of any land within the command area or to the correctness of any particular regarding his holding to present to the authorised officer, a written objection on or before such date, stating the nature of his objection and the relief sought by him.]

Section 58-D as applicable to the State of Chhattisgarh.

#### **58-D. Notification of command area by State Government.**

Before appointing the date under sub-section (1) of Section 58-C from which betterment contribution shall be levied the State Government shall issue a notification—

- (i) specifying the commanded area defining the boundaries thereof;
- (ii) appointing the place or places at which the particulars of holding of permanent holders whose lands are situated in the commanded area specified in clause (i) can be seen;
- (iii) appointing a Revenue Officer not below the rank of a Sub-Divisional Officer (hereinafter referred to as the Authorised Officer) who shall enquire into and determine the amount of betterment contribution payable by each permanent holder; and
- (iv) specifying a date not less than three months from the date of the publication of such notification and requiring every permanent holder in the said area who objects to the inclusion of any land within the commanded area or to the correctness of any particulars regarding his holding to present to the Authorised Officer a written objection on or before such date, stating the nature of his objection and the relief sought by him.

**<sup>20</sup>[58-E. Proclamation by authorised officer.**

The authorised officer shall, as soon as may be, after the issue of the notification, cause to be published in the regional language of the commanded area a notice of the issue of such notification by beat of drum and also by affixing copies of the notice at conspicuous places in all villages in the commanded area specified in the notification issued under Section 58-D. Such notice shall also state the time and place at which the authorised officer shall enquire into the objections preferred under Section 58-D.

**<sup>21</sup>[58-F. Inquiry by authorised officer.**

The authorised officer shall, at the place stated in the notice under Section 58-E, make such enquiry into the objections preferred under Section 58-D, as may appear necessary and after giving an opportunity of being heard to the permanent holder preferring an objection within a period of one month from the issue of the notice under Section 58-E and pass such orders thereon as he may think fit.]

**<sup>22</sup>[58-G. Power of authorised officer.**

For the purposes of Section 58-F, the authorised officer shall exercise the powers conferred on a Revenue Officer of his grade and follow the procedure laid down, for the purpose in the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), and the rules made thereunder.]

<sup>20</sup> Subs. by M.P. Act No.13 of 1968

<sup>21</sup> Subs. by M.P. Act No.22 of 2002, Sec.2 (w.e.f. 28-11-2002). Prior to substitution it read as under:

“58-F. Inquiry by authorised Officer.- The authorised officer shall, at the place stated in the notice under Section 58-E, make such enquiry into the objections preferred under Section 58-E, make such enquiry into the objections preferred under Section 58-D, as may appear necessary and after giving an opportunity of being heard to the permanent holder preferring an objection, pass such orders thereon as he may think fit”.

<sup>22</sup> Subs. By M.P. Avt No. 13 of 1968

**<sup>23</sup>[58-H. Determination of betterment contribution payable by holders.**

(1) After the objections, if any, preferred under Section 58-D have been disposed of, the authorised officer shall make an order specifying—

- (a) the lands (with Khasra Nos and area) commanded by the new canal;
- (b) the betterment contribution payable by each permanent holder in respect of the land specified under (a) above.

(2) The order shall be notified in the prescribed manner, and a copy thereof shall be placed for public inspection at such place or places and for such time, as may be prescribed.

**<sup>24</sup>[58-HH. Appeal.**

An appeal shall lie against every order passed under Section 58-H to the authority competent to hear appeals under sub-section (1) of Section 44 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), from an officer of the same grade under the said Code and the provisions of sub-section (2) of the said section shall thereon apply accordingly:

Provided that no appeal shall be entertained unless—

- (i) in the case of first appeal, it is filed within 60 days from the date of the order appealed against; and
- (ii) in the case of second appeal, it is filed within 90 days from the date of the order appealed against.

Provided further that—

- (I) in computing the period aforesaid, the time requisite for obtaining a copy of the order appealed against shall be excluded; and
- II) the provisions of Section 5 of the Limitation Act, 1963 (No. 36 of 1963), shall apply to such appeals.

**58-HHH. Finality of award.**

Subject to the orders passed in appeal under Section 58-HH, the order made under Section 58-H shall be final.]

**58-1. Suspension of payment of instalment.**

When the total land revenue or rent, as the case may be, payable by the permanent holder in respect of any land for which he is liable to pay betterment contribution is suspended in any year, the State Government may, notwithstanding anything to the contrary contained in this chapter or rules made thereunder, postpone for such period as it thinks fit the recovery of any instalment of betterment contribution.

**<sup>25</sup>[58J. Betterment contribution to be recoverable as arrears of land revenue.**

(1) The betterment contribution under this chapter shall be payable to the Revenue Officers in the same manner as land revenue, and in default of payment, it shall be recoverable as arrears of land revenue.

<sup>23</sup> Subs. By M.P. Avt No. 13 of 1968

<sup>24</sup> Ins. By ibid.

<sup>25</sup> Subs. By M.P. Avt No. 13 of 1968

(2) The amount of betterment contribution realised shall be credited as State Revenue under such head as may be prescribed.]

**58-K. Power to make rules.**

Rules may be made for the purpose of carrying out the purposes of this chapter but in the absence of any rules so made the rules framed under Section 63 shall, so far as may be, apply in this behalf.]

<sup>26</sup>[**CHAPTER VI-B  
IRRIGATION CESS**

**58-L. Levy of irrigation cess.**

(l) In addition to the water rates or other charges or levy leviable under the provisions of this Act, there shall be levied in respect of land under irrigable command of a canal, a cess called the irrigation cess at such rates and for such period as may be fixed by the State Government by notification:

Provided that having regard to the potentiality of perennial or seasonal supply of water from a canal different rates may be fixed for different canals.

<sup>27</sup>[(2) The irrigation cess shall be payable by every permanent holder or occupier of land in the irrigable command of the canal excluding areas where water could not be provided for irrigation during that year.]

**58-M.** Subject to the rules made under this Act, the State Government may, by notification reduce or remit the whole or any part of the irrigation cess levied under Section 58-L.]

**CHAPTER VII  
COLLECTION OF CANAL REVENUE**

**59. Dates of payment of canal revenue.**

(1) Canal revenue payable under an irrigation agreement or for the supply of water on demand, or for the supply of water to supplement a village tank, or, for the supply of water to a compulsorily assessed area shall fall due on such dates as may be prescribed in this behalf by rules made under this Act.

(2) Canal revenue payable for the supply of water for industrial, urban or other purposes, not connected with agriculture, shall fall due on the dates specified in the agreement relating thereto.

(3) Canal revenue payable for the unauthorised use of, or for the waste of, water shall fall due on the date on which demand is made for the payment thereof.

**60. Definition of arrear.**

Any sum payable as canal revenue which remained unpaid on the day following the date on which it is due is an arrear , of canal revenue.

<sup>26</sup> Subs. By M.P. Avt No. 13 of 1968

<sup>27</sup> Subs. by M.P. Act No. 4 of 1990 (w.e.f. 6-2-1990)

### **61. Mode of recovery of arrears.**

Arrears of canal revenue shall be recoverable as arrears of land revenue.

### **62. Irrigation panchayats.**

<sup>28</sup>[(1) In accordance with the rules made under this Act, an Irrigation Panchayat shall be established for every village, or chak, and at the discretion of the Collector, for a group of villages in the commanded area of the canal. Such Panchayats shall consist of a Sarpanch and two or more members elected by the permanent holders and occupiers of the land from among themselves. Such election shall be subject to the approval of the Collector, who shall have power to nominate one member to any Panchayat, and, for reasons to be recorded in writing, to dismiss any member and to dissolve any Panchayat subject to an appeal to the Commission.]

(2) Irrigation Panchayats shall—

- <sup>29</sup>[(a) xxx];
- (b) assist the officer of the Irrigation Department in detecting, and preventing encroachments on canal lands, prevent damage to irrigation works, and report any wilful damage caused to irrigation works;
- (c) assist the officers of the Irrigation Department in arranging for the construction of water-courses, in recording and checking irrigation, and in making measurements and settling disputes;
- (d) collect irrigation revenue and remit it to the treasury; and
- (e) arrange for the repair of water courses.

<sup>30</sup>[(3) Irrigation Panchayat shall have power to accept from any person against whom a reasonable suspicion exists that he has committed an offence specified in rules made under this Act, a sum not exceeding fifty rupees for composition of such offence.]

(4) Money collected by a Panchayat under sub-section (3) shall be expended by the Panchayat, subject to the control of the Collector on any work of public utility in the village.

(5) A member of such Panchayat shall be deemed to be a public servant for the purposes of the Indian Penal Code.

### **63. Power to make rules for assessment and collection.**

Rules may be made under this Act regulating the procedure of canal officers and canal subordinates in assessing canal revenue and in applying to the revenue officers for the collection of arrears of canal revenue and the procedure of revenue officers in collecting canal revenue.

### **64. Mode of recovery of miscellaneous revenue.**

All sums due to the Government for the right to cut grass, to graze cattle, to fish, to cultivate land, or to do other acts on land or in water under the charge of the Irrigation Department shall be recoverable as arrears of land revenue.

<sup>28</sup> Ins. by M.P. Act No. 42 of 1973.

<sup>29</sup> Omitted by A.O. 1957.

<sup>30</sup> Subs. by M.P. Act No. 42 of 1973.

**CHAPTER VIII**  
**CONSTRUCTION AND MAINTENANCE OF WATER-COURSES**

**65. Power to make water-course contracts.**

Contracts may be made in accordance with the provisions of this chapter whereby Government undertakes to construct water-courses and to bear the cost of construction and the permanent holders of irrigable land undertake to maintain them and to bear the cost of maintenance. Such contracts are called "water-course contracts".

**66. Scope of water-course contracts.**

Water-course contracts—

- (a) shall relate to the construction of water-courses for the irrigation of all irrigable land in a village, mahal or chak cultivated with one or more specified crops; and
- (b) shall be made with the permanent, holders of all such land in a village, mahal or chak:

Provided that, when not less than one-half of such permanent holders, holding not less than two-thirds of all such land, have given their consent to a water-course contract in accordance with the provisions of this chapter, the proposed contract, if accepted by Government, shall be deemed to be a water-course contract made with the permanent holders of all irrigable land in the village, mahal or chak cultivated with such crop or crops.

**67. Consent in certain cases.**

The provisions of Sections 48, 49, 50 and 52 shall apply to water-course contracts as if such contracts had been irrigation agreements.

**68. Water-courses to the property of Government.**

Water-courses constructed under a water-course contract shall be the property of the Government.

**68-A. Constructions of water-courses for irrigating compulsorily assessed area.**

Water-courses may be constructed by the State Government for the irrigation of a compulsorily assessed area. Such water-courses shall be the property of the Government, but they shall be maintained by the permanent holders of land comprised in the compulsorily assessed area for the irrigation of which they are constructed and by such other permanent holders as may actually make use of them for irrigation purposes.

**68-B. Construction of water-courses for irrigating any chak.**

(1) Where, in a chak not less than half a mile long or 80 acres in area, the State Government considers it expedient to construct water-courses, it may, notwithstanding anything in Section 66, construct such water-courses for such chak.

(2) Water-courses constructed under sub-section (1) shall be the property of the Government, but they shall be maintained by the permanent holders of the chak for the irrigation of which

such water-courses are constructed and by such other permanent holders as may actually make use of them for irrigation purposes.

#### **69. Irrigation panchayat to be responsible for maintenance of watercourses.**

Subject to the provisions of Section 68-A or Section 68-B the Irrigation Panchayat shall, in accordance with the rules made under this Act, be responsible for the proper maintenance of all water-courses constructed for that village and may call upon the permanent holders and occupiers of all land whether under an agreement or within a compulsorily assessed area which is ordinarily irrigated or may be irrigated through a water-course to render assistance in maintaining it, and in case of default to pay such sums as may be assessed by the Executive Engineer.

#### **70. Power to construct water-courses at cost of permanent holders.**

- (1) Notwithstanding anything contained in the foregoing provisions of this chapter, the State Government may, subject to rules made under this Act, enter into a contract with one or more of the permanent holders of irrigable land in a village, mahal or chak whereby the State Government undertakes to construct water-courses and the permanent holders undertake to bear the cost of construction and maintenance.
- (2) When land not held by a permanent holder bound by such contract is required for the construction of a water-course it shall be deemed to be required for a public purpose and shall be acquired in accordance with the provisions of the Land Acquisition Act, 1894.

#### **71. Water-courses to be an improvement-**

- (1) A water-course constructed under Section 68A or Section 68-B or 70 shall be deemed to be an improvement affecting all the land for whose irrigation the water-course was constructed, within the meaning of clause (5) of Section 2 of the Central Provinces Tenancy Act, 1920.
- (2) When any village servant, who has entered into a water-course contract in respect of any land in his village service holding, acquires the right of an occupancy tenant under the provisions of Section 48 of the Central Provinces Tenancy Act, 1920, he shall be deemed to have held the rights of an occupancy tenant under Section 52 of the said Act at the time he entered into the contract.

#### **72. Power to require raiyats in raiyatwari village to maintain course.**

Where the State Government has constructed water-courses in a raiyatwari village, it may require raiyats holding irrigable land in that village to maintain such water-courses when, in the opinion of the State Government, such raiyats are in a position to do so.

#### **73. Power to have water-courses repaired.**

If at any time Executive Engineer considers that a water-course, which has been constructed under agreement or under Section 68-A or Section 68-B or which the raiyats in raiyatwari village have been required to maintain, is not in proper repair :

- (a) he may, by public proclamation in the village, require that the -repairs be made to his satisfaction on or before a specified date; and

(b) if the repairs are not made to his satisfaction by such date, he may stop the supply of water to the water-course; or

(c) he may cause the repairs to be made and may collect a sum not exceeding twice the cost thereof from the permanent holders or occupiers in proportion to the areas held by them in the land which is ordinarily irrigated or may be irrigated under an agreement through such water-course :

Provided that where a village, mahal or chak has ceased to be under an agreement or any area has ceased to be compulsorily assessed to water-rate, the State Government shall not require the maintenance of water-courses therein until such village, mahal or chak again comes under agreement or such area is again compulsorily assessed.

#### **74. Recovery of sums due to State Government.**

All sums recoverable by the State Government under any of the provisions of this chapter or recoverable by irrigation panchayats under Section 69 may be recovered as arrears of land revenue.

#### **75. Power to make rules.**

Rules may be made under this Act—

- (a) prescribing the forms of water-course contracts;
- (b) regulating the procedure of canal officers in discharging their duties under this chapter;
- (bb) determining under Section 68-B the liability of permanent holders and the manner in which it shall be discharged;
- (c) prescribing the liabilities of permanent holders and occupiers of land under Section 69;
- (d) prescribing the circumstances in which the assessment in a compulsorily assessed area may be cancelled.

### <sup>31</sup>[CHAPTER VIII-A CONSTRUCTION AND MAINTENANCE OF FIELD CHANNELS

#### **75-A. Power to apply provisions of this chapter.**

The provisions of this chapter shall apply to such area and from such date as the State Government may, by notification, appoint and different dates may be appointed for different areas.

#### **75-B. Power to require permanent holders and occupiers to construct or dig field channels.**

(1) If the Executive Engineer considers it expedient or necessary in the interest of the general public that any permanent holder or occupier of irrigable land in a chak should construct or dig a field channel either singly or jointly with other holders or occupiers of such land, he may by a notice, call upon the permanent holders or occupiers concerned to show cause by a

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<sup>31</sup> Ins. by M.P. Act No. 23 of 1960. (w.e.f. 1-7-1962)

date not earlier than three weeks after the date of the issue of the notice to be specified therein as to why they should not be required to undertake the work specified in the notice.

(2) The notice under sub-section (1) shall state the place where the plans and specifications of the work as approved by the Executive Engineer may be inspected and shall be in such form as may be prescribed.

(3) Any permanent holder or occupier on whom a notice is served under sub-section (1), may—

- (i) prefer an objection in writing before the date specified in the notice;
- (ii) if he desires to be heard in person, appear before the Executive Engineer on such date;
- (iii) state, whether he would execute the work himself or would prefer it to be executed at his cost by the State Government.

(4) The Executive Engineer shall, after considering the objections that may be received, hearing the persons as may appear before him, and such further enquiry as he may deem necessary, pass orders specifying therein:

- (i) the nature of the work to be undertaken;
- (ii) the names of the permanent holders or occupiers required to undertake the work;
- (iii) the period within which the work should be completed:

Provided that where not less than half of the permanent holders and occupiers on whom a notice is served under sub-section (1) have expressed their willingness for the work being undertaken at their cost by the State Government, the Executive Engineer may undertake the work and if so, the order shall state accordingly.

(5) A copy of the order under sub-section (4) shall be served upon every permanent holder or occupier to whom it relates and shall be published in such other manner as the Executive Engineer may deem fit.

(6) Any person aggrieved by the order of the Executive Engineer may prefer an appeal to the Collector within 30 days from the date of the order and the provisions of sub-section (4) and (6) of Section 23 shall apply to such appeals. Subject to the decision in the appeal, the order of the Executive Engineer under sub-section (4) shall be final.

(7) No appeal under sub-section (6) shall require to be stamped.

#### **75-C. Apportionment and recovery of expenses where work undertaken by Executive Engineer.**

Where the work is undertaken by the Executive Engineer in pursuance of the proviso to sub-section (4) of Section 75-B he shall apportion and recover the expenses incurred in the execution of the work in the manner laid down in sub-section (4) of Section 75-D.

#### **75-D. Permanent holder or occupier to comply with the order of Executive Engineer.**

(1) Unless the Executive Engineer has, in pursuance of the proviso to sub-section (4) of Section 75-B, undertaken to execute the work, every permanent holder or occupier who is required to undertake the work under the said sub-section shall, subject to orders of the Collector in appeal, if any, undertake and complete the work in accordance with the order as passed by the Executive Engineer.

(2) If out of the permanent holders or occupiers named in the order, the work is undertaken and completed by some of them they shall on completion of the same report the matter to the Executive Engineer stating therein the total expenses incurred in the execution of the work and the contribution of each towards the expenses so incurred.

(3) On receipt of the report under sub-section (2), the Executive Engineer shall, in the prescribed manner, apportion the expenses amongst the persons named in the final order under Section 75-B with due regard to the benefit likely to be derived by each of them from the work. If any person fails to pay his contribution towards the expenses as determined by the Executive Engineer, within the time specified in the order, the amount of such contribution shall be recoverable from him as an arrear of canal revenue. The amount so recovered shall be distributed amongst the persons to whom it is due.

(4) If the work is not undertaken or is not completed within the period specified for the completion of such work or is not executed in accordance with the approved plans and specifications, the Executive Engineer may cause the work to be undertaken, completed or properly executed at the expense of the permanent holders or occupiers concerned, and where two or more persons were required so to undertake the work, shall apportion the expenses incurred in doing so among such persons, in such manner as may be prescribed with due regard to the benefit which each of them is likely to derive from the work. If any person fails to pay his contribution towards the expenses as determined by the Executive Engineer within the time specified in the order, the amount of such contribution shall be recoverable from him as an arrear of canal revenue.

#### **75-E. Maintenance of field channels.**

(1) Every permanent holder and occupier of land receiving supply of water from a field channel constructed in accordance with the provisions of this chapter shall—

- (i) maintain it in a fit state of repairs;
- (ii) allow the use of it to any person entitled to take water therefrom;
- (iii) construct and maintain all works necessary for the passage across such field channel and for affording proper communications across it for the convenience of the permanent holders and occupiers of the neighbouring land.

(2) If the Executive Engineer finds that any field channel is not maintained in a fit state of repairs or any work required to be constructed or maintained under clause (iii) of sub-section (1) is not so constructed or maintained, he may, after such notice as may be prescribed to the permanent holder and occupier concerned, cause the field channel to be repaired or other works to be constructed or maintained at the cost of such permanent holder and occupier.

(3) The expenses incurred by the Executive Engineer under sub-section (2) shall be recoverable as an arrear of canal revenue from the permanent holders or occupiers required to construct or dig field channel under Section 75-B in such proportion as the Executive Engineer may determine, in accordance with rules framed under this chapter.

#### **75-F. Obstruction or interference with water flowing in field channel prohibited in certain cases.**

(1) No person shall, except in accordance with such rules as may be prescribed, do anything which obstructs or interferes or is likely to obstruct or interfere with the flow of water in any field channel.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

#### **75-G. Bar of suits and proceedings.**

(1) No suit or other legal proceedings shall lie against the Government, at the instance of any person—

- (a) in respect of any act done or purporting to be done under this chapter: or
- (b) on the ground that any field channel interferes or is likely to interfere with his rights in any manner.

(2) No suit, prosecution or other legal proceedings shall lie against any officer or servant of the Government for anything which is in good faith done or intended to be done in pursuance of the provisions of this chapter or any rule made thereunder.

#### **75-H. Power to make rules.**

The Government may make rules to carry out the purposes of this chapter.]

### **CHAPTER IX CONSTRUCTION AND MAINTENANCE OF PRIVATE IRRIGATION WORKS**

#### **76. Power to make grants or loans for construction of private irrigation works.**

Subject to rules made under this Act, the State Government may make a grant or loan of money to a permanent holder towards the cost of the construction or improvement of a private irrigation work.

#### **76-A. Grant of permission to permanent holder to construct dam, etc., in any river, natural stream, etc.**

(1) Any permanent holder desiring to construct a dam or any other work of a similar nature in any river, natural stream, natural drainage channel, lake or other natural collection of water as part of a private irrigation work or a grant-in-aid irrigation work, may apply in writing in the prescribed form to the State Government through the Collector for permission to construct such dam or work.

(2) If, after making such inquiry as the Collector thinks fit, he is satisfied that the application is in order, he shall cause public notice of such application to be given at convenient places in the village and to be published in such newspapers as he considers necessary.

(3) Such notice shall state the prescribed particulars and shall require all persons having interest in such waters to appear personally or by agent before the Collector at any time and place therein mentioned (such time not being earlier than thirty days after the date of publication of notice), and to state the nature of the respective interests in the water in respect of which permission is sought and objections, if any. The Collector may in any case, require such statements to be made in writing and signed by the party or his agent.

(4) On the day so fixed, or on any other day to which the inquiry may be adjourned, the Collector shall enquire into the respective interests of the persons who appear before him and the objections made to the grant of permission, if any.

(5) After completing such inquiry, the Collector shall forward to the State Government the application together with the papers of the inquiry and his report. The State Government may, thereupon, either refuse the application or grant the necessary permission in the prescribed form subject to such conditions, as it may deem fit, including the condition, where necessary, regarding payment to the person who in the opinion of the State Government is entitled to it, for the water likely to be appropriated by the permanent holder at a rate not exceeding the rate which the permanent holder would have been required to pay if the same quantity of water had in similar circumstances been given to the permanent holder from any canal maintained by Government.

(6) The decision of the State Government, granting or refusing such application or imposing conditions including the condition regarding the rate at which payment for water likely to be appropriated by the permanent holder is to be made shall be final and conclusive.

(7) Where the State Government decides to impose a condition regarding payment for the water likely to be appropriated by the permanent holder, the payment of the amount fixed under such condition to the person declared by the State Government to be entitled to it shall be a full discharge of the State Government and the permanent holder from all liability in respect of such payment, but shall not prejudice any rights in respect of the right to receive such payment to which any other person may be entitled by due process of law to enforce against the person to whom payment is made as aforesaid.

(8) Any sum payable under any condition attached to the permission under this section which remains unpaid on the day following the date fixed in that behalf shall be recoverable as arrears of land revenue.

(9) No claim for compensation shall lie against the Government in respect of anything done by the State Government under this section and no claim for compensation shall lie against the permanent holder in respect of any action taken in accordance with the permission received by him except as provided in sub-section (5) of Section 90.

### **77. Power to enforce maintenance of grant-in-aid irrigation works.**

Where any grant-in-aid irrigation work has been constructed or improved by or on behalf of a permanent holder he and his representative-in-interest shall, in accordance with rules made under this Act, keep such work fit for the purpose for which it was constructed or improved. If such work is at any time or in any manner rendered unfit or appears likely to be rendered unfit for such purpose, the permanent holder or his representative-in-interest shall at once report the matter to the Executive Engineer and shall carry out such repairs as the Collector on consideration of the Executive Engineer's report may prescribe. If the permanent holder or his representative-in-interest fails to make such a report or to comply with the Collector's order within such time as the Collector may specify, the grant received from the State Government for that work may be recovered from the permanent holder or his representatives-in-interest in such instalments and with such interest as may have been agreed upon between the permanent holder and the State Government at the time when such grant was received by him.

Any sum due which remains unpaid after the date fixed for its repayment shall be recoverable as an arrear of land revenue.

**78. Applications for acquisition of land for grant-in-aid irrigation works.**

Any permanent holder who desires to construct a private irrigation work, towards the construction of which the State Government has sanctioned a grant or loan of money, and to acquire for such purpose the land of another may apply in writing to the State Government through the Collector stating—

- (a) that he has endeavoured unsuccessfully to acquire the land; and
- (b) that he desires the Collector on his behalf and at his cost, to acquire the land for him under this Act.

**79. Demarcation of land required for grant-in-aid irrigation works and estimate of cost.**

If the Collector, after making such inquiry as may be [ prescribed by rules under this Act, considers that the application should be granted, he shall require the applicant to deposit within such time as the Collector may specify, the estimated cost of the demarcation of the land, which in his opinion it will be necessary to occupy for the construction of the work, and, when such deposit has been made, the Collector shall proceed to demarcate such land and frame a preliminary estimate of the cost of acquiring it under this Act.

(2) If such deposit is not made within the specified time the Collector may dismiss the application.

**80 Power of State Government to direct acquisition of land for grant-in-aid irrigation works.**

The Collector shall report the result of his inquiry to the State Government which may, on receipt of such report either refuse the application or direct that the land demarcated be acquired by the Collector.

**81. Acquisition of land for grant-in-aid irrigation works.**

If the State Government directs acquisition of the land, the Collector shall proceed to acquire the land under the Land Acquisition Act, 1894, as if the State Government had directed the Collector to take order for the acquisition of the land under Section 7 of that Act.

**82. Applications for acquisition of land for private irrigation works.**

Any permanent holder who desires to construct a private irrigation work for which no grant or loan has been sanctioned by the State Government and to acquire for such purpose the land of another person may apply in writing to the State Government through the Collector stating—

- (a) that he has endeavoured unsuccessfully to acquire the land;
- (b) that he desire the Collector on his behalf and at his cost, to acquire the land for him under this Act;
- (c) that he is willing and in a position to deposit, when so required all costs involved in the acquisition of the land; and
- (d) that he is in a position to meet the cost of construction of the work he desires to undertake.

**83. Inquiry to be made by Collector.**

(1) The Collector shall, thereupon, fix a date (of which the person to whom the land belongs shall receive not less than a month's notice) for holding an inquiry and shall publish a notice for the application and the date fixed for the inquiry in the village or villages concerned.

(2) At such inquiry the Collector shall determine :—

- (a) whether the proposed improvement is of sufficient importance to justify action under this Act;
- (b) whether the most suitable situation or alignment for the proposed work necessitates the acquisition of the land;
- (c) whether the execution of the work is likely to cause damage to land belonging to other permanent holders, and whether any such land should be acquired;
- (d) whether the statements in the application mentioned in Section 82 are true; and
- (e) generally, whether the application should be granted.

**84. Demarcation of land required for private irrigation works and estimate of cost.**

(1) If the Collector considers that the application should be granted he shall require the applicant to deposit within such time as the Collector may specify, the estimated cost of demarcation of the land which in his opinion it will be necessary to occupy for the construction of the work, and, when such deposit has been made, the Collector shall proceed to demarcate such land and frame a preliminary estimate of the cost of acquiring it under this Act.

(2) If such deposit is not made within the specified time the Collector may dismiss the application.

**85. Power of State Government to direct acquisition of land for private irrigation works.**

The Collector shall report the result of his inquiry to the State Government which may on receipt of such report either refuse the application or direct that the land demarcated be acquired by the Collector.

**86. Acquisition of land for private irrigation works.**

(1) When the State Government directs acquisition of the land, the Collector shall require the applicant to deposit, within such time as the Collector may specify, the cost of acquisition as estimated under Section 82, and when such deposit has been made, shall proceed to acquire the land under the Land Acquisition Act, 1894, as if the State Government had directed the Collector to take order for the acquisition of the land under Section 7 of that Act.

(2) If such deposit is not made within the specified time the Collector may, if he thinks fit, take no further proceedings.

**87. Conditions of delivery of occupation to applicant.**

(1) If the final cost of acquisition is less than the amount deposited by the applicant under Section 86, the balance shall be returned to him, but if it is greater, he shall be required to deposit the deficit within a time to be specified by the Collector. If the applicant fails to do so the Collector shall quash all proceedings hitherto taken and return the amount deposited under

Section 86 after deducting a tenth part thereof or the actual expenditure already incurred, whichever is greater.

(2) When the final cost of acquisition does not exceed the amount deposited by the applicant under Section 86, or when the deficit in the said amount has been duly deposited by the applicant under sub-section (1), he shall be placed in occupation of the land acquired.

(3) Thereafter the applicant and his representative-in-interest shall construct and maintain, to the satisfaction of the Collector all works which in the opinion of the Collector are required for the passage of water or traffic across the aforesaid land of water-courses existing previous to the construction of the work for which such land was acquired, and of drainage intercepted by such work, and for affording proper communications across it for the convenience of the neighbouring lands.

### **88. Delegation of powers by State Government.**

The State Government may delegate any of its powers under this chapter to the Commissioner, in which case references to the State Government shall be construed, as ; references to the Commissioner.

### **89. Result of applicant's failure to construct work or comply with conditions.**

(1) If an applicant or his representative-in-interest fails—

- (a) to construct the work for the purpose for which the land has been acquired under this Act; or
- (b) to construct and maintain the necessary works in accordance with the conditions stated in sub-section (3) of Section 87 to the satisfaction of the Collector; within a time to be specified by the Collector within such or further time as the Collector may from time to time allow,, the person who owned the land at the date of acquisition or his representative-in-interest may, within one year of expiry of the period mentioned above, claim in the Court of the Collector the return of the land on payment of the compensation paid to him after deduction therefrom of the amount paid under sub-section (2) of Section 23 of the Land Acquisition Act, 1894, and any other sum which may be awarded by the Collector for depreciation in the value of the land subsequent to acquisition.

(2) An order of the Collector for the return of the land shall operate to re-vest the land in the person to whom it belonged before the acquisition or in his representative-in-interest, as the case may be, subject to all the rights of other person existing at the time of acquisition.

### **<sup>32</sup>[89-A. Application of the right of supply through an existing private water-course.**

(1) Any permanent holder of irrigable or wet land desiring to have the right of supply of water through a private water-course of another person passing through or by the side of or within easy reach of such land may apply to the Collector.

(2) If the applicant undertakes to defray all costs involved in acquiring such right and to share the expenses made by the owner in the construction of the water-course, the Collector shall serve a notice on the owner to show cause why the right should not be granted.

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<sup>32</sup> Ins. by M.P. Act No. 23 of 1958.

(3) If the owner of the water-course raises no objection, the Collector may declare the applicant to be the joint holder of the water-course on such conditions as to the payment of cost, compensation or otherwise as may appear to him equitable.

#### **89-B. Construction of a private water-course.**

- (1) Subject to rules made under the Act, a permanent holder of irrigable or wet land in a village or chak may construct on his land a private water-course.
- (2) Every permanent holder desiring to construct a private water-course shall, before undertaking the construction thereof, make an application in writing to the Executive Engineer clearly disclosing therein the details of the proposed water-course including its alignment, the land which is sought to be irrigated and such other particulars as may be prescribed.
- (3) On receipt of the application, the Executive Engineer shall, after making or causing to be made such enquiry, as he deems fit, lay down the specification for the construction of the private water-course and give such other directions in relation thereto as he may consider necessary.
- (4) Every private water-course shall be constructed in accordance with the specifications and directions given under sub-section (3).
- (5) No private water-course shall be used for the supply of water from a canal for irrigation purposes unless it has been constructed in accordance with the specifications and directions given under sub-section (3).

#### **89-C. Occasional supply of water through private water-course.—**

- (1) Any permanent holder or occupier in a wet or irrigable area may apply to the Executive Engineer for supply of water from a canal.
- (2) If it appears expedient that such supply should be given and that it should be conveyed through an existing private water-course, the Executive Engineer shall give notice to the owner of the water-course to show cause on a day not more than 14 days from the date of such notice why the said supply should not be so conveyed.
- (3) On the day fixed, the Executive Engineer shall after hearing the owner if present and making such enquiry, as he thinks fit, determine whether and on what conditions the said supply should be conveyed through the water-course.
- (4) Any person aggrieved by the decision of the Executive Engineer under sub-section (3), may, before the expiry of thirty days from such decision, prefer an appeal to the Superintending Engineer and subject to the result of such appeal, if any, the decision of the Executive Engineer shall be final.
- (5) Such applicant shall not be entitled to use the water-course until he has paid the cost of any alteration of the water-course required for making the supply available through it and such charges for use of the water-course as the Executive Engineer may determine.
- (6) The applicant shall also be liable to maintain the water-course so long as he uses it.

#### **89-D. Obligation of person owning or using private water-course.**

- (1) Every permanent holder owning or using private water-course, shall—

- (a) construct and maintain to the satisfaction of the Executive Engineer all works which, in the opinion of the Executive Engineer, are required for the passage of water or traffic across the aforesaid private water-course or of water-course existing previous to its construction and of drainage intercepted by such private water-course, and for affording proper communication across it for the convenience of the neighbouring lands;
  - (b) maintain the water-course in proper repair so long as it is an area under an agreement or in a compulsorily assessed area;
  - (c) allow its use in the manner and to the extent provided by Section 89-C.
- (2) If at any time the Executive Engineer considers in respect of a water-course referred to in sub-section (1) that the works mentioned in clause (a) of that sub-section have not been constructed or maintained or that the water-course is not in proper repair as required by clause (b) thereof—
- (a) he may, by a notice served upon the persons liable under . sub-section (1) require that the construction or repairs be made to his satisfaction on or before a specified date; and;
  - (b) if the construction or repairs are not made to his satisfaction by such date he may stop the supply of water to the water-course; or
  - (c) he may cause the construction and repairs to be made and may collect a sum not exceeding twice the cost thereof from the permanent holders owning or using the water-course in proportion to the areas held by them in the land which is ordinarily irrigated through the water-course.

#### **89-E. Application of Sections 89-A to 89-D.**

Provisions of Section 89-A, 89-B, 89-C and 89-D shall, in the first instance, apply to the Madhya Bharat and the Vindhya Pradesh regions, and the State Government may, from time to time, by notification extend their application to such other areas as it may deem fit.]

#### **90. Compensation for damage.**

- (1) No claim for compensation shall be against any permanent holder for any damage arising from—
- (a) the stoppage or diminution of the percolation or flow of water; or
  - (b) the deterioration of climate or soil; or
  - (c) the stoppage of navigation, or of the means of drifting timber or water cattle:
- Provided that compensation shall be payable where, as a result of the construction of a private irrigation work:
- (i) the rent or revenue of any land has been reduced; or
  - (ii) the supply of water to or from a tank or other constructed work has been diminished.
- (2) Claims under this section may be enforced by application made to the Collector within one year from the reduction of the rent or revenue, or from the diminution of the supply.

(3) Any person aggrieved by the decision of the Collector under sub-section (2) may, within six months from the date of such decision, institute a suit in a Civil Court to have such decision set-aside or modified.

### **91. Power to make rules.**

In addition to any rules for which provision is made in this chapter, rules may be made under this Act prescribing—

- (a) the conditions on which grants or loans of money may be made under Section 76;
- (b) the manner in which Government may enforce the proper construction and maintenance of grant-in-aid irrigation works;
- (c) the circumstances in which applications under Sections 78 or 80 may be granted; and
- (d) the procedure in any inquiry or proceeding under this chapter.

## **<sup>33</sup>[CHAPTER IX-A REQUISITIONING OF TANKS ETC.]**

### **91-A. Commencement of chapter.**

This chapter shall be deemed to have come into force on the 27th February, 1948 and shall remain in operation for a period of <sup>34</sup>[ten years from that date.]

### **91-B. Requisitioning of tanks, etc.**

(1) Whenever it appears to the State Government that it is necessary so to do for the purpose of providing better facilities for irrigation of land in the proximity of any tank not being the property of the Government, it may, by order published in the Gazette, requisition such tank and any canal or water-course or other construction connected therewith. Every such order shall contain sufficient particulars of the property to be requisitioned.

(2) From the date of the publication of the said order such property shall be at the disposal of the State Government. The State Government may thereafter use such property as a canal system from such date as may be notified.

(3) The State Government may declare any part of land commanded by the tank comprised in the requisitioned property as a compulsorily assessed area in the manner provided in Section 12-A and thereupon all provisions of this Act applicable to compulsorily assessed area shall apply to all such lands :

Provided that no water-rate shall be payable by the owner of the tank in respect of any parcel of land of which he is a permanent holder and which was being irrigated from the tank on the 27th February, 1948.

### **91-C. Payment of compensation.**

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<sup>33</sup> Ins. by C.P. and Berar Act No. 19 of 1948.

<sup>34</sup> Subs. by Act No. 1 of 1953.

(1) Whenever in pursuance of sub-section (1) of Section 91-B any property is requisitioned, there shall be paid compensation determined in the manner and in accordance with the principles hereinafter set out, that is to say

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
  - (b) where no such agreement can be reached, the State Government shall appoint as arbitrator the District Judge or the Additional District Judge or any Civil Judge having jurisdiction over the area in which the requisitioned property is situate;
  - (c) no compensation shall be payable to any person other than a person who, in the opinion of the State Government or the arbitrator owns or has an interest in the tank requisitioned;
  - (d) during the period the tank remains under requisition, the amount of compensation payable annually on the person owning or having an interest in such tank shall not exceed the average annual income of such person during the three years immediately preceding the requisition calculated after deducting the expenditure incurred on the maintenance of such tank from
    - (i) irrigation dues;
    - (ii) use of the tank for growing singhara, fishing or any other purpose of like nature whether by the person aforesaid himself or his lessee;
    - (iii) sale of grass from the embankment of the tank.
- (2) The decision of the arbitrator in an arbitration proceeding under this section shall be final and conclusive and save as provided in this section nothing in any law for the time being in force shall apply to an arbitration under this section.
- (3) The payment of compensation under this section to the person, who in the opinion of the State Government or the arbitrator, as the case may be, owns or has an interest in the tank requisitioned shall be a full discharge of the State Government from all habihty in respect of such compensation, but shall not prejudice any rights in respect of the said tank to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

#### **91-D. Preparation of list of all land commanded by a tank.**

- (1) There shall be prepared a list of all land commanded by a tank requisitioned under sub-section (1) of Section 91-B as soon after its requisition as possible.
- (2) Every such list shall show the name of the occupier of each parcel of land and whether water was being given to him for the irrigation of his land from the requisitioned tank and the water-rate paid by him, if any, to the owner of the tank.
- (3) Every such list shall be published in the manner laid down by rule made under this chapter and thereupon such list shall be conclusive record of the facts stated therein.

#### **91-E. Release from requisition.**

- (1) Where any requisitioned property is to be released from the requisition, the State Government may, after making such inquiry, if any, as may be considered necessary, specify by order in writing the person to whom possession of the property shall be given.

- (2) The delivery of possession of the property as aforesaid to the person specified in an order made under sub-section (1) shall be a full discharge of the State Government from all liability in respect of such delivery but shall not prejudice any rights in respect of the property to which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered.
- (3) Where the person to whom possession of any requisitioned property is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the property and publish the notice in the Gazette.
- (4) When a notice referred to in sub-section (3) is published in the Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

#### **91-F. Power to acquire requisitioned property.**

- (1) Subject to the provisions of sub-section (3) the State Government may at any time when any requisitioned property continues to be subject to requisition under sub-section (1) of Section 91-B acquire such property by publishing in the Gazette a notice to the effect that the Government has decided to acquire such property in pursuance of this section.
- (2) When a notice as aforesaid is published in the Gazette the requisitioned property shall on and from the beginning of the day on which the notice is so published vest absolutely in the State Government free from all encumbrances and the period of requisition of such property shall end.
- (3) No requisitioned property shall be acquired under the section except in the following circumstances, namely:
- (a) where any canals, water-courses or other works connected with such tank have during the period of requisition been constructed wholly or partly at the expenses of the State Government and the State Government decides that the value of, or the right to use, such canals, water-courses or works should be preserved or secured for the purposes of the State Government or the owner declines to reimburse the State Government the expenditure incurred on the construction of such canals, water-courses or works or any improvement made to the tank; or
  - (b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the State Government, be excessive, having regard to the value of the property at that time, and the owner declines to accept the release from requisition of the property without payment of further compensation from the State Government.

- (4) Any decision or determination of the State Government under sub-section (3) shall be final, and shall not be called in question in any Court.
- (5) In respect of any acquisition of requisitioned property, the amount of compensation payable shall be ten times the amount of compensation

fixed under Section 91-C or a sum equal to the market value of the requisitioned property on the date of notice under sub-section (1), whichever is less; and such amount shall be determined and paid in accordance with the provisions contained in clause (a) or clause (b) of sub-section (1) and sub-section (2) of Section 91-C.

- (6) The payment of compensation under this section to the person who, in the opinion of the State Government or the arbitrator as the case may be, owns or has an interest in the tank acquired shall be a full discharge of the State Government from all liability in respect of such compensation, but shall not prejudice any rights in respect of the said tank to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

*Explanation.*—For the purposes of clause (a) of sub-section (3) "works" includes any building, construction, improvements of every description and planting of any mechanical contrivance designed to lift water from a tank.

#### **91-G. Limitation for claims against the Government.**

No claim for compensation payable under this Act, shall lie against the Government if it is not preferred within a period of two years from the date on which tank is requisitioned or acquired.

#### **91-H. Power to remove difficulty.**

- (1) If any difficulty arises in giving effect to the provisions of this chapter the State Government may by an order published in the Gazette amend any provision of this Act other than that contained in this chapter for the purpose of removing the difficulty.
- (2) Any amendment made by an order published under sub-section (1) shall have effect as if enacted in this Act.

#### **91-1. Rules.**

- (1) The State Government may by notification make such rules as appear to it to be necessary or expedient for carrying out the provisions of this chapter.
- (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for the following matters, namely:
  - (i) the procedure to be followed in arbitrations under Section 91-C; (ii) the principles to be followed in apportioning the costs of proceedings before the arbitrator.

#### **91-J. Delegation of power.**

The State Government may by notification delegate all or any of its powers under this chapter, except the powers specified in Sections 91-H and 91-1 to any authority which it thinks fit.

#### **91-K. Interpretation.**

For the purposes of this chapter—

- (i) the definition of canal in Section 3 shall be construed as if for the words "by the State Government" occurring in clause (a) of that section the words "whether by the State Government or any other person" had been substituted therein;
- (ii) the expression "requisitioned property" means property requisitioned under sub-section (1) of Section 91-B.]

<sup>35</sup> [CHAPTER IX-B - Omitted]

## CHAPTER X RULES, OFFENCES AND REPEALS

### 92. General provisions regarding rules.

(1) All rules for which provision is made in this Act shall be made by the State Government and shall be consistent with this Act.

- (2) A rule may be general for all canal systems or for all canal systems not expressly exempted from its operation or may be special for the whole or any part of one or more canal systems, as the State Government may direct.
- (3) Except the rules provided for in Sections 21 and 22 <sup>36</sup>[and Chapter VIII-A] all rules shall be subject to the condition of previous publication.

<sup>37</sup>[(4) xxx]

<sup>38</sup>[(5) In making any rule the State Government may direct that a breach thereof shall be punishable with fine which may extend to two hundred and fifty rupees, and where the breach is continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.]

<sup>39</sup>[(6) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or to any one of them.]

(7) All rules made under this Act shall be laid on the table of the Legislative Assembly.]

### 93. Power to make rules.

In addition to any power specifically conferred by this Act, the State Government may make rules—

(a) prescribing the manner in which irrigation panchayats shall be constituted and dissolved, conferring on them further powers and allotting to them further duties, regulating their procedure, and providing for their remuneration;

<sup>40</sup>(a-l) regulating the control and distribution of irrigation beyond the outlet, prescribing the authority controlling and distributing such irrigation and providing for

<sup>35</sup> Omitted by A.O. of 1956.

<sup>36</sup> Ins. by M.P. Act No. 23 of 1960.

<sup>37</sup> Omitted by M.P. Act No. 56 of 1976.

<sup>38</sup> Subs. by Section 10 of Act No. 42 of 1973.

<sup>39</sup> Ins. by M.P. Act No. 56 of 1976.

<sup>40</sup> Ins. by C.P. and Berar Act No. 55 of 1948.

all matters connected with such control and distribution including the levy and recovery of charges for the purpose of remunerating such authority];

- (b) prescribing the rates at which diet-money shall be paid to persons required to attend an inquiry under this Act; and
- (c) generally, for the purpose of carrying into effect the provisions of this Act.

#### **<sup>41</sup>[94. Offences and penalties.**

Whoever, without proper authority does any of the following acts, that is to say—

- (a) damages, alters, enlarges or obstructs any canal;
- (b) interferes with, increases, or diminishes the supply of water in, or the flow of, water from, through, over or under, any canal;
- (c) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal;
- (d) being responsible for the maintenance of water-course, or using waste of the water thereof, or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;
- (e) receiving water in his fields for irrigation, neglects to take proper precautions for the prevention of waste of such water;
- (f) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (g) being a permanent holder, occupier, cultivator or agricultural labourer, resident in a village in which a proclamation under Section 36 has been made, neglects to attend at the place appointed or refuses or neglects to carry out the duties allotted to him;
- (h) destroys, injures, defaces or removes any land-mark, level-mark, water-gauge or other apparatus fixed by the authority of a canal officer;
- (i) causes animals or vehicles to pass on or across any of the works, banks or channels or any canal after such passage has been prohibited by a canal officer;
- (j) causes or knowingly and wilfully permits animals to graze **or** be tethered upon the bank or border of any canal after such grazing or tethering has been prohibited by a canal officer;
- (k) removes or injures any tree, bush, grass or other vegetation growing on any canal; or
- (l) eases himself on the banks or in the channel of a canal; shall on complaint made by a canal officer—
  - (i) be punishable in respect of offences mentioned in clauses (a) to (h), with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both; and when the offence is a continuing one, with an additional fine not exceeding twenty rupees for every day after the first during which the offence has been persisted in;

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<sup>41</sup> Subs. by Section 11 of M.P. Act No. 42 of 1973.

(ii) be punishable in respect of offences mentioned in clauses (i) to (1) with fine which may extend to one thousand rupees and if the same person is subsequently convicted for a like offence he shall be liable for imprisonment which may extend to one month for each such subsequent conviction.]

### **95. Compensation to private persons.**

Whenever any Magistrate imposes a fine upon any person for an offence under this Act, he may direct that the whole or any part of such fine shall be paid by way of compensation to any person injured by such offence.

### **96. Power to order repairs to be done.**

When any person is convicted of an offence under Section 94, or of the offence of mischief under the Indian Penal Code in relation to any canal, the Court may order him to remove the obstruction or repair the damage or replace or repair the land-mark, level-mark, water-gauge or apparatus, in respect of which the offence was committed, within a period to be fixed in such order; and if such person neglects or refuses to obey such order within the period so fixed, the Executive Engineer may carry out the work in accordance with such order, and the cost thereof shall be recoverable from such person by the Collector as arrears of land revenue.

### **97. Power to remove persons causing mischief.**

Any canal officer **or** canal subordinate may remove or cause to be removed from any canal any person who in his view, commits or is about to commit any of the offences mentioned in clause (a), (b), (c), (h) or (1) of Section 94.

### **98. Power to arrest person causing mischief.**

(1) Any canal officer **or** canal subordinate may take into custody without warrant any person who in his view commits any of the offences mentioned in clause (a), (b) or (c) of Section 94, and shall forthwith release him on bail or, if he fails to furnish bail, take him, or cause him to be taken, to the Magistrate having jurisdiction to try the offence:

Provided that if there be no such Magistrate within a distance of five miles, the canal officer or canal subordinate making the arrest shall take the offender, or cause him to be taken to the nearest police station, and the officer-in-charge of such police-station may cause him to be taken before the nearest Magistrate having jurisdiction to try the offence, or may take sufficient security for his appearance before such Magistrate.

(2) The custody of any person to whom an offender may be made over under sub-section (1) shall be deemed to be lawful custody.

### **99. Composition of offences.**

<sup>42</sup>[(1) Any canal officer may accept from any person, against whom a reasonable suspicion exists that he had committed an offence punishable under this Act or the rules made under a sum of money not exceeding two hundred and fifty rupees, for composition of such offence.]

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<sup>42</sup> Subs. by Section 12 of Act No. 42 of 1973.

- (2) On payment of such sum of money the suspected person, if in custody shall be discharged, and no further proceedings shall be taken against him in regard to the offence so compounded.
- (3) Rules may be made under this Act regulating the procedure of canal officers in compounding offences.

**100. Repeals and savings.**

- (1) The Northern India Canal and Drainage Act, 1873, is hereby repealed in its application to the Madhya Pradesh.
- (2) The Central Provinces Canal Management Act, 1919, and the Central Provinces Canal Management (Amendment) Act, 1923, are hereby repealed.
- (3) But changes created, powers vested, rules, orders, appointments, agreements and contracts made, and suits instituted and proceedings taken under any of the said Acts shall, as far as may be, deemed to have been respectively duly created, vested, made, instituted and taken under this Act.

## **1.1 The Madhya Pradesh Irrigation Rules, 1974**

# The Madhya Pradesh Irrigation Rules, 1974

## PREAMBLE

In exercise of the powers conferred by Sections 92 and 93 of the Madhya Pradesh Irrigation Act, 1931 (3 of 1931), the State Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of Section 92 and a copy thereof having been laid on the Table of the Madhya Pradesh Legislative Assembly on the 24th April, 1974 as required by sub-section (4) of Section 92 of the said Act, namely :-

### 1. Short title---

These rules may be called **the Madhya Pradesh Irrigation Rules, 1974**<sup>1</sup>.

### 2. Definitions--

In these rules, unless the context otherwise requires:-

- (a) "Act" means the Madhya Pradesh Irrigation Act, 1931 (3 of 1931);
- (b) "Adsali sugar cane" means that variety of sugar cane, which is ordinarily sown during the period from 1st September to 30th November and becomes ready for harvesting after not less than 14 months of its sowing and needs first watering before the 15th January following the year of sowing;
- (c) "Abi rate" means the amount of canal revenue payable for the use of dampness and accumulated silt in the tank bed by the cultivator for a single crop on one acre of land;
- (d) "Block" means the whole area of certain specified land to which the block system is applied;
- (e) "Banihar" means any person, appointed by the Sub-Divisional Officer or Canal Deputy Collector to supervise and control the field to field and day to day distribution of water beyond the outlet in the field;
- (f) "Canal Deputy Collector" means a Canal Deputy Collector in charge of Irrigation Division in any area;
- (g) "Executive Engineer" means Executive Engineer, in charge of Irrigation Division in any area;
- (h) "Fruit block" means a block in which the irrigation of long term fruit trees is permitted;
- (i) "Form" means a form appended to these rules;
- (j) "Garden Block" means a block in which the irrigation of crops other than sugarcane, pan or long term fruit trees is permitted throughout the year;
- (k) "Kharif Crop" means a crop grown within the period from the break of the monsoon season to the beginning of the cold weather season. It generally includes the following:-  
Rice, Rajika, Senji, Opium, Ganja, Tobacco, Cotton, Jowar, Bajra, Charu, Kodon, Sowan, Moth, Moong, Urad, Groundnuts, Makka san and Tilli, Singhara etc.

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<sup>1</sup>1 vide Notification No. 1-1-G-73-33, dated the 3-4-1975, published in the M.P. Rajpatra, dated 31-5-1975.

- (l) "Perennial Crop" means a crop which is irrigated continuously for a period of more than 8 months;
  - (m) "Plot" means one of the two or more portions into which a piece of land is divided for the purposes of irrigation;
  - (n) "Rabi Crop" means a crop grown within the period between 15th September and the end of February next following. It includes the following:-  
Wheat, Tilhan (Excluding Tilli) Arhar, Gram, Peas, Masur, Chori, Potatoes and Batra etc.
  - (o) "Section' means a section of the Act;
  - (p) "Section subordinate" means a person in charge of a section of Irrigation department;
  - (q) "Sub-Divisional Officer" means the Sub-Divisional Officer in charge of irrigation in any area subordinate to the Executive Engineer;
  - (r) "Submerging tank" means, any tank constructed, maintained and controlled by the State Government for the purpose of storing water to moisten the land in tank bed for Rabi cultivation and is emptied by the end of October every year;
  - (s) "Sugarcane block" means a block in which the irrigation of sugarcane is permitted;
  - (t) "Superintending Engineer" means the Superintending Engineer in charge of Irrigation Circle in any area;
  - (u) "Thok" means a group of adjoining fields, with the command of a particular chak to be determined by the beneficiaries themselves;
  - (v) "Thokdar" means any respectable person, selected by the permanent holders of thok, from amongst themselves, for the management of day to day distribution of water within the thok, to which he is selected;
  - (w) "Year" means a year commencing from 1st of July in the calendar year and ending on the 30th June in the next calendar year.
- <sup>2</sup>[(x) "Osrabandi" means a programme of release of water in different distributaries and minors of a canal system showing the discharge, duration of supply and area to be irrigated;
- (y) "Warabandi" means a programme of distribution of water to each holding of a chak, from an outlet, fixing the time and date/day for irrigation.]

### **3. Section 9.--**

Land classed at the current settlement as bahra, or jhillan, or chahi, or jor, abi, or adan and khasra numbers class in whole as bandhwas, narbandhwa, tagarbandhia, or talas shall be deemed to be wet for the purpose of Section 9 of the Act.

**4. Khasra numbers which are classed in part as Bahra, Jhillan or Chahi, or jor or abi or adan or bandhwas, narbandhwas, tagarbandhia or talas at the current settlement may be declared to be wet.**

### **5. Section 21.--**

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<sup>2</sup> Inserted by Notification No. F-27-8-81-MM-XXXIX, dated 6-11-1982.

The Chief Engineer shall fix the limits of all subordinate charges into which a sub-division is divided.

**6.** The canal subordinate to be appointed to subordinate charges shall be:-

- (i) Irrigation Inspectors,
- (ii) Section Subordinates, and
- (iii) Amins.

The Chief Engineer may place any one of these subordinates in charge of one or more such charges.

**7.** The Chief Engineer may delegate to Superintending Engineers or Executive Engineers any of his powers under Rules 5 and 6.

**8. Sections 23 and 24 read with 93 (c).--**

Every petition for appeal or revision shall be accompanied by certified copy of the order to which objection is made unless the production of such copy is dispensed with.

**9.** (1) The appellate authority may either admit the appeal or after examining the record, may summarily reject it:

Provided that the appellate authority shall not be bound to examine the record where the appeal is time barred or does not lie.

(2) If the appeal is admitted, a date shall be fixed for hearing and notice thereof shall be served on the respondent.

(3) After hearing the parties, if they appear, the appellate authority may:-

- (a) Confirm, vary or reverse the order appealed against;
- (b) direct such further investigation to be made or such additional evidence to be taken, as it may think necessary; or
- (c) itself take such additional evidence; or
- (d) remand the case for disposal with such directions as it thinks fit.

**10.** (1) If an appeal is admitted, the appellate authority may pending the result of the appeal, direct the execution of the order appealed from to be stayed.

(2) A revenue officer or canal officer, who has passed any order or his successor in office, may direct the execution of such order to be stayed at any time before the expiry of the period prescribed for appeal, if no appeal has been filed.

(3) If execution of any order is stayed under sub-rule (1) or (2), such security may be taken or conditions imposed as the appellate authority or revenue officer or canal officer thinks fit.

**11.** A petitioner for appeal or revision shall be presented to, or lodged in the office of the appellate authority:

Provided that any such petition to a Canal Deputy Collector, Sub-Divisional Officer or Executive Engineer, against an order passed under Section 47, may be forwarded by registered post, in which case limitation shall run from the date of posting.

**12. Sections 23 (7), 25 and 93.--**

Except for reasons to be recorded in writing no canal officer shall inquire into any case at any place outside the local limits of his charge.

**13.** The State Government or the Chief Engineer, may transfer any case or class of cases from any canal officer to any other such officer competent to deal therewith.

**14.** A canal officer may take over any case or class of cases arising under the provisions of the Act or otherwise, for enquiry or decision to any canal officer or canal subordinate to him and competent to deal with such case or cases, or may withdraw any case or class of cases from any such Canal Officer or canal subordinate and may deal with such cases or class of cases or refer the same for disposal to any other such canal officer or canal subordinate:

Provided that when after inquiry in a case, a report is submitted by a canal officer or canal subordinate to a superior canal officer or canal subordinate for final orders, the latter may, before passing final orders give the parties an opportunity to be heard.

**15.** (a) No person shall be required to attend in person unless he resides within the local limits of the canal officer's jurisdiction, or

(b) Without such limits but at a place less than fifty miles or, where there is railway communication or other established public conveyance for five-sixth of the distance between the place where he resides and the place where he is required to attend, less than two hundred miles from such place.

**16.** No person shall be required to attend in person who is exempt from personal appearance under Section 132 or Section 133 of the Civil Procedure Code, 1908.

**17.** Diet money to be paid to persons required to attend an inquiry shall include the travelling expenses, if any, which such persons may have to incur. These payments shall be made at such rates and in accordance with such principles as are laid down in the rules for the time being in force regulating such payments to witnesses in proceedings before a revenue officer held under the Madhya Pradesh Land Revenue Code, 1959.

**18.** Every notice shall be in duplicate and shall be signed and sealed by the officer issuing it or by such person as he empowers in this behalf, and it shall specify the time and place at which the person summoned is required to attend, and also whether he is required to give evidence or to produce a document.

**19.** Every notice may be served either by tendering or delivering a copy thereof, or sending such copy by post in a cover registered under the Indian Post Office Act, 1889, to the person to whom it is to be served or his authorized agent or, if service in the manner aforesaid cannot be made, by affixing a copy thereof at his last known place of residence or at some place of public resort in the village or villages to which the inquiry relates.

**20.** If any party to an inquiry before a canal officer does not appear on the date fixed for hearing, the case may be heard and determined in his absence or may be dismissed in default.

**21.** (1) A canal officer may from time to time adjourn the hearing of a case or proceedings before him.

(2) The place of an adjourned hearing of a case or proceeding shall be intimated at the time of the adjournment to such of the parties and witnesses as are present.

**22.** (1) Except when a case or proceeding before a canal officer has been decided on its merits no appeal shall lie from an order under Rule 20.

(2) The party against whom any order is passed under Rule 20 may, subject to such restriction as may be imposed in the Act, apply within thirty days from the date of such order, to have it set-aside on the ground that he was prevented by any sufficient cause from appearing at the hearing, and the canal officer may, after notice to such other parties as may be concerned and after making such inquiry as he considers necessary, set-aside the order passed.

**23.** A canal officer may give and apportion costs incurred in any case or proceeding in such manner and to such extent as he thinks fit, provided that no cost shall be levied or awarded in cases or proceedings which are undertaken, in the administrative or fiscal interest of the Government.

**24.** Save as otherwise provided in the Act and the rules made there under all appearance before, applications to, and acts to be done before any canal officer under the Act, or the rules made there under, may be made or done by the parties themselves, or by their recognized agents, or in a case before the Commissioner by any legal practitioner acting on their behalf.

#### **25. Section 35.--**

The first joint inspection of the alignment of a canal system before it is constructed shall be made by the Sub-Divisional Officer (Irrigation) and either the revenue officer deputed to deal with proceeding for the acquisition of land required for the construction of the canal system or a revenue officer deputed by the Collector.

**26.** Crossing for traffic shall ordinarily be provided on canals and branch canals at an average distance apart of two miles, and on distributaries minor distributaries at an average distance apart of 1-1/2 miles:

Provided that in special cases crossings may be provided at distances lesser than those mentioned above.

**27.** Irrigation crossings shall ordinarily be provided on the alignment of existing field channels, but, where there is more than one field channel from existing tank on one side of a valley, only one crossing shall usually be constructed.

**28.** The inspection shall be made on the spot by the aforesaid two officers jointly. A meeting of the inhabitants of the adjacent lands shall be convened for the purpose of consultation and

any suggestions made by them shall be briefly recorded and considered. The two officers shall thereupon decide where, in their opinion, crossings should be provided and prepare a joint report in such form as may be specified by the State Government. Such proposal that has been considered shall be entered separately in Form 1.

**29.** The joint report shall be submitted by the Sub-Divisional Officer (Irrigation) to the Executive Engineer, who shall, after entering therein his remark and recommendations, forward it to the Collector.

**30.** If the Collector disagrees, with the recommendation of the Executive Engineer, he shall record the fact in original report, and if in any particular case he considers that further inquiry is necessary, he shall, either make it himself or shall depute a revenue officer to inquire and report, jointly with the Sub-Divisional Officer (Irrigation). This inquiry shall be made in the same manner as the original inquiry and the supplementary report shall be submitted by the Sub-Divisional Officer (Irrigation) to the Executive Engineer and by the latter to the Collector.

**31.** The Collector shall return the report to the Executive Engineer, after recording his approval to works which he considers necessary.

**32.** The Executive Engineer shall submit to the Superintending Engineer through the Collector the reports on works in regard to which he has been unable to come to an agreement with the Collector. If the Superintending Engineer agrees with the Executive Engineer and not with the Collector, he shall forward the case to the Commissioner. If the Commissioner does not accept the views of the Superintending Engineer he shall submit the case to the Secretary to the Government in the Irrigation Department for orders.

**33.** When a final decision has been arrived at regarding the position of all crossings required on a canal, the Executive Engineer shall prepare two copies of the report in which shall be included all cases that have been considered. These copies shall be signed by the Executive Engineer and the Collector and filed in their respective Officers. The orders passed in regard to both crossings which are refused and crossings which are to be provided shall be communicated to the inhabitants concerned.

**34.** The Superintending Engineer shall, in consultation with the Commissioner, decide when the second joint inspection shall take place. The period of three years shall count from the date on which water is first admitted to the canal concerned.

**35.** The procedure prescribed for the first joint inspection shall apply to the second joint inspection except that the Sub-Divisional Officer (Revenue) or such revenue officer as may be deputed by the Collector for the purpose shall be associated with the Sub-Divisional Officer (Irrigation).

**36. Section 37.--**

Proposals for the fixation of rates for the supply of water under clause (a), (b) or (c) of Section (1) of Section 37 shall be considered by the Standing Committee for irrigation after which the said proposals and the opinion of the Standing Committee shall be placed on the Table of the Madhya Pradesh Legislative Assembly. The State Government shall give the Assembly an opportunity of discussing them and shall take into consideration any resolution concerning them that may be passed by the Legislative Assembly before fixing the rate to be charged: Provided that if the State Government considers any case to be so urgent as to necessitate the immediate issue of orders, if any take action at once.

All orders issued under this proviso, shall, within six months of their issue, be placed before the Standing Committee and thereafter laid on the Table of the Legislative Assembly.

**37.** Notwithstanding anything contained in the aforesaid rule if no Standing Committee for irrigation is constituted the State Government may fix the rates which shall be placed before the Standing Committee if such committee is constituted within a period of 6 months from the date of such orders and after the expiry of the period, shall be laid on the Table of the Legislative Assembly.

**38. Section 37 (2).--**

Water rates shall be assessed by the Canal Officer, at the rates specified in the Schedule of rates as notified by the Government of Madhya Pradesh from time to time, in accordance with Rules 36 and 37.

<sup>3</sup>[**39.** If a cultivator takes water for preparing land and does not sow the crop or sows but no subsequent watering is done he shall be charged at the rate for preparing land for cultivation only and if crop is sown and if one or more subsequent watering is done, he shall be charged with water rate fixed for crop rates only.]

**40.** If an area is sown with mixed crop for which different water rates have been fixed the whole area will be assessed at the highest of such crop water rates.

**41.** If different crops are grown in different parts of the same field, the water rate for the whole shall be calculated on the highest rated crop unless the division between crops have been clearly defined by a ridge not less than half a foot high.

**42.** When original crop is sown but fails and the field is ploughed afresh for sowing another crop in the same season, the rate to be levied shall be due on the crop which comes to maturity (only where the area is declared to be exempted from agreement).

**43.** If the agreement is concluded for a portion of a field only, that portion shall be clearly demarcated by a ridge not less than half a foot high. In case the portion is not demarcated, the entire field shall be assumed as having been irrigated and water rates shall be charged on it at normal crop rate.

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<sup>3</sup> Substituted by Notification No. F. 29-1-B-83-M-XXI, dated 5-11-1984.

**44.** In cases of fields proposed to be irrigated partly by canal water and partly by other source short term irrigation agreement for portion of the field to be irrigated by canal water shall be concluded and that portion shall be clearly demarcated by a ridge not less than half a foot high. If the agreed portion of the field is not demarcated, whole field shall be assumed as having been irrigated by canal water and the area in excess be charged <sup>4</sup>[at 1.5 times the crop rate.]

**45.** If water from a well or any other source is conveyed in the same channel or water course in the same season the whole irrigated area during such season shall be treated as irrigated from the State canal.

**46.** The Executive Engineer may permit supply of water for the purpose of farming, thrashing floor, free to any person whom a supply of water for irrigation has been sanctioned under these rules and to any other person at the rate for preparing land for cultivation.

**47.** When short term agreement for supply of water is prescribed after the prescribed date but not later than one month of the date prescribed under Rules 98 or 99 the water rate shall be charged for such agreed area @ 10 % more than the ordinary crop rate.

**48.** When short term agreement has been given to irrigate specified area, and the applicant irrigates an area in excess of such specified area the same be charged <sup>4</sup>[at 1.5 times the crop rate.]

**49.** If the trees standing at different places having deep kyaries (Thavalas) round each individual tree, are watered, then such individual tree may be taken as if it is standing on an area of 1/40th acre and the garden crop rates shall be charged on it. If more than 40 trees are there in one acre the rate per acre shall be charged. In case water is taken without deep kyaries (Thavalas) round the trees proposed for irrigation, the whole watered area shall be measured and assessed as per acreage crop rate.

**50.** Irrigation from escape percolation, leakage from channels and from drainage channels shall be charged at crop rates, provided that the number of watering is two or more including water for preparing land for cultivation, otherwise rate for preparing land for cultivation, shall be charged. In case of fields irrigated by well or wells, within distance of 150 meters from main canal and 50 meters from distributaries the water rate shall be charged for the irrigated area at half the crop rate.

**51.** When the crops are damaged by percolation, leakage or breach of canal etc. no charge shall be levied but recording of such area shall be invariably done and verified by the superior officer.

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<sup>4</sup> Substituted by Notification No. F. 27-3-1977-MM-XXI, dated 28-12-1978 (w.e.f. 1-12-1975).

**52.** Persons using water without permission at the time prohibited by proper authority, that is, during closed day, or contrary to the osrabandi programme or for the irrigation of a field which has been debarred from canal irrigation, shall be charged at double the crop rate and in every such case the canal officer may impose penal charges to the extent of Rs. 250.

**53.** In case of persons, willfully cutting the bank or placing bunds in the bed of a canal, for the purpose of irrigating their fields, a fine to the extent of Rs. 250 may be imposed by the canal officer.

**54. Section 37-B.—**

The cultivators desiring construction of a sub-merging tank shall apply to the Executive Engineer concerned in Form 2.

**55.** On receipt of the application the Executive Engineer shall undertake survey etc. to find out the feasibility of the scheme.

**56.** In case the scheme is feasible one, the Executive Engineer shall enter into agreement with the permanent holders of the land likely to be benefited by the dampness of such submergence. The agreement shall be in Form 3.

**57.** Full tank level stones of the submerged tank shall be fixed at the site and marked on the village map in triplicate showing the position of the stones fixed and the area benefited thereby. A list of such areas shall be prepared in triplicate showing survey numbers, area, name of permanent holders etc. and kept in the record duly signed by the Executive Engineer. This will be taken as authentic record for further reference.

**58.** The gates of the submerging tanks shall not be opened before 1st October in any year and marking of the area actually submerged shall be completed by the end of September every year.

**59.** The Amin, section Subordinate or Irrigation Inspector shall proceed to mark out the area actually submerged after 15th September and complete the formalities as provided under sub-section (4) of Section 37-B. In case the tank is full (ET.L.) only panchanama to this effect shall be prepared duly signed by the beneficiaries and sent to the Executive Engineer for approval. In case the tank is not full the map of the area actually submerged shall be prepared on tracing paper in duplicate and sent to the Executive Engineer for approval along with the reasons for shortfall, who shall return then duly approved within a fortnight for assessing accordingly.

**60.** If in any year of scarcity it is considered that in view of making provision for drinking water certain submerging tanks should not be emptied, the Collector and Executive Engineer shall submit joint report to the Commissioner and the Collector shall prohibit the opening of such tank in that year with the concurrence of the Commissioner. In all such cases remission may be granted by the Executive Engineer.

**61.** When an old scheme is restored, the Abi portion of land Revenue shall be treated as rebate. In case the present Abi rate is higher, the permanent holder shall be asked to pay the difference, and if the present Abi rate is lower, the cultivator shall pay the settled rate.

**62.** Unsettled cultivable land under submergence shall be charged at Abi rates in force in case the land is under cultivation or otherwise 1/2 of the Abi rates shall be charged.

**63.** If canal water is also taken in either of the cases mentioned in Rules 61 and 62, 1/2 of the canal water crop rate shall also be charged in addition to Abi rates.

#### **64. Section 68.--**

Application for the supply of water for irrigation on demand shall be made in writing by the occupiers requiring it in Form 4.

**65.** (a) The Executive Engineer shall pass orders on applications made under Rule 64.

(b) If the demand for the supply of water for which an application is made under Rule 65 is urgent, the Sub-Divisional Officer may, in anticipation of the Executive Engineer's order, issue an order for the supply of water.

**66.** When an application for remission of water rate is made, the Executive Engineer shall grant remission only if he is satisfied that there was a failure to supply water to the area in respect of which the application is made, and such remission shall be in full.

#### **67. Section 39.--**

An application for the supply of water to supplement a village tank shall be made in Form 5 and shall ordinarily be presented at least fifteen days before the water is required, to any canal officer or canal subordinate.

**68.** Before he sanctions an application for the supply of water to supplement a village tank, the Executive Engineer shall intimate to the applicants, the approximate sum that will be charged for the water required. This shall be done in writing in Form 5 and the applicants shall sign thereon a statement that they undertake jointly and severally to pay the sum calculated at the prescribed rate for water actually supplied in Form No. 6.

**69.** The executive Engineer shall not ordinarily sanction the application if-

- (i) he anticipates that the supply of water for the irrigation of rice under agreement will be adversely affected thereby; or
- (ii) in his opinion the applicants have not made suitable arrangements to deliver the water from the point at which it is supplied into the tank; or
- (iii) he has good reason to anticipate that the water will be used for the Irrigation of a crop, which is not under agreement.

**70.** Charges for water supplied to supplement a village tank shall be calculated on the volume of water supplied as measured in the tank.

**<sup>5</sup>[71. Section 40--]**

Water may be supplied for any village tank, town or for industrial purposes and to a Corporation at the rates not less than the rates specified in column (3) of the Table below as prescribed and approved by the Government:-

**Table**

1	2	3
1	Village Tank	Rs.300 per 10000 cft from 15 <sup>th</sup> July to 31 <sup>st</sup> October and Rs.600 from 1st November to 15 <sup>th</sup> July
2	Industrial Purpose	Rs.20. 00 per 10, 000 cft
<sup>6</sup> [3]	Recovery of water after use from Government source (e.g. Hydel Power Project)	10 paise per unit of Electricity (KWH) generated and escalation charges @0.50 paisa per unit of Electricity per year

Provided that the Executive Engineer may permit, with the agreement in Form 7, the supply of Canal water for purposes other than irrigation without sacrificing the interest of irrigation for any term not exceeding one year where the supply is not to exceed five M cft. of water in a year for term exceeding one year and where the supply is to be more than five M cft. in a year, the previous sanction of the State Government shall be necessary.]

**<sup>7</sup>[71-A.** (1) Water may be supplied with the prior permission of the State Government for any industrial purpose to the Private/Government Organization at the rates not less than the rates specified in Column (3) of table below :-

**TABLE**

1	2	3
1	From Government Sources	Rs.1.00 per Cum.
2	From Natural/ Created own source	30 paise per Cum.
3	Regained of water after use from Government Source (e.g. Hydel Power Project)	07 paise per unit (KWH) generated
4	Regained of water after use from Natural/ Created Own Source (e.g. Hydel Power Project)	02 paise per unit (KWH) generated

**72. Section 44.--**

<sup>5</sup> Substituted by Notification No. 29-51-78-ML-33, dated 30-6-1978.

<sup>6</sup> Subs. by Notification no. 18-1-1991-M-XXXI-1219 dated 13-12-2001 (w.e.f. 6-6-1998). Prior to sub. It read as under: “3 Corporation and Towns-Rs.12 per 10, 000 cft. Except where high rates exists or are agreed upon.

<sup>7</sup> Inserted by Notification No. 18-1-91-M-XXXI, dated 9-8-2000.

(a) The charge for water which has been used in an unauthorized manner on cultivated land under agreement shall be made <sup>8</sup>[at 1.75 times the demand rate] so leviable for the class of crop grown on it.

<sup>9</sup>[(b) The charge/demand rate for water which has been used in an unauthorized manner on cultivated land not under agreement shall be as under:-

(a) From aboriginal Harijan small and borderline cultivators at 1.25 times the demand rate or short term agreement rate;

(b) From other cultivators at 1.75 times the demand rate or short term agreement rate.]

**73.** (1) The charge for water which has been used in an unauthorized manner, otherwise than, on cultivated land shall be made at thrice the volumetric rate fixed under Section 37 read with Section 39 or under Section 40 as the case may be.

(2) Charge for water, which has been wasted, shall be made at thrice volumetric rate fixed under Section 37 and in addition, a penalty to the extent of Rs. 250 on the discretion of the canal officer may also be imposed. The canal officer may utilize the whole or the part thereof to compensate the person affected by such waste.

**74.** No charge shall be made for water obtained by percolation, leakage, or flooded by breach of canal which is not induced unless in the latter case it has been deliberately diverted to the fields which it is expected to benefit.

**75.** A canal officer or canal subordinate on becoming aware of waste or water, shall immediately stop it. In a case of unauthorized use he shall stop the flow, if he considers that the supply to areas that are entitled to receive water will be adversely affected by allowing it to continue. In either case he shall submit a report to the Executive Engineer.

**76.** The Executive Engineer, on receipt of a report of unauthorized use or waste of water, shall after examination of such witness as he may consider necessary, record his orders with the reasons therefore, and shall communicate them through the Canal Deputy Collector to the section subordinate concerned.

**77.** If a cultivator wished to make any representation regarding the orders passed by the Executive Engineer, he shall do so either personally or in writing within ten days of the receipt of the parcha.

A representation may be addressed either to the Executive Engineer or to the officer who submitted the original report. If a personal interview is desired this shall be stated. The officer, who receives the representation, shall then intimate to the applicant the date, time and place at which his representation will be heard or interview granted.

**78.** If an appeal is made to the Collector against the orders of the Executive Engineer, the Collector shall, before considering the case, obtain from the Executive Engineer, the reports,

<sup>8</sup> Substituted by Notification No. F.27-3-77-MM-XXXI, dated 28-12-1978.

<sup>9</sup> Substituted by Notification No. F.29-1-B-83-M-XXI, dated 5-11-1984.

plan etc. on which the orders were based. He shall communicate his decision to the applicant through the Executive Engineer.

**79. Section 44 (A) (2).--**

The Executive Engineer, shall have a watch over the concerns, whom a supply of water under Section 40 of the Irrigation Act, has been made and see that adequate arrangements are made to make best use of such water for cultivation.

**80.** On discovery of the use of water made under Rule 79 for cultivation the water rates shall be charged in the manner prescribed below :-

- (a) In case, two or more watering including preparing land for cultivation crop rates shall be charged but for one watering the rate for preparing land for cultivation shall be charged;
- (b) In case of water being used other than agricultural purposes the rates prescribed by the Government for such use shall be charged.

N.B.--In such areas agreements or demand will not be necessary and the procedure for recording and assessing canal water shall be applicable.

**81. Section 44-B.--**

The area irrigated outside the submerging tank while emptying or through sluice, waste water etc. shall be charged at crop rates provided the number of watering including preparing land for cultivation is two or more otherwise rate for preparing land for cultivation shall be charged.

**82. Sections 45, 52 and 58 read with Sections 92 and 93 (c).--**

The irrigation agreements under these rules shall be signed on behalf of the Government by the canal officer or by any other officer or canal subordinate of the Irrigation Department authorized for that purpose by the Executive Engineer in this behalf.

**83.** No irrigation can be made from a canal unless an agreement is concluded between the Government of Madhya Pradesh and the permanent holder except in those cases which are exempted under these rules. Irrigation made without entering into agreement shall be treated as unauthorized irrigation and the permanent holder, irrigating their fields before entering into agreement or irrigating such fields or area not specified in the agreement already entered into by them, shall be liable to punishment and assessment under the provisions of the Act, and the rates made there under.

<sup>10</sup>[**84.** The long term agreement in Form 8 and short term agreement in Form 9 and supplementary long term agreement in Form 10 appended to these rules shall be concluded. The long term agreement shall remain operative for a period of 5 years and the short term agreement will be drawn every year, the terms and conditions laid down in such form shall be construed as part of these rules.]

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<sup>10</sup> Substituted by Notification No. F.29-78-MM-XXXIX-IV, dated 31-3-1983.

**85.** An irrigation agreement may be modified or cancelled by mutual consent between the canal officer on behalf of State Government and the permanent holder concerned.

**<sup>11</sup>[86.]** The long term agreement shall be made village wise, tank wise or project wise for the irrigation of rice in rice zone as well as in wheat and mixed crop zone. The supplementary agreement shall be made in Form 10 appended to these rules.]

**87.** The long term agreement for rice irrigation for a mahal or chak may be accepted by the Superintending Engineer when it is clearly in the interest of State Government to do so. Separate agreements may be made for parts of a village irrigable from separate works. Separate works imply separate tanks or projects and not separate distributaries of the same project.

**88.** If, on examination of a long term agreement and after explaining its terms to the permanent holders present, the Canal Deputy Collector or an Irrigation Inspector who has been specially authorized under Section 51 to accept an agreement is satisfied that either the permanent holders of not less than two-third, or not less than 95% of the permanent holders of, all the irrigable land in a village, mahal or chak cultivated with crops to which the agreement relates, have signed the agreement, and in the case of mahal or chak, the consent required under the proviso to Section 51 has been given, he shall, take action to comply with the provisions, of Section 52.

**89.** (i) In the notice prescribed in Section 52 of the Act, Canal Deputy Collector or Irrigation Inspector competent to accept the long term agreement, shall specify the date, time and place at which he will hear objections before the agreement is declared to be accepted.

(ii) He shall make a summary record of the objections made and his decision on each objections. If he decides that no good cause has been shown against the proposed declaration he shall make an endorsement in Form 11 attached to these rules on the long term agreement declaring that such agreement is final and binding on the permanent holders of all irrigable land to which it relates.

**90.** If long term agreement is declared to be final and binding under Rule 89, it shall unless it is otherwise specified, have retrospective effect from the commencement of the season in which it is made. A supplementary agreement in Form 10 for a wet area may be accepted by the Executive Engineer.

**91.** Water for irrigation may, if demanded, be supplied immediately on long term agreement, which has not been declared final and binding if the Canal Officer, or canal subordinate, who is authorized to accept it, is satisfied that either the permanent holders of not less than two-third or not less than 95% of the permanent holders of all the irrigable land in the village, mahal or chak cultivated with crops to which the agreement relates have signed the agreement. Provided that, if subsequently for any reason whatsoever, the agreement is not declared to be final or binding the signatories of the long term agreement shall be deemed to

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<sup>11</sup> Substituted by ibid.

have agreed to pay at demand rates for the supply given to the area of their crops that have been irrigated.

**92.** Where more than one long term agreement exists for a village irrigated from a single work; on expiry of one agreement the cultivators concerned shall be given the option of (a) renewing the expired agreement for a reduced period so as to expire simultaneously with other agreements or (b) making a single agreement for the whole village for five years and cancelling the unexpired agreement.

**93.** A copy of each long term agreement that is declared to be final and binding shall be supplied to the sarpanch of the village concerned.

**94.** For village under long term agreement in Form 8 the Amin shall prepare a list of Khasra numbers included in the agreement, including those declared out of command as soon as the agreement is made. This will show for each Khasra number the commanded area and the name of the permanent holder, the list shall be checked by the Irrigation Inspector and a copy of it shall be attached to the agreement and a copy shall be given to the Sarpanch when the agreement is declared final and binding.

**95.** The short term agreement shall be made individually and crop-wise for the irrigation to various crops or commodities in the wheat or mixed crop zone which ceases to be effective on the maturity of the crops or the commodities for which it has been concluded.

**96.** The Canal Officer or the officer authorized for the purpose may refuse any short term agreement or cancel it by giving a notice well in advance of the first watering even after signing the agreement:-

- (a) if any arrear in respect of water rate is outstanding against the permanent holder; or
- (b) if it may not be possible to supply water to field or fields due to technical reasons;
- or
- (c) if the permanent holder persistently fails to maintain his water course in proper condition.

**97.** The permanent holder, who have entered into short term agreement with the State Government and if there is no interruption on the part of the State Government in giving them supply of water, shall be bound to pay the water rates on demand, irrespective of whether they irrigate their field or not, provided that if department fails to supply water to the area under agreement, such area may be treated as dry (Khusk Rakaba) and Superintending Engineer may grant full remission of canal revenue in such area. A statement of such area certified by the Sub-Divisional Officer, may be submitted to the Superintending Engineer, through the Executive Engineer.

**98 (1)-** The short term irrigation agreement for each crop shall be concluded as per programme given below;-

S. No.	Commodity	Final date of Issuing Proclamation (Ailan)	Final date of concluding Irrigation Agreement
1	2	3	4
1	Sugarcane	31 <sup>st</sup> December	31 <sup>st</sup> March
2	Cotton and Makka	1 <sup>st</sup> March	15 <sup>th</sup> April
3	Paddy (Dhan and Kharif Fasal)	31 <sup>st</sup> May	15 <sup>th</sup> August
4	All Rabi including vegetable	30 <sup>th</sup> September	15 <sup>th</sup> December
5	Zaid Rabi (summer –crop)	15 <sup>th</sup> February	31 <sup>st</sup> March

Note.--Any delay in issuing proclamation shall be subject to that much extension in the final date of concluding agreement for irrespective crops.

(2) Water for seeding of paddy may be given under order of the Executive Engineer on the written application of the cultivator before concluding agreement and the field on which the water is taken shall be treated as an agreemented area.

**99.** The Superintending Engineer if convinced shall extend the date of concluding agreement mentioned in column (4) of Rule 98 to the extent of one month.

**100.** At least one month in advance of each crop season, the Executive Engineer shall invite a meeting of all the Irrigation Inspectors, Overseers, Sarpanchas and prominent occupiers of the land of the irrigated area, and after acquainting them of the water storage position of various tanks, and reservoir providing the facilities of canal irrigation, determine with their consultation the area which can be brought under canal irrigation. On determination of the total area the Executive Engineer shall, allocate area to be irrigated by each distributary of the canal, publish the area so allocated to each distributary for general information on or before the dates prescribed in column (3) of the statement provided in Rule 98 regarding short term agreement. The publication shall be made in Form 12.

**101.** In the meeting a tentative programme of releasing water through various distributaries (Osrabandi) and dates for opening of outlets for supplying water to fields beginning from tail portion of distributaries and upwards shall also be finalized.

**102.** Executive Engineer shall reduce or enhance the area determined in the meeting and even stop the supply in cases of emergency.

**103.** The short term agreement shall be submitted by the permanent holders or occupiers concerned duly filled in or the same may be got filled by the Amin concerned.

**104.** A receipt in Sinchai Pustika (Form 11-A in Hindi) shall be granted by the official receiving the agreement. Complaints in this regard may be made to higher officers immediately.

**105.** When it is proposed to make short term agreement with the occupiers, the Executive Engineer shall, depute Irrigation Inspector for that purpose and shall ordinarily cause a proclamation in Form 12 to be made in the village, or group of villages, setting forth the object and date of visit of the Irrigation Inspector, and the time and place where he will meet the occupiers. Such place shall be in the village itself or in some neighboring village as shall be convenient to the Sarpanch or Panch and Patel, who shall necessarily be invited to attend the meeting in advisory capacity. Provided that nothing in these rules shall prevent the Irrigation Inspector from proceeding to take short term agreements, should be at any time or place meet a sufficient number of occupiers and also the Sarpanch or Panch and the Patel of any village, without having issued such proclamation. If any centre is far away and it is not possible for the Irrigation Inspector to reach there on the fixed date, he can depute his subordinates concerned to take short term agreement at that centre.

**106.** The Irrigation Inspector shall explain the object of his visit to the occupiers and receive the short term agreement so produced or ask the Amin concerned to fill up the short term agreement to the entire satisfaction of the occupiers, Sarpanch or Panch and the Patel present at the meeting. The Irrigation Inspector or any subordinate deputed shall sign the agreement as one party and obtain signatures of the occupier as the other party of the agreement and may obtain signatures of the Sarpanch or Panch and Patel as witnesses in token of proper execution and correct entries of the agreement.

**107.** The occupier shall take care before signing the agreement to get himself fully satisfied with the entries and other contents of the short term agreements and all doubts removed. No complaint shall be entertained whatsoever regarding entries of the agreement of the occupier, after he has put his signatures or thumb impressions in the presence of Irrigation Inspector or person deputed for the purpose.

**108.** Any occupier, who owing to reasons beyond his control, is unable to attend the meeting so arranged for taking short term agreement, can approach the Irrigation Inspector with written application stating the cause of his inability in attending the meeting and expressing his desire to enter into agreement. The irrigation inspector shall on such application instruct the Amin to receive his agreement form if there is margin in the area allocated for irrigation and the date prescribed under Rules 98 or 99, as the case may be, has not expired.

**109.** The occupier shall mention in the short term agreement exact area with the field numbers and crop which he intends to irrigate. In case of part of field, length and breadth or area shall be written in the agreement.

**110.** In the short term agreement the occupier shall mention carefully and clearly the crop which he intends to irrigate. However, if he fails to sow the crop mentioned by him in the agreement following procedure shall be adopted.

- (a) In case crop or crops superior to the one mentioned by him in the agreement is sown by him, charge shall be made at the rate fixed for that superior crop or crops.
- (b) In case crop or crops inferior to that mentioned in the agreement is sown, charge shall be made at the rate fixed for the superior kind of crop or crops in the agreement.

**111.** If the occupier desires to irrigate any other field not mentioned in the agreement within the command, he can do so, after obtaining approval of the Canal Deputy Collector or Executive Engineer, through the Irrigation Inspector.

**112.** When assured supply is not possible from any works, canals, tanks, and portions thereof, due to technical aspects or unavoidable circumstances and the cultivators persist for irrigation at their risk, the Executive Engineer may declare such area or crops, exempted from short term agreements and supply water to crops at the rates prescribed by the Government.

**113.** All agreement forms duly filled in, shall be submitted by the Irrigation Inspector with a list to the Executive Engineer or the Canal Deputy Collector for sanction within a week after the expiry of the periods fixed in Rule 98. The latter shall return the same duly sanctioned within one month.

#### **114. Section 47.--**

Remissions of canal revenue under an irrigation agreement or in submerged area shall, on application by the Panchayat on behalf of the occupier of the compulsorily assessed area land concerned in Form 13 and subject to such inspection and inquiry as may be prescribed by the State Government, be granted by the executive Engineer in the following scale:-

- (a) Half remission in Khasra numbers in which the crop is less than 50% and more than 33% wet crop.
- (b) Full remission in Khasra numbers in which the 33% wet crop or less:  
Provided that when a khasra number exceeds five acres in area, the Executive Engineer may subdivide it into plots not exceeding five acres and such plots shall be regarded as khasra numbers for purposes of remission.

**115.** When owing to a defect in the head works or distribution system of a canal and not to shortage of supply, water is not delivered when required in any area, the Superintending Engineer may grant remission of canal revenue in such area though it is not admissible according to the scale prescribed in Rule 114.

**116.** In years of general failure of the monsoon inquiry shall, in accordance with such instructions as may be issued by the State Government, be made into the out turn by Irrigation Officers in consultation with revenue officers. For purposes of remission, the khasra numbers in the canal irrigated area in each village shall be divided into groups, and the Executive Engineer shall grant remission on the scale prescribed in Rule 114, by individual khasra numbers according to the estimated out turn of the group concerned.

**117.** The deductions from the long term agreement rate shall be half the amount of the long term agreement rate or one rupee whichever is less.

**118.** The deduction shall be made in respect of one crop only that is grown on an area that is assessed at a wet rate.

**119.** Wet land, included in long term agreement under Section 53 shall, if subsequently classed as dry and so assessed to land revenue or rent, be charged at the full long term agreement rate.

**120. Section 54.--**

The water rate payable on land, which is not commanded but is included in irrigation agreement for lift irrigation, shall be half the rates payable on commanded land, which is sown with the same crop.

**121. Section 58-A K.--**

The period of three years for appointing date under Section 58-C (1) shall be counted from the date, the water is let into the canal for the first time up to a particular reach taking the village as a whole and not the part thereof.

**122.** For the purpose of ascertaining the prices to gone high more than fifty percent over the prices prevailing prior to availability of irrigation facilities from such new canal, the records maintained in the office of Registrar for sale-deeds will be considered as authentic, depending upon the average price for last ten years in the village or neighboring village as compared to prices prevailing prior to commencement of the work concerned.

**123.** If ownership of land which is liable to payment of betterment charges is transferred at any state, during payment of betterment contribution installments, the liability in respect of unpaid amount of such charges shall also be deemed to have been transferred to the vendor. The vendor shall, however, continue to be liable for payment of such charges till he intimates the authorized officer along with the consent in writing of vendor. Provided that in case of default the amount of unpaid installment may be recovered from either of the two at the discretion of the authorized officer.

**124.** No betterment charges shall be leviable on such lands as are under possession of the Government, but no sooner the right of ownership is transferred permanently to other than Government bodies, the share of betterment contribution shall be payable by the party concerned. The revenue authorities shall intimate the authorized officer full details of the allottees to enable him to finalize the betterment charges and effect recovery thereof.

**125.** When the outstanding amount of betterment charges are found to be irrecoverable owing to death or absconding of defaulters or any other reason, they shall be reported by the

Collector to the Commissioner, who shall deal with each case individually according to the orders of the Government.

**126.** The authorized officer may correct any entry in the record, which he considers to be incorrect, provided that if such correction involves an increase in the amount payable, he shall not do so until he has given the permanent holder concerned an opportunity of being heard and in case of remission, the approval of next higher authority shall be obtained.

**127.** The copies of the final orders regarding determination of betterment contribution payable by the holders shall be placed for the public inspector with irrigation panchayat for a month

**128.** Transfer of ownership after the period of limitation prescribed for the objection, shall not give any right to the transferee for making any fresh objection.

### **129. Section 58 L and M.--**

For the purpose of imposing irrigation cess the expression "irrigable command" means:-

(a) In case of Canal system, all irrigable area.

(b) In case of submerging tanks and compulsorily assessed area all areas under F.T.L. and outside irrigation, if any, as per design, provided that the land is under cultivation and not wet.

**130.** A list of the land under clauses (a) and (b) of Rule 129 shall be prepared by the Sub-Divisional Officer and approved by the Executive Engineer, which will be taken as authentic record for the purpose.

**131.** On the basis of the finalized lists, village wise, work wise, jamabandi in the Form prescribed under general supervision of the Irrigation Inspector shall be prepared by the Amin in which all particulars concerning each cultivator shall be brought together and totalled and kept with Amin as a permanent record duly signed by the Executive Engineer or Canal Deputy Collector.

**132.** The consolidated area charged with irrigation cess and the amount therefore, shall be shown in the parcha for water rates, below the total of the water rates payable for Rabi crop and grand total shall be given every year.

**133.** Irrigation cess may not be imposed on the area water logged, salt affected, or which remains under submergence where cultivation is not possible.

**134.** A list of such survey numbers under Rule 133 shall be prepared by the Amin and approved by the Executive Engineer. As soon as the above conditions cease to exist the land becomes fit for cultivation, the list shall be revised.

**135.** The realization of the amount due on account of irrigation cess shall be done, subject to rules and in the manner applicable for realization of water rates.

**136.** Irrigation cess may invariably be charged on the irrigable lands, leased out by the department, and the fact shall be mentioned in the auction notice as a condition.

**137.** The unauthorized occupants of the Government irrigable land shall also be charged with irrigation cess so long they are in possession of such lands.

**138.** Any area liable to payment of irrigation cess may be declared as exempted from such payments, by the Superintending Engineer provided that the department is not in a position to supply water at the commanding outlet to such area for consecutive three years.

**139.** Refund or adjustment on account of excess recovery or grant of remission after realization or otherwise, may be granted by the Superintending Engineer.

**140. Section 59.--**

Payment for the canal revenue payable on account of water supplied for the irrigation of Kharif crop, shall be made on or before 15th March and that payable on account of water supplied for the irrigation of rabi and other crops shall be made on or before <sup>12</sup>[15th July].

**141.** Payment for the supply of water to supplement a village tank shall be made with the Kharif Kist when it is due on account of supplies made between the 1st June and the 31st December and with the Rabi Kist when it is due on account of supplies made between the 1st January and the 31st May.

**142.** Postponement of the dates under Rules 140 and 141 shall be allowed by the Superintending Engineer on the request of Canal Deputy Collector to the extent of one month.

**143. Section 62 read with Section 93 (c).--**

The number of members to be elected to an Irrigation Panchayat shall be determined by the Collector on the recommendation of the Executive Engineer.

**144. (a)** An irrigation panchayat shall hold office for three years:

Provided that the Collector may, from time to time and by an order in writing extend the term of office of an irrigation panchayat for a period or periods not exceeding three years in the aggregate.

(b) Notwithstanding that the term of office of an irrigation panchayat has expired, it shall continue to hold office until a new panchayat is constituted under these rules.

(c) Notwithstanding anything contained in this rule the Collector may, at any time by an order in writing dissolve an irrigation panchayat.

**145.** The following persons shall be disqualified from acting as electors or from holding office on an irrigation panchayat:-

(a) a person who has been adjudged by any competent Court to be of unsound mind;

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<sup>12</sup> Substituted by Notification No. 28/7/G/75/33, dated 3-5-1975.

- (b) a person, who is a minor;
- (c) a person whose name is not in the electoral roll prepared under Rule 148; and
- (d) a person who has been adjudged insolvent by a Civil Court; and
- (e) a person who has not paid any sum due by him under the Act for a period of three years or more.

**146.** Whenever possibilities of irrigation in any village, chak, or mahal arises, and no irrigation panchayat exists or the terms of the office of the existing panchayat is about to expire, or a panchayat is dissolved, the Executive Engineer Shall make proposal to the Collector fixing number of members to be elected to the Irrigation Panchayat and after approval of the number of the members to be elected, he shall fix the date, time, and place for the election and shall proclaim it in the village at least 15 days before hand.

**147.** The following persons shall be deemed to be electors for membership to irrigation panchayat:-

- (a) All permanent holders, holding lands individually or jointly within the command defined by the Executive Engineer, for this purpose, of the canal system.
- (b) All permanent holders holding the land within E.T.L. of the submerging tanks including outside irrigation, if any, and compulsorily assessed area.

**148.** The Amin, under the general supervision of the Canal Deputy Collector and Irrigation Inspector shall prepare a list of persons who are entitled to be electors from the village under Rule 147 and not disqualified under Rule 145 at least one month before the date fixed for the election, and shall immediately paste it in a prominent place in the village, under the signature of the Irrigation Inspector.

**149.** Any person having objection to urge against any entry therein or omission there from, shall file an objection within 8 days from the date of pasting of the list before the Irrigation Inspector, who shall dispose them off within 8 days from the date of receipt of the objection, after making such enquiries as he may deem necessary.

**150.** If any person is aggrieved by the decision of Irrigation Inspector, an appeal may be filed within 8 days from the date of receipt of the order, to the Canal Deputy Collector who shall dispose it of within 10 days by making such inquiries as he may deem fit, and his decision shall be final.

**151.** Executive Engineer shall appoint and depute an Irrigation Inspector or a Canal Subordinate to preside at the election. The electors, whose names have been entered in the finalized electoral roll, shall collect at the place fixed under Rule 146. Each elector shall be privately called upon to specify names on the marked paper in Form 14 with his signature or thumb impression up to the number fixed by the Collector, the persons, who in his opinion are best fitted to sit in the Panchayat. The elector, who is illiterate and is unable to write may bring with him a literate person of his confidence for writing the names on the marked paper. The signature of the writer and the signature or thumb impression of the elector is necessary

on such marked paper and the presiding officer shall also sign such marked paper in token of verification:

Provided that such person will be allowed only once to accompany the elector who is illiterate or unable to write.

**152.** After the election is over the presiding officer shall prepare a proceeding on the spot, mentioning therein the serial number of electors who have voted and serial numbers of those who are absent and any special incident which took place at the election. He shall then seal all papers in presence of panch or Sarpanch of Gram Panchayat, and the sealed covers then be handed over to the Canal Deputy Collector immediately after the election.

**153.** The Canal Deputy Collector, with the help of the Presiding Officer concerned in the presence of Panch or Sarpanch of Gram Panchayat shall prepare a list of the candidates voted for, indicating the number of votes secured in serial order. He shall then submit the same to the Collector for approval through the Executive Engineer, in order to declare the result of the election.

**154.** In the event of an equality of votes, the order of preference shall be decided by lot.

**155.** The Collector shall intimate the decision to the Executive Engineer, who shall arrange to paste a list of panchas at a conspicuous place in the village.

**156.** The Panchayat shall, at a meeting at which not less than three members are present elect one of their members to be Sarpanch. This meeting shall be presided over by one of the panchas, elected by the members present. Provided that any member who is a candidate for election as Sarpanch shall not be elected as Chairman. The election shall be by voting. In the event of an equality of votes, the Chairman of the meeting shall have a casting vote. In the event of the Panchayat being unable to arrive at a decision the Collector shall nominate one of the members as sarpanch. The proceedings of the meeting shall be recorded in the proceedings book in Form 15 and signed by the Chairman. The result of the voting shall be intimated by the Chairman to the Amin in writing. The names of the Sarpanch and members of the panchayat shall be pasted by the Amin at a conspicuous place in the village.

**157.** In the event of the retirement, death, disqualification or removal of an elected panch, the panchayat shall forthwith, report the fact to the Collector, who shall, if he considers it necessary to fill the vacancy, fix a date, time and place within the village for the election of a fresh panch and the panchayat shall proclaim them in the village at least seven days before hand. On the date so fixed the Executive Engineer shall depute a Canal Deputy Collector or Irrigation Inspector to preside at the election, which shall be held in the manner prescribed in Rule 152. The new panch, so elected and approved by the Collector shall hold office for the unexpired portion of the term of the panchayat.

**158.** No election of a panch or Sarpanch shall be called in question except by a petition presented to the Collector within 14 days from the date on which the result of the election was pasted in the village. The Collector may depute any of his subordinates or may arrange with

the Executive Engineer to depute a canal officer or canal subordinate to inquire into and dispose of the petition.

**159.** If, after such inquiry as he considers necessary, the Collector or the officer deputed to make the inquiry as the case may be, is of opinion that the election complaint, has been procured or induced or the result of the election has been materially affected by corrupt or illegal practice, he may declare it void and order a fresh election to be held.

**160.** The Collector or the Revenue Officer making an inquiry under Rule 159 shall have the powers of a Revenue Officer specified in Sections 33 and 34 of the Madhya Pradesh Land Revenue Code, 1959 and a canal officer or canal subordinate shall have the powers of a Canal Officer specified in Rules 12 to 24 in either case his order shall final.

**161.** The Sarpanch elected under Rule 156, or in his absence any member of the panchayat authorised by him in this behalf, shall give due notice to the other panchas of the date, time and place fixed for each meeting and of the nature of the business to be discussed or work to be done.

**162.** Every meeting of the panchayat shall be presided by the Sarpanch. Provided that, if when any meeting is held and the office of sarpanch is vacant, or the sarpanch is absent from the meeting, the panchas present shall appoint one of their members to preside over the meeting.

**163.** One-half of the total number of panchas including the sarpanch, if present, shall form a quorum. The President shall have a deliberative vote and shall also, in case of an equal division have a casting vote. He shall regulate the course of all business to be brought forward and shall preserve order. The meeting of the panchayat shall be open to the public but on a motion, carried by a majority of the panchas, the public shall be required by the President to withdraw.

**164.** The Panchayat shall keep in Hindi a brief record of the meeting and proceedings in a book.

**165.** (1) The following offences may be compounded under sub-section (3) of Section 62 of the Act, that is to say, where a person without proper authority:-

- (i) damages, alters, enlarges or obstructs a canal; or
- (ii) in using a water-course, interferes with the authorized distribution of water there from; or
- (iii) in using a water-course, neglects to take proper precautions for the prevention of waste of the water of such water; or
- (iv) having received water in his field for irrigation, neglects to take proper precautions for the prevention of waste of such water; or (v) destroys, injures defaces or moves any land-mark, level mark water-gauge or other apparatus fixed by the authority of a canal officer; or

- (vi) causes animals or vehicles to pass on or across any of the works, banks or channels of any canal after such passage has been prohibited by a canal officer; or
- (vii) causes or knowingly or willfully permits animals to graze or be tethered upon the bank or border of any canal after such grazing or tethering has been prohibited by a canal officer; or
- (viii) removes or injures any tree, bush, grass or other vegetation growing on any canal; or
- (ix) eases himself on the banks or in the channel of a canal; or
- (x) damages or alters a water-course or interferes with the flow of water therein or corrupts or fouls such water; or
- (xi) refuses to allow water received by him in his field for irrigation to pass beyond the field when required to do so by the panchayat:

Provided that no offence shall be compounded under Section 62 (3) where the offence has caused damage exceeding thirty rupees in value.

(2) An irrigation panchayat may give notice to person reasonably suspected of having committed any of the above offences. Such notice shall require the person to attend at the time and place specified in the notice.

(3) When the person attends and accepts the panchayat's proposal for composition, an order shall be recorded fixing the amount payable by him. Such amount shall be paid immediately or within such time as the panchayat may fix.

(4) All offences dealt with under sub-rules (2) and (3) shall be recorded in a register which shall contain the following particulars:-

- (a) the serial number;
- (b) the date of the commission of the offence;
- (c) The date of the report or complaint or discovery of the offence;
- (d) the name, parentage, residence and social status of the offender;
- (e) the alleged offence and the provision in Rule 166 (1) under which it comes;
- (f) if the offence charged be of causing damage the sum at which the damage is assessed, if it be of waste, theft or corruption of water, the value of the water affected;
- (g) an abstract of the inquiry made, of the offender's statement and of the decision arrived at;
- (h) the amount paid as composition and the date of the payment; and
- (i) the signature of the sarpanch presiding at the meeting at which the case was decided, with the date of the decision.

(5) The register shall be submitted in original to a canal officer at such intervals as the Executive Engineer may direct.

(6) The irrigation panchayat shall report to a canal officer every case in which a person fails to comply with the notice or refuses to accept the panchayat's proposal for composition or the amount of composition is not paid within the time fixed.

(7) On receipt of the report of the Canal Deputy Collector shall take steps to realize such amounts as arrears of land revenue and at his discretion, may further impose a fine not exceeding Rs. 250.

(8) There shall be formed for each irrigation panchayat a fund to be called the irrigation panchayat fund, and the money recovered by way of composition under this rule shall be placed to the credit of this fund.

**166.** The cash balance of the irrigation panchayat fund shall be kept by the sarpanch in the name of the irrigation panchayat fund, in the nearest post office saving bank or in a neighbouring co-operative bank or with the previous approval of the Canal Deputy Collector, with any respectable person residing in the village provided that any amount not exceeding Rs. 25 may be kept in custody of any panch for current expenditure.

**167.** The Irrigation Panchayat may sanction expenditure from the irrigation panchayat fund up to the amount actually in hand for any work of public utility in the village that has been approved by the Collector.

**168.** Accounts of income and expenditure of the irrigation panchayat fund shall be maintained by the Sarpanch in a panchayat fund account book in Form 16. The account shall be closed and balanced at the end of each month and shall be examined and passed by the panchayat. It shall be checked by a Canal Officer, Irrigation Inspector or section subordinate.

**169.** An irrigation panchayat shall maintain the following books and papers:-

- (i) Panchayat fund account book in Form 16.
- (ii) counterfoil receipt book in Form 17.
- (iii) proceeding book in Form 15.
- (iv) correspondence and notices issued by the panchayat.

Records (ii), (iii) and (iv) may be destroyed three years after the last entry thereon.

All books and papers maintained by the irrigation panchayat shall be submitted at all reasonable time to any canal officer or canal subordinate who demands to see them.

**170.** (1) Irrigation Panchayat shall be remunerated by the grant of commission, which shall be calculated separately for the collection of canal revenue and for administrative work.

(2) For collection, the calculation of the total amount due to each irrigation panchayat shall be made separately for each Kist at the rate of three paise per rupee for the first Rs. 1,000 of canal revenue collected by the panchayat and two paise per rupee for all sums in excess of this amount if any canal revenue collected by an irrigation panchayat is subsequently refunded, no recovery of commission shall be made from the irrigation panchayat.

(3) Commission for administrative work shall be paid at the discretion of the Executive Engineer who shall determine the amount to be paid on consideration of the efficiency of work done by the irrigation panchayat. The maximum sum payable shall be calculated at the rate of nine paise per acre assessed or irrigated, free of charge.

(4) In calculating the amount of commission payable on account of collection fractions of a rupee shall be treated as a rupee if they exceed fifty paise and shall be disregarded if they do not. In calculating the commission for administrative work fractions of an acre shall be treated as an acre, if they exceed half an acre and shall be disregarded if they do not.

(5) Payments of commission on account of both collection and administrative work shall be made twice a year by a canal officer and shall ordinarily be completed by the 30th April, for Kharif crop and 31st October for the Rabi crop. Of the total sum payable the sarpanch shall be entitled to two shares and owing to their absence from the village at the time it was made or to their being otherwise occupied, shall receive no payment but total sum due to the irrigation panchayat shall not be reduced on this account.

**171.** A register of the names of Sarpanch and members of panchayats in Form 18 shall be maintained by each Amin, section subordinate, Irrigation Inspector, Sub-Divisional Officer, Canal Deputy Collector, Executive Engineer in alphabetical order.

**172.** Sections 63, 93 (c) and 92 (5).--All entries of water supplied for irrigation on demand, under irrigation agreement, unauthorized irrigation on cultivated land and submerged area will be made in Form 19 called Khasra Shudhkar by the Amin. He shall record the irrigation of each village in a separate Khasra Shudhkar, tank wise and shall enter therein all fields by making survey and partial (Inspection) of each and every field which appears to him liable to assessment of water rates, and shall complete the entry of Shudhkar of Kharif, Rabi and Zaid seasons by the 30th September, 28th February and 15th May respectively in each year and submit the report with a list of fields about the irrigation of which he has reasonable doubts to his immediate officer on or before the dates mentioned above.

**173.** The Amin, on completion of the entries in the Khasra Shudhkar (Final survey and measurements) shall make out parchas for each cultivator in Form 20 and the parcha signed by the Amin and the section subordinate shall be delivered by him after entering in ledger to each cultivator personally and obtain signatures in Form 21. If due to the absence of the cultivator, or cultivator's refusal to accept, or to give a receipt, or it is not possible to effect personal delivery, the parchas shall be left with the Irrigation Sarpanch, Panch, or Patel who shall deliver it to the cultivator concerned.

**174.** With the aid of the Khasra Shudhkar and Parchas, Amin shall prepare the following papers in the forms prescribed :-

- (i) Ledger in which all entries concerning each cultivator will be brought together and totalled (Form 22).
- (ii) Kistabandi Khatoni in which only totalled amount for which parchas have been delivered shall be entered (Form 23).
- (iii) Abstract Kistabandi Khatoni in which entries in Col. No. 1 to 5 are completed (Form 24).

**175.** On receipt of a parcha any cultivator may file an objection within ten days of the delivery of the parcha to Irrigation Inspector or section subordinate in writing and shall be accompanied by the original parcha. The Irrigation Inspector or section subordinate shall enter all such objections in a register in Form 25 and communicate to the cultivators concerned the dates on which he shall visit the village or spot to hear objections and dispose them.

**176.** If for good reason an Irrigation Inspector or section subordinate is prevented from visiting a village to hear objection on the date fixed by him, he shall fix another date for his visit and shall intimate it to the occupiers concerned.

**177.** All objections shall be investigated within 15 days of the receipt and decided promptly. Final orders shall be communicated to the complainant without delay.

**178.** The amount due from each occupier shall be calculated to the nearest paise. Any occupier, who is in doubt regarding the correctness of the sum demanded from him, may inspect the assessment record maintained by the Amin free of charge.

**179.** If the cultivator served with a parcha fails to file an objection within ten days of the receipt of the parcha, the water rate assessed shall be treated as confirmed.

**180.** If the cultivator files an objection within ten days on receipt of parchas, the disputed amount shall not be realized until his objection has been duly inquired into and disposed off finally.

**181.** (i) The canal officer may, at any time, correct any entry in the assessment papers which he considers to be incorrect and shall initial each correction. Provided that if such correction involves increase in the amount payable, he shall not do so till he has given the occupier concerned an opportunity of being heard.

(ii) If after distribution of the parchas any additions are made to the demand, or any deduction is allowed on complaint, or by way of remission, or otherwise such addition or remission shall be communicated to the cultivator by means of supplementary parcha.

(iii) All such alterations as are made before despatch of Kistabandi Khatoni or abstract Kistabandi Khatoni to the panchayat and Canal Deputy Collector, shall be shown in that document. Alteration made after the despatch of Kistabandi Khatoni and Abstract Kistabandi Khatoni shall be communicated to the panchayat and Canal Deputy Collector or Tehsildar by means of a revised supplementary Kistabandi Khatoni and abstract Kistabandi Khatoni containing the names of the occupiers and amount to be reduced or added in the demand shown against each occupier.

**182.** The Kistabandi Khatoni shall be sent to the Sarpanch and members of the panchayat or patel by the Irrigation Inspector under his signature on or before 15th January/30th April for the Kharif/Rabi Kist. The Sarpanch, and members of the Panchayat or Patel, on receipt of this statement, shall at once proceed to collect the canal revenue from occupier concerned and give acknowledgement in the Sinchai-pustika available with the occupiers concerned and after making entry in the Kistabandi Khatoni will further prepare a receipt statement in duplicate by using carbon and will obtain signatures of the occupier concerned in token of having received the acknowledgement in Sinchai-pustika along with the amount deposited by him.

**183.** Within a fortnight of the receipt, the Sarpanch, Panch or Patel realizing the amount will remit it into the Treasury, Sub-Treasury or bank as the case may be. A challan shall be

prepared in triplicate and signed by the person remitting the amount. One copy will be retained in the Treasury.

Sub-Treasury or bank and two copies will be given to the depositor who will send the challan along with the original copy of the receipt statement, containing the signatures of the occupier concerned to the Canal Deputy Collector, so as to enable him to verify the amount realized.

**184.** The Irrigation Inspector and the Amin, will assist the panchayat and have close watch while realization is in progress and see that the amount realized is timely deposited and due receipts are given to the depositors in Sinchai-pustika (Form 11-in Hindi). The breach hereof may then and there be reported to the Canal Deputy Collector when noticed, who will take such steps as he deems fit to check the same.

**185.** No collection of canal revenue may, on any account, be made by panchayat or patel after the date as prescribed in Rule 140. By that date the sarpanch or members of the panchayat or patel, who have made payments into the Treasury will enter in the Kistabandi Khatoni all amount collected by them. The members of the Panchayat and Patel will, however, be allowed seven days from this date within which they must pay into the Treasury any sums collected and not deposited by them and return the Kistabandi Khatoni to the Amin concerned immediately.

**186.** In case, the papers are not returned by the sarpanch, panch or patel within the prescribed period, the Amins will proceed to collect these papers and if the Sarpanch, Panch or Patel refuses to handover the records, will report the fact immediately to the Canal Deputy Collector who shall with the help of the police obtain these papers and take such further steps as he deems fit.

**187.** After collection of the Kistabandi Khatoni and receipt statement, if any, the Amin shall check the entries and prepare the defaulter's list in Form 26 and submit them with the Kistabandi Khatoni to the Irrigation Inspector within seven days. The Irrigation Inspector will check the figures in Col. No. 25 of the Kistabandi Khatoni and compare them with the figures in the defaulter's list, will enter in the Kistabandi Khatoni the name of the members of the panchayat who were absent or who did not take part in the collection of Canal Revenue and will forward the documents to the Canal Deputy Collector within 10 days from the receipt. If any excess collections have been made, he will enter them in red ink in remarks column.

**188.** From the Kistabandi Khatoni the Canal Deputy Collector will then complete his village-wise statement and register. He will also prepare in duplicate by works and for each Sub-Division, the statements of commission payable to panchayats and patels for collection and for administrative work in Forms 27 and 28. The statement will be submitted to the Executive Engineer who will authorize payment. The receipt for payments will be taken on the duplicate copies of the forms as far as possible and the remainder on hand receipt. Statement of commission payable for administrative work in respect of Kharif and Rabi Crops will be approved by the Executive Engineer by the 31st January and 31st May respectively and all payments made before the end of April and October respectively. The statement of commission payable for collection work for Kharif and Rabi crop shall be approved by the

Executive Engineer by the end of March and July and payments shall be made by the end of April and August respectively through the Canal Deputy Collector.

**189.** The Canal Deputy Collector shall compile the defaulter's list for each Tehsil and from them will prepare individual defaulter file, in accordance with the procedure laid down in rules made under Section 155 of the Madhya Pradesh Land Revenue Code, 1959 and will then arrange to collect all outstanding amounts as arrears of land revenue. In order to assist the Canal Deputy Collector in issuing warrants, selected Amins under an Irrigation Inspector may be deputed by arrangement with him to attend the Canal Deputy Collector's Office and prepare warrants. Where the defaulter, at any time before the warrant is issued, pays the outstanding amounts to the Canal Deputy Collector, he shall be given a receipt for such payment by any of the canal subordinate authorised in this behalf by the Executive Engineer/Canal Deputy Collector and a statement from the Abstract Kistabandi Khatoni shall be prepared by the Canal Deputy Collector in the prescribed form and shall be sent to the Executive Engineer by the fourth of the following month. The Executive Engineer shall compile the consolidated Tauzi and send it to the Superintending Engineer by the 10th of the following month.

**190.** All irrecoverable amount, on account of death or absconding of a defaulter or for any other reason, may on recommendation of the Canal Deputy Collector, be remitted by the Superintending Engineer up to Rs. 250/-in each individual case.

**191.** Adjustment and refund of water rates on account of excess recovery or grant of remission after realization or otherwise shall be allowed by the Executive Engineer with the previous approval of the Superintending Engineer in the ensuing year.

**192.** If any sarpanch, panch or patel responsible for passing receipt fails to give receipt as required under the rules he shall on application by the payee within 15 days of the payment, be liable to pay penalty to the extent of Rs. 50 only under an order of the Canal Deputy Collector.

<sup>13</sup>[**193.** If any water rate (Canal Revenue) or any part thereof is not paid within one month of the prescribed date the Canal Deputy Collector may impose penalty on such defaulter at the following rates, namely :-

(i)	Where payment is made within one year from the due date	10 percent of the amount not so paid)
(ii)	Where payment is made after one year or more from the due date	13 percent of the amount not so paid)

**194.** Sections 75, 93 (c) and 92 (5).--Application for the investigation of water courses shall be made in Form 29 and contracts under Section 65 in form attached to these rules.

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<sup>13</sup> Substituted by Notification No. F/29/1/83/MM/31, dated 10-7-1985.

**195.** When an application in Form 29 is received:-

- (a) The Executive Engineer shall cause such investigation to be made as he may consider suitable;
- (b) The investigation shall be made in consultation with the permanent holders concerned; and
- (c) The proposals accepted by the permanent holders concerned shall be marked on a copy of the village map, which shall be signed by not less than three of the leading permanent holders, who have applied for investigation or if the number of persons who have applied is less than three by all such persons.

**196.** The Executive Engineer shall then prepare an estimate of the cost of the water course or system or water courses and when it is approved by the competent authority, he shall instruct a canal officer or Irrigation Inspector to take the signature of the applicants on Form 30.

**197.** If the conditions of Section 66 are fulfilled, action shall be taken in accordance with Section 52 read with Section 67 and the certificate in Form 31 attached to these rules shall be signed by a canal officer before the contract is finally made and endorsed as in Form 32.

**198.** The Amin, in consultation with the irrigation panchayat, shall prepare a list of the permanent holders or occupiers of land which is ordinarily irrigated or may be irrigated, who are responsible for maintaining a water course or a system of water courses. He shall enter against each permanent holder or occupier, the area of irrigable land held by him which is or may be served by the water course or system of water courses concerned and each permanent holder or occupier shall be responsible for executing the work or supplying labor for its execution in proportion to his area of land, which is ordinarily irrigated or may be irrigated, bear to the total area of irrigable land served by the water course or system of water courses. A copy of the list, after it has been approved by the Sub-Divisional Officer, shall be furnished to the Irrigation Panchayat and it shall be amended annually under arrangements made by the Sub-Divisional Officer.

**199.** The Sarpanch of the Irrigation Panchayat shall maintain a record of the labor employed, the person by whom it is furnished, and the time during which it works. If a complaint is made of default to render assistance by any permanent holder or occupier who is liable to do so, the entries in this regard shall be taken into account by Executive Engineer in assessing the sum that such permanent holder or occupier shall be required to pay under Section 73 (c). Any money so recovered in excess of the sum expended by the Executive Engineer on the repair of the water course shall be credited to the Irrigation Panchayat fund.

**200.** Whoever, without proper authority does any act whereby a water course is damaged or altered, or the flow of water is interfered with or the water is rendered corrupt or foul, shall be punishable with a fine which may extend to two hundred and fifty rupees, and when the breach is continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

**201.** Sections 75 (c) (1), (4), E and G.-- The field channels shall ordinarily be run on the field boundaries, but the same may be taken across the fields if technical aspects so demand. In such cases the lands may be acquired under the provisions of Land Acquisition Act, 1894.

**202.** The expenses incurred on execution of field channels includes the expenses on jungle clearance, earthworks, cross-drainage works, cart, truck crossing etc. and also the work charged establishment put on the job, as also the cost of land acquisition under Rule 201 if any.

**203.** The field channels shall, as far as possible, touch every field with a view to feed them directly, without involving any expenditure by the permanent holders and occupiers concerned.

**204.** The area benefited means the area situated on either side of, or at the tail of the field channels irrespective of the fact whether the same is fed by flow or lift of water, but does not include the Government land irrigated them from till allotted to any individual.

**205.** The subsequent allottees of the Government land so benefited shall be required to pay to the Irrigation Panchayat concerned, the share towards the cost of construction of field channels, with due regard to the area benefited, and in default the same shall be recovered from them as arrears of land revenue. The amount of share per acre being the same as determined by the Executive Engineer for that chak.

**206.** The field channels shall be deemed to have been maintained in a fit state of repairs if full supply of water proposed for is conveyed without involving any wastage.

**207.** The responsibility for maintenance of field channels shall rest with the beneficiaries of the lands situated on either side or at the tail of the field channels so constructed and the amount incurred by the Executive Engineer in pursuance of the provisions under sub-section (2) of Section 75-E shall be recovered from such beneficiaries responsible for such maintenance with due regards to the area benefited by such field channels. The share of Government land shall be borne by the beneficiaries only.

**208.** The apportionment and recovery of the expenses incurred on construction of field channels shall be made by the Executive Engineer in the manner prescribed below in exercise of the powers conferred under Section 75 (c) and sub-sections (3) and (4) of Section 75-D :-

(a) When the work is undertaken under sub-section (2) of Section 75-D, the amount so reported, shall be recovered and apportioned from and amongst the beneficiaries respectively with due regards to the area benefited by such works.

(b) When the work is undertaken under sub-sections (2) and (4) of Section 75-D the amount reported under sub-section (2) of Section 75-D and the amount incurred under sub-section (4) of Section 75-D shall be combined together and the total amount shall be recovered and apportioned from and amongst such permanent holders and occupiers with due regard to the area benefited by field channels so constructed.

(c) When the work is undertaken under the provision of Section 75-B, the amount so incurred shall be recovered from the beneficiaries named in the order with due regard to the area benefited by such field channels.

**209.** The field channels so constructed shall be handed over to the beneficiaries through the irrigation panchayat and receipt obtained there from. A map on lattha cloth showing the alignment of field channels, cross drainage works, cart-truck crossings, with details of pipes fixed shall be given to the irrigation panchayat concerned, and one copy shall be retained in the office of the Executive Engineer duly signed by the canal officers.

**210.** The following shall be deemed to be the persons entitled for taking water from the field channels so constructed :-

- (a) All those who have contributed towards the cost of construction of such field channels.
- (b) All those who have their lands within the command of such field channels and are desirous of availing irrigation facilities.
- (c) All those who wish to take water for non-agricultural purpose of general utility; provided that they pay to the irrigation panchayat one-fourth of the usual charges of water rates till the amount of share per acre as contributed by the persons mentioned in clause (a) above is completed.

**211.** All supplies under clauses (b) and (c) of Rule 210 shall be allowed by the Executive Engineer on the recommendation of the irrigation panchayat concerned, under conditions being applicable in usual course.

**212.** All outstanding amounts under proviso to clause (c) of Rule 210 above shall be recovered as arrears of land revenue and credited to the concerned panchayat fund account.

**213.** Notwithstanding anything contained in the foregoing rules any person may prevent the flow of water (a) on his turn when the turn system <sup>14</sup>[x x x] (warabandi) is in force, or (b) when the water is being wasted, or (c) when the water is being used by the unauthorized persons depriving the authorized persons, or (d) otherwise with the written permission of the departmental staff or irrigation panchayat concerned.

**214.** Any change in the alignment and extension of the field channels so constructed or already constructed may be allowed by the Executive Engineer on technical or on administrative grounds under written orders on application received from the permanent holders or occupiers, at the expenses of such permanent holders or occupiers.

**215.** The field channels constructed prior to enforcement of these rules shall be governed by the rules applicable to construction and maintenance of field channels.

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<sup>14</sup> Omitted by Notification No. F-27-8-81-MM-XXXIX, dated 6-11-1982.

**216.** Whoever without proper authority does any act whereby a field channel is damaged or altered or flow of water is interfered with or the water is rendered corrupt or foul, shall be fined up to Rs. 250 and if the breach is a continuing one, a further fine which may extend to Rs. 10 for every day after the first day during which the breach had been persisted in.

**217.** All relevant accounts shall be maintained by the Executive Engineer in his office.

**218.** The amount to be recovered on account of expenses incurred on construction of field channels or maintenance thereof, shall be recovered by the irrigation department in lump-sum up to Rs. 50 and in case the amount is more than Rs. 50 in three equal installments to be paid annually.

**219.** The distribution of water for irrigation beyond the outlet will ordinarily rest with the beneficiaries, who will apportion it among themselves. If they disagree they may approach the irrigation panchayat for proper distribution.

**220.** The irrigation panchayat with the help of the Amin and consultation with the beneficiaries concerned shall settle the dispute by mutual agreement <sup>15</sup>[x x x] which the beneficiaries shall be bound to abide.

**221.** On an application made by the irrigation panchayat or two-third of the beneficiaries concerned for preparing <sup>16</sup>[warabandi] programme, the Executive Engineer shall depute the Canal Deputy Collector or Sub-Divisional Officer or Irrigation Inspector to enquire into and submit the report as to whether enforcement of <sup>17</sup>[warabandi] is necessary.

**222.** The application for <sup>18</sup>[warabandi] programme shall ordinarily be rejected if the area under complaint is:-

- (a) Very small.
- (b) Irrigated from well.
- (c) On foresaid of a drain, drainage or low ground or situated outside the area commanded by the out-let.
- (d) On a temporary outlet.
- (e) In times of drought or intense demand.
- (f) Shortly before a new settlement.
- (g) Proper maintenance of water course is not done.

**223.** The Executive Engineer at his own initiative may also take up <sup>19</sup>[warabandi] programme where:-

- (a) Fair distribution and economy of water is desirable.

<sup>15</sup> Omitted by Notification No. F-27-8-81-MM-XXXIX, dated 6-11-1982.

<sup>16</sup> Substituted by Notification No. F.29-78-MM-XXXIX-IV, dated 31-3-1983.

<sup>17</sup> Substituted by ibid.

<sup>18</sup> Substituted by ibid.

<sup>19</sup> Substituted by Notification No. F.27-8-81-MM-XXXIX, dated 6-11-1982.

- (b) The area commanded is too large for the outlet.
- (c) The water course is long one.
- (d) There is enmity between parties leading to dispute in distribution of water.
- (e) Some parties are weak and others are strong depriving the weak persons of their share of water.
- (f) The area commanded is in more than one village, leading to disputes.
- (g) Government land is irrigated.
- (h) Redistribution of outlets is carried out and areas or adjacent outlets combined or altered.

**224.** On approval of the report of the inquiry officer for <sup>20</sup>[warabandi], the Executive Engineer shall ask the applicants to deposit Rs. 50 to meet expenses on tracing shajra etc. and other incidental work, and departmental overheads.

**225.** The deposit of Rs. 50 shall be made by the applicant into the sub-division or division office and a receipt shall be given to the payee and credited to the maintenance head.

**226.** On deposit of the amount the Executive Engineer shall order the Canal Deputy Collector or Sub-Divisional Officer or Irrigation Inspector for the preparation of <sup>21</sup>[warabandi] programme to be completed within three months. The various steps in the preparation of <sup>22</sup>[warabandi], programme shall be :-

- (a) Preparing a map on tracing cloth of the area under dispute in triplicate.
- (b) Marking of commanded area in green ink.
- (c) Preparing cultivator wise details of the survey numbers area, under command of the outlets under operation.
- (d) Marking of culturable land under possession of Government in yellow color.
- (e) Marking of unculturable land in black hatching.
- (f) Marking of area for <sup>23</sup>[warabandi] vide item (c) in red color.
- (g) Marking of the boundary of the thok in dotted yellow.
- (h) Marking of the alignment of water courses and field channels in blue colour.

**227.** The Irrigation Inspector shall call a meeting of the permanent holders of the outlets under <sup>24</sup>[warabandi] and ask them to form thoks and select thokdars from amongst them. The thoks should be as few as possible.

**228.** After the finalization of thoks and preparation of papers under items (a) to (h) of Rule 226, the Canal Deputy Collector or Sub-Divisional Officer shall prepare a statement showing the names of each cultivator and the survey numbers of the fields, with their areas by cultivator and thok.

<sup>20</sup> Substituted by Notification No. F.29-78-MM-XXXIX-IV, dated 31-3-1983.

<sup>21</sup> Substituted by Notification No. F.29-78-MM-XXXIX-IV, dated 31-3-1983.

<sup>22</sup> Substituted by Notification No. F.29-78-MM-XXXIX-IV, dated 31-3-1983.

<sup>23</sup> Substituted by Notification No. F.27-8-81-MM-XXXIX, dated 6-11-1982.

<sup>24</sup> Substituted by Notification No. F.29-78-MM-XXXIX-IV, dated 31-3-1983.

**229.** The total area of the outlets under command for <sup>25</sup>[warabandi] shall be distributed in 168 hours (or week) and timings for individuals shall be fixed in proportion to their holdings under command of the outlets under osrabandi. The timings shall start from Sunday at 8.00 a.m.

**230.** In fixing time and its sequence consideration shall be given to the distance of the thok from the outlets. Thus thok No. 1, shall be that which has a field nearest to the head of the outlet or water course or field channels as the case may be, and where two different thoks are equidistant from the head of the outlet, priority shall be given to one, lying on the left side of the channel. The first field of the other thok lying on the main water course or field channel after thok No. 1 shall be determined thok No. 2 and so on.

**231.** After finalization of thoks and timings, a meeting of the concerned permanent holders of the command will again be arranged, and <sup>11</sup>[warabandi] so finalized will be discussed with them and if need be reasonable modifications may be made, and signatures of those who are present at the meeting, may be obtained on all these documents, and detailed report will be submitted to the Executive Engineer for approval.

**232.** The Executive Engineer, on receipt of the report under Rule 231 shall examine it carefully and accord approval with modification if any, and return the same to the officer submitting the report. The latter will arrange to furnish the copies of the approval osrabandi <sup>26</sup>[and warabandi] programme along with all details to irrigation Panchayat, Thokdars and the cultivator concerned for giving effect to the osrabandi programme. The Programme so conveyed shall be binding on all the beneficiaries whether they are signatories to the applications or not.

**233.** The selected thokdars shall manage the distribution of water within them. If any thokdar or permanent holder of not less than two-third, or not less than 95 percent of the permanent holders of land under command of the thok, desire the assistance of Banihar for controlling the distribution of water within their thok shall request the Sub-Divisional Officer to appoint Banihar who shall do so provided that the permanent holders deposit the amount likely to be incurred on such appointment. The difference in actual expenditure for payment to Banihar and amount in deposit being recoverable from the concerned permanent holder and in default the same shall be recovered as arrears of land revenue in proportion to the holdings of individuals in that thok.

**234.** The thokdar may however interchange the timings if the beneficiaries agree but not beyond the time fixed for the particular thok.

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<sup>25</sup> Substituted by ibid.

<sup>26</sup> Substituted by ibid.

**235.** Precaution shall always be taken to operate the canal in such a way that the water reaches the outlet before half an hour as to enable the permanent holders to have full share of water fixed for his turn and no turn is mixed.

**236.** The Executive Engineer may revise <sup>27</sup>[warabandi] programme if there is:-

- (a) A change in the roster of channel.
- (b) A change in the vantage or position of the outlet or alteration in command.
- (c) Conversion of canal to well irrigation or vice versa.
- (d) Cultivated area becoming uncultivated or vice versa.
- (e) Change in occupancy and other holdings.
- (f) Any other special circumstances which in the opinion of the Executive Engineer necessitate revision.

**237.** A register of the <sup>28</sup>[warabandi] shall be maintained in the division, sub-division and Canal Deputy Collector's office in which all details from application to finalization of <sup>29</sup>[warabandi] shall be maintained.

**238.** Whoever violates osrabandi <sup>30</sup>[and warabandi] programme shall punishable with fine which may extend to Rs. 250 and where the breach is continuing one with further fine which extend to Rs. 10 for every day after the first during which the breach has been persisted in.

**239.** If Irrigation Panchayat or the permanent holders of not less than two-thirds or not less than 95 percent of the permanent holders of, all land under irrigation or under agreement in a village, mahal or chak desire the assistance of Banihar for distribution of water beyond outlet, they shall intimate their desire in writing to the section subordinate specifying the period for which the assistance is required.

**240.** On receiving the intimation the section subordinate shall intimate the same to the Sub-Divisional Officer which shall fix the number of Banihars to be appointed in village, mahal or chak in consultation with the Panchayat.

**241.** The Banihar or Banihars so appointed shall hold their posts for the specified period unless they are previously dismissed or removed by the Sub-Divisional Officer for reasons in writing.

**242.** Whenever an Irrigation Panchayat, departmental staff, or Banihar, as the case may be, in the performance of its or their duties to control the distribution of irrigation beyond the outlet considers that it is expedient to pass the water received by a person in his field for irrigation beyond such field, the Panchayat departmental staff, or Banihar shall ask such person to allow

<sup>27</sup> Substituted by Notification No. F.27-8-81-MM-XXXIX, dated 6-11-1982.

<sup>28</sup> Substituted by Notification No. F.29-78-MM-XXXIX-IV, dated 31-3-1983.

<sup>29</sup> Substituted by ibid.

<sup>30</sup> Substituted by ibid.

the water to pass to the satisfaction of the Panchayat departmental staff, or the Banihar. If such person refuses to allow the water to pass, the Panchayat, departmental staff or Banihar may enter upon such field and take such action as deems fit for the passage of water beyond that field.

**243.** The Irrigation panchayat in a village, mahal or chak in which Banihar or Banihars have been appointed for controlling the distribution of irrigation beyond the outlet, shall not be paid any commission for administrative work. The amount of such commission shall be utilized for remunerating the Banihars.

**244.** (i) The remuneration of Banihars shall be determined and paid by the Executive Engineer. It shall be met from the commission for administrative work which would have been payable to Irrigation Panchayat. If the amount of such commission falls short of the remuneration fixed, the difference shall be recovered from the permanent holders being determined in proportion to the area irrigated or under agreement held by him.

(ii) If a permanent holder commits a default in payment of the sum payable by him for the remuneration of a Banihar the Canal Deputy Collector shall recover the dues outstanding as arrears of the land revenue.

#### **245. Section 99.--**

No enquiry into a canal offence shall be made by an officer below the rank of an overseer or irrigation inspector.

**246.** Any canal subordinate discovering the commission of an offence shall within 24 hours of such discovery, report it in Form 33 called "preliminary offence report" to his immediate superior officer authorized to hold an enquiry into such cases.

**247.** The canal officer or subordinate shall, as speedily as possible, and if he is an overseer or irrigation inspector within 15 days of the date of the report and if he is a canal officer within one month of the date of the report, shall complete the enquiry and submit the proceedings to the next higher officer.

**248.** After an enquiry has been completed, no further enquiry shall be made by any officer except with the previous sanction of the Executive Engineer and such further enquiry shall not be entrusted to an officer below the rank of the official making the first enquiry.

**249.** When a person is reasonably suspected of having committed an offence punishable under the Act or the rules made there under, a canal officer considers that it should be compounded, he shall issue a notice in writing under his signature to such person requiring him to attend at the time and place specified in the notice. It need not be in duplicate and shall be served on the person concerned by any person deputed by the canal officer. The person to whom the notice is tendered shall sign it or put his thumb mark thereon by way of acknowledgement and return it to the server. If he refuses to accept the notice or avoids the service thereof the server shall report the fact to the canal officer.

**250.** Every officer, making an enquiry under these rules shall day by day enter his proceedings in the diary book, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him and statement of the circumstances ascertained during his enquiry. He shall also record the statement of all persons summoned as witnesses and he shall record separately the statement of the accused as to whether he is willing to compound or not, he must take the signature of the accused to this statement. Save as provided in Rule 251 no person attending the enquiry shall be detained after its completion.

**251.** No person shall ordinarily be arrested under the powers given under Section 98 of the Irrigation Act unless the accused has no fixed abode or is likely to abscond. Any person who has been arrested must be brought before a Magistrate or handed over to the nearest police station without unnecessary delay.

**252.** If the enquiry officer has the power to compound the offence, and the accused consents to compound the offence, the enquiring officer may fix and levy the amount of compensation. Such amount shall be paid immediately within such time as the enquiring officer may fix.

**253.** If the enquiring officer has no power to compound the offence, or the accused refuses to compound, or refuses to appear, or the enquiry has not been completed within the time fixed under Rule 247 he shall forward his proceedings through the proper channel to the Executive Engineer for orders. On receipt of the enquiry, the Executive Engineer shall pass such orders as to it may appear necessary.

**254.** On the publication of these rules, all rules, made or issued on this subject and which were in force in this State immediately before the commencement of these rules, shall stand repealed:

Provided that anything done or any action taken under the rules, so repealed shall so far as it is not inconsistent with the provisions of these rules shall be deemed to have done or taken under the provisions of these rules.

**2. Madhya Pradesh Sinchai Prabandhan  
Me Krishkon Ki Bhagidari Adhiniyam,  
1999**

# Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari Adhiniyam, 1999

[Act No. 23 of 1999]

## **PREAMBLE**

An Act to provide for Farmers' participation in the Management of Irrigation System and for matters connected therewith or incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the Fiftieth Year of the Republic of India as follows:—

### **Section 1 - Short title, extent and commencement-**

- (1) This Act may be called the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari Adhiniyam, 1999<sup>1</sup>.
- (2) It extends to the whole of the State of Madhya Pradesh.
- (3) It shall come into force<sup>2</sup> on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions.

### **Section 2 – Definitions-**

- (1) In this Act, unless the context otherwise requires :—
  - (a) "area of operation" in relation to Farmers' Organisation means a contiguous block of land in the command area of an irrigation system as may be notified by the State Government for the purposes of this Act;
  - (b) "ayacut road" means a road within the area of operation of a farmers' organisation for the purpose of irrigation and agriculture but does not include a road vested in a Gram Panchayat, Janpad Panchayat, Zila Panchayat, Nagar Panchayat, Municipal Council, Municipal Corporation or Public Works Department of the State Government;
  - (c) "command area" means an area irrigated or capable of being irrigated either by gravitational flow or by lift irrigation or by any other method from a Government or

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<sup>1</sup> Received the assent of the Governor on the 12th August, 1999; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)" dated 18-8-1999.

<sup>2</sup> W.e.f. 15-9-1999; vide Notification No. PC-32-I-98-Med-XXXI, dated 15-9-1999; Published in M.P. Rajpatra (Asadharan), dated 15-9-1999.

the Government aided source and includes every such area whether it is called 'ayacut' or by any other name under any law for the time being in force;

(d) "Competent Authority" means the Competent Authority appointed under Section 21;

(e) "distributory system" means and includes.—

(i) all main canals, branch canals, distributaries and minor canals constructed for the supply and distribution of water for irrigation;

(ii) all works, structures and appliances connected with the distribution of water for irrigation; and

(iii) all field channels and other related channels and structures under a pipe outlet;

(f) "drainage system" in relation to an irrigation system includes.—

(i) channels either natural or artificial, for the discharge of waste or surplus water and all works connected therewith or ancillary thereto;

(ii) escape channels from an irrigation or distribution and other works connected therewith, but does not include works for removal of sewage;

(iii) all collecting drains and main drains to drain off surplus water from field drains; and

(iv) all field drains and related structures under pipe outlets;

(g) "Farmers' Organisation" wherever it occurs, shall mean and includes.—

(i) water users' association at the primary level consisting of all the water users' as constituted under Section 3;

(ii) distributory committee at the secondary level as constituted under Section 5; and

(iii) project committee at the project level, as constituted under Section 7;

(h) "field channel" includes a channel existing or to be constructed by the State Government or by the land holders or by any agency to receive and distribute water from a pipe outlet or an opening in a water course for irrigation of field belonging to Government or private owners;

(i) "field drain" includes a channel excavated and maintained by the land holder or by any other agency, to discharge waste or surplus water from the land holding under a pipe outlet and includes drains, escape channels and other similar works existing or to be constructed;

(j) "financing agency" means any commercial bank or any co-operative society or any other bank or organisation established or incorporated under any law for the time

being in force, which lends money for the development of the area of operation of the Farmers' Organisation;

(k) "hydraulic basis" means the basis for identifying a viable irrigated area served by one or more hydraulic structures such as headworks, distributaries, minors, pipe outlets and the like;

<sup>3</sup>[(l) "Irrigation system" means such major, medium and minor irrigation system for harnessing water for irrigation and other allied uses from Government sources and also sources created by means of community participation, which is duly permitted by the District Collector and includes reservoirs, open head channels, diversion system, anicuts, stop dams, lift irrigation schemes, tanks, well and the like, and such irrigation system irrigating an area greater than 40 hectares;

*Explanation :—* (i) "major irrigation system" means irrigation system under major irrigation project having irrigable command area of more than 10,000 hectares;

(ii) "medium irrigation system" means irrigation system under medium irrigation project having irrigable command area of more than 2,000 hectares and up to 10,000 hectares;

(iii) "minor irrigation system" means irrigation system under minor irrigation project having irrigable command area upto 2,000 hectares.]

(m) "land holder" means an owner and or a tenant recorded as such in the record of rights under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) in respect of land in the notified ayacut area of an irrigation system;

(n) "maintenance" means execution of such works on the irrigation system as are necessary to ensure that the physical system designed to the standards operates for proper distribution of water to the land holders in the area of operation;

(o) "operational plan" means a schedule of irrigation deliveries with details of the mode and duration of supplies drawn up for regulation of irrigation in the command area of an irrigation system;

(p) "warebandi" means a system of distribution of water allocation to water users by turn, according to an approved schedule indicating the day, duration and the time of supply;

(q) "water allocation" in relation to an irrigation system means distribution of water determined from time to time by a Farmers' Organisation in its area of operation;

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<sup>3</sup> Substituted by M.P. Act No. 3 of 2005.

- (r) "water user" means and includes any individual or body corporate or a society using water for agriculture, domestic, power, non-domestic, commercial, industrial or any other purpose from a Government source of irrigation;
- (s) "canal officer" means the following Officers of the <sup>1</sup>[The Water Resources Department or the Narmada Valley Development Department] namely :—
  - (a) The Chief Engineer;
  - (b) Superintending Engineer;
  - (c) Executive Engineer;
  - (d) Sub-Divisional Officer; and
  - (e) Canal Deputy Collector.

(2) The words and expressions used in this Act, but not defined, shall have the same meaning as assigned to them in the Madhya Pradesh Irrigation Act, 1931 (No. 3 of 1931).

**Section 3 - Delineation of Water Users' Area and constitution of an association-**

(1) The <sup>4</sup>[State Government], may by notification and in accordance with the rules made under this Act, in this behalf, delineate every command area under each of the irrigation systems on a hydraulic basis which may be administratively viable; and declare it to be a water users' area for the purpose of this Act:

Provided that in respect of the command area under the minor and lift irrigation systems, the entire command area may, as far as possible form a single water users' area.

(2) Every water users' area shall be divided into territorial constituencies, which shall not be less than four but not more than ten, as may be prescribed.

(3) There shall be a Water Users' Association called by its local distinct name for every water users' area delineated under sub-section (1).

(4) Every Water Users' Association shall consist of the following members, namely:—

(a) <sup>5</sup>[(i) all the water Users' who are land holders in a water Users' area; the wives of such land holders, who do not hold land, shall be deemed to be the land holders for the purposes of this Act:

<sup>4</sup> Substituted by M.P. Act No. 22 of 2001

<sup>5</sup> Substituted by M.P. Act No. 3 of 2005

Provided that where both the owner and the tenant are land holders in respect of the same land, the tenant;]

- (ii) all other water users in a water users' area;
- (iii) three ex-officio members one of Amin Cadre and one of Sub-Engineer Cadre from the <sup>6</sup>[The Water Resources Department or the Narmada Valley Development Department] who will Act as Co-ordinator between the Government Departments and the Farmers' Association and the third from the Agriculture Department or Ayacut Department who will act as Advisor.
- (b) the member specified in sub-clauses (i) to (iii) of clause (a) shall constitute the general body of the Water Users' Association;
- (c) a person eligible to become a member of more than one territorial constituency of Water Users' Association under subclause (i) of clause (a) shall be entitled to be a member of only one territorial constituency and he shall exercise his option thereof;
- (d) the members specified in sub-clause (i) of clause (a) alone shall have the right to vote.

#### **Section 4 - Managing Committee of Water Users' Association-**

- (1) There shall be a Managing Committee for every Water Users' Association, which shall consist of a President and one member from each of the territorial constituencies of the Water Users' Area.
- (2) The District Collector shall make arrangements for the election of President of the Managing Committee of the Water Users' Association by direct election by the method of secret ballot in the manner prescribed.
- (3) The District Collector shall also cause arrangements for the election of the members of Managing Committee by the method of secret ballot in the manner prescribed.
- (4) If the Managing Committee of the Water Users' Association does not have a woman member, the Managing Committee shall co-opt a woman as member who shall ordinarily be a resident of the Farmers' Organisation area.
- <sup>7</sup>[(5) The President and the members of the Managing Committee shall, if not recalled earlier, be in office for a term of five years from the date of appointment of the Competent Authority under sub-section (1) of Section 21:

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<sup>6</sup> Inserted by M.P. Act No. 3 of 2005

<sup>7</sup> Substituted by M.P. Act No. 22 of 2001.

Provided that if on the expiry of the term of the President and the members of the Managing Committee, a new Managing Committee is not constituted, the State Government may by notification, extend the term of the President and the members of the Managing Committee only once for a period of six months from the date of expiry, with reasons for such extension being placed on record.]

(6) The Managing Committee shall exercise the powers and perform the functions of the Water Users' Association.

#### **Section 5 - Delineation of Distributory area and constitution of the Distributory Committee-**

(1) The State Government may, by notification and in accordance with the rules made in this behalf, delineate every command area of the irrigation system, comprising of two or more Water Users' Associations, and declare it to be a distributory area, for the purpose of this Act.

(2) There shall be a Distributory Committee called by its local distinct name for every distributory area declared as such under sub-section (1).

(3) All the Presidents <sup>8</sup>[and the territorial constituency members] of the Water Users' Association in the distributory area, so long as they hold such office, shall constitute the general body of the Distributory Committee including two nominated official members, one of them shall be an Assistant Engineer of <sup>9</sup>[the Water Resources Department or the Narmada Valley Development Department], who will work as a Co-ordinator between the various departments, Water Users' Associations and Distributory Committee, and the second member will act as an Advisor who will be from Agriculture or Ayacut Department.

#### **Section 6 - Election of Managing Committee of Distributory Committee-**

(1) There shall be a Managing Committee for every Distributory Committee.

(2) The District Collector shall cause arrangements, in such manner as may be prescribed for the election by the method of secret ballot of the President, and Members of the Managing Committee which shall not be more than five from amongst the members of the General Body of the Distributory Committee.

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<sup>8</sup> Substituted by M.P. Act No. 3 of 2006

<sup>9</sup> Inserted by M.P. Act No. 3 of 2005

(3) If the Managing Committee of the Distributory Committee does not have a woman member, the Managing Committee shall co-opt a woman as a member who shall ordinarily be a resident of the Farmers' Organisation area.

(4) The term of office of the President, and the members of the Managing Committee shall be five years from the date of the first meeting of the Managing Committee.

(5) The Managing Committee shall exercise the powers and perform the functions of the Distributory Committee.

#### **Section 7 - Delineation of Project area and construction of Project Committee-**

(1) The State Government, may by notification and in accordance with the rules made under this Act in this behalf, delineate every command area or part thereof, and declare it to be a project area for the purposes of this Act.

(2) There shall be a Project Committee called by its distinct name for every project area declared as such under sub-section (1).

<sup>10</sup>[<sup>11</sup>(3) (i) All the Presidents of the Water Users' Associations of the project area of major irrigation projects and all the Presidents and territorial constituency members of the Water Users' Associations of the project area of medium irrigation projects, so long as they hold such office, shall constitute the general body of the Project Committee.]

(ii) The Project Committee shall have two nominated members, one of whom shall act as Co-ordinator between various departments and Farmers' Associations and who was be an Executive Engineer of Water Resources Department or Narmada Valley Development Department for Major Projects or an Assistant Engineer of Water Resources Department or Narmada Valley Development Department for Medium Projects and second member will act as an adviser who will be from the Agriculture Department. The nominated member shall not have right to vote.]

#### **Section 8 - Election of Managing Committee for Project every Committee-**

(1) There shall be a Managing Committee for every Project Committee.

<sup>12</sup>(2) (i) The District Collector, shall cause arrangements in such manner as may be prescribed for the election by the method of secret ballot of Chairperson and Managing Committee consisting of not more than nine members from amongst the members of the general body of the Project Committee.

<sup>10</sup> Substituted by M.P. Act No. 22 of 2001

<sup>11</sup> Substituted by M.P. Act No. 12 of 2003

<sup>12</sup> Substituted by M.P. Act No. 3 of 2005

(ii) The Chairperson and members of Managing Committee of Project Committee of Major Projects shall be elected amongst the President of Water Users' Association, while the Chairperson of Medium Project shall be elected amongst the President of Water Users' Association and members of Managing Committee of the Medium Project shall be amongst Presidents and Territorial Constituency members of the Water Users' Association.]

(3) If the Managing Committee of the Project Committee does not have a woman member, the Managing Committee shall co-opt a woman as member who shall ordinarily be a resident of the Farmers' Organisation area.

(4) The term of office of the Chairperson, and the members of the Managing Committee shall be five years from the date of the first meeting.

(5) The Managing Committee shall exercise the powers and perform the functions of the Project Committee.

#### **Section 9 - Apex Committee-**

(1) The State Government may, by notification, constitute an Apex Committee consisting of the following Members, namely:—

(i) The Minister Water Resources Department — Chairperson.

(ii) Five persons from amongst the Chairperson of the Project Committee;

(iii) two persons from non-government organisations; and

<sup>13</sup>[(iv) three officers not below the rank of Chief Engineer or equivalent from the Water Resources Department, Agriculture Department or Narmada Valley Development Department of the State Government.]

(2) The number of members may be increased by such number as may be considered necessary by the State Government.

(3) The Committee, constituted under sub-section (1) shall exercise such powers and functions as may be necessary to.—

(a) lay down the policies for implementation of the provisions of this Act; and

(b) give such directions to any Farmers' Organisation as may be considered necessary, in exercising their powers and performing their functions in accordance with the provisions of this Act.

#### **Section 10 - Procedure for recall-**

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<sup>13</sup> Substituted by M.P. Act No. 12 of 2003

(1) A motion for recall of a Chairperson or President or member of a Managing Committee, as the case may be, of a Farmers' Organisation may be made by giving a written notice as may be prescribed, signed by not less than one-third of the total number of members of the Farmers' Organisation, who are entitled to vote :

Provided that no notice of motion under this section shall be made within one year of the date of assumption of office by the persons against whom the motion is sought to be moved.

(2) If the motion is carried with the support of the two-thirds majority of the members present and voting and half of the total number of members of the association, voting at a meeting of the general body specially convened for the purpose, the District Collector or the State Government, as the case may be, shall by order remove him from office and the vacancy shall be filled in the manner specified in Section 15.

#### **Section 11 - Constitution of Sub-Committees in Farmers' Organisation-**

The Managing Committee of a Farmers' Organisation may constitute sub-committees to carry out all or any of the functions vested in each organisation under this Act.

#### **Section 12 - Farmers' Organisation to be a body corporate-**

Every Farmers' Organisation shall be a body corporate with a distinct name having perpetual succession and a common seal and subject to the provisions of this Act vested with the capacity of entering into contracts and of doing all things necessary, proper or expedient for the purposes for which it is constituted and it shall sue and be sued in its corporate name represented by the Chairperson or the President, as the case may be :

Provided that no Farmers' Organisation shall have the power to alienate in any manner, any property vested in it.

#### **Section 13 - Changes in Farmers' Organisation**

The State Government may, in the interest of a Farmers' Organisation in the command area, by notification, and in accordance with the rules made in this behalf.—

- (a) form a new Farmers' Organisation by separating the area from any Farmers' Organisation;
- (b) increase the area of any Farmers' Organisation;
- (c) diminish the area of any Farmers' Organisation;
- (d) alter the boundaries of any Farmers' Organisation; or
- (e) cancel a notification issued under this Act for rectifying of any mistake :

Provided that no such separation, increase, diminution, alteration or cancellation shall be effected unless a reasonable opportunity is given to the organisation likely to be affected.

#### **Section 14 - Disqualifications of Candidates or Members**

(1) No officer or servant of the Government of India or any State Government or of a local authority or an employee of any institution receiving aid from the funds of the State Government shall be qualified for being chosen as or for being a Chairperson, or President or a member of a Managing Committee.

(2) No person who has been convicted by a Criminal Court for any offences involving moral turpitude shall be qualified for being chosen as or for being a Chairperson or President, or a member of a Managing Committee.

(3) A person shall be disqualified for being chosen as a Chairperson or a President or a member of a Managing Committee if on the date fixed for scrutiny of nominations for election he is :—

(a) of unsound mind;

(b) an applicant to be adjudicated as an insolvent or an undischarged insolvent; or

(c) a defaulter of land revenue or water tax or charges payable either to the State Government or to the Farmers' Organisation;

(d) interested in a subsisting contract made with, or any work being done for, the Gram Panchayat, Janpad Panchayat, Zila Panchayat or any State Government or Central Government or the Farmers' Organisation :

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of this having share or interest in.—

(i) a company as mere share-holder but not as a Director;

(ii) any lease, sale or purchase of immovable property or any agreement for the same; or

(iii) any agreement for the loan of money or any security for the payment of money only; or

(iv) any newspaper in which any advertisement relating to the affairs of the Farmers' Organisation is inserted;

Explanation.--For the removal of doubts it is hereby declared that where a contract is fully performed it shall not be deemed to be subsisting merely on the ground that the Gram Panchayat, Janpad Panchayat, Zila Panchayat, the Farmers' Organisation, the

State Government or Central Government has not performed its part of the contractual obligations;

(e) a person rendered landless due to sale or transfer of land or area or operation after constitution of Water Users' Association;

(f) employed in Government or Semi-Government organisation or local body.

(4) A Chairperson or a President or a member of a Managing Committee shall also become disqualified to continue in office if he.—

(a) absents from three consecutive meetings without reasonable cause;

(b) is a person who incurs any of the disqualifications mentioned in sub-sections (1), (2) and (3) and he shall cease to hold the office forthwith :

Provided that disqualification under clause (a) shall not apply in the case of women who are in advanced stage of pregnancy and for a period of three months after delivery.

(5) A member of the Water Users' Association or a Chairperson or a President or a member of a Managing Committee shall be disqualified to continue in the office, if he/she ceases to be a land holder.

### **Section 15 - Filling up of Vacancies-**

(1) A vacancy arising either due to disqualification under sub-section (4) of Section 14 or due to death or resignation or by any reason such vacancy shall be filled up by nomination in the following manner, namely :—

(a) a vacancy in the Water Users' Association shall be filled, by nomination by the Managing Committee of the Distributory Committee in the manner prescribed;

(b) a vacancy in the Distributory Committee shall be filled, by Nomination Committee of the Project Committee in the manner prescribed;

(c) a vacancy in the Project Committee shall be filled by nomination by the Apex Committee in the manner prescribed; and

(d) a vacancy in the Apex Committee shall be filled by the State Government in the prescribed manner.

(2) The District Collector shall take necessary steps to conduct elections to fill up any vacancy caused within a period of one month from the date of occurrence of such vacancy.

(3) The term of office of a member or a President or a Chairperson of a Farmers' Organisation, elected under sub-section (2), shall expire at the time at which it would have expired, if he had been elected at the ordinary election.

### **Section 16 – Objects-**

The objects of the Farmers' Organisation shall be to promote and secure distribution of water among its users; adequate maintenance of the irrigation system, efficient and economical utilisation of water to optimise agricultural production, to protect the environment, and to ensure ecological balance by involving the farmers, inculcating a sense of ownership of the irrigation system in accordance with water budget and the operational plan.

### **Section 17 - Functions of Water Users' Association-**

The Water Users' Association shall perform the following functions, namely :—

- (a) to prepare and implement a warabandi schedule for each irrigation season, consistent with the operational plan based upon the entitlement, area, soil and cropping pattern as approved by the Distributory Committee, or as the case may be, the Project Committee;
- (b) to prepare a plan for the maintenance of irrigation system in the area of its operation at the end of each crop season and carry out the maintenance works of both distributory system and minor and field drains in its area of operation with the funds of the association from time to time and to provide funds for the maintenance of staff including such persons who are placed by the State Government with the Water Users' Association for the purpose of regulation and maintenance of irrigation system;
- (c) to regulate the use of water among the various pipe outlet under its area of operation according to the warabandi schedule of the system;
- (d) to promote economy in the use of water allocated;
- (e) to maintain a register of land holders as published by the revenue department;
- (f) to prepare and maintain a register of co-opted members;
- (g) to prepare and maintain an inventory of the irrigation system within the area of operation;
- (h) to monitor flow of water for irrigation;
- (i) to resolve the disputes, if any between the members and water users in its area of operation;
- (j) to raise resources;

<sup>14</sup>[jj) to determine the irrigation water rates for the command area of Lift Irrigation Schemes/Tube Wells only of Water Resources Department or Narmada Valley Development Department to collect and recover the irrigation charges thereof and to utilize the amount so collected or recovered for operation, including payment of electric energy charges and maintenance of pumps, motors, pipelines, jack well and canal system of Lift Irrigation Schemes/Tube Wells only of the Water Resources Department or Narmada Valley Development Department.]

- (k) to maintain accounts;
- (l) to cause annual audit of its accounts;
- (m) to assist in the conduct of ejections to the Managing Committee;
- (n) to maintain other records in such manner as may be prescribed;
- (o) to abide by the decisions of the Distributory and Project Committees;
- (p) to conduct general body meetings in such manner as may be prescribed;
- (q) to conduct regular water budgeting and also to conduct periodical social audit in such manner as may be prescribed.

### **Section 18 - Functions of the Distributory Committees-**

The Distributory Committee shall perform the following functions, namely:—

- (a) to prepare an operation plan based on its entitlement area, soil, cropping pattern at the beginning of each irrigation season, consistent with the operational plan prepared by the Project Committee;
- (b) to prepare a plan for the maintenance of both distributaries and medium drains within its area of operation at the end of each crop season and execute the maintenance works with the funds of the committee from time to time and to provide funds for the maintenance of staff including such persons who are placed by the State Government with the Distributory Committee for the purpose of regulation and maintenance of irrigation system;
- (c) to regulate the use of water among the various Water Users' Associations under its area of operation;
- (d) to resolve disputes, if any, among the Water Users' Associations in its area of operations;
- (e) to maintain a register of Water Users' Associations in its area of operations;

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<sup>14</sup> Inserted by M.P. Act No. 8 of 2002

- (f) to maintain an inventory of the irrigation system in the area of its operation, including drains;
- (g) to promote economy in the use of water allocated;
- (h) to maintain accounts;
- (i) to cause annual audit;
- (j) to maintain other records as may be prescribed;
- (k) to monitor the flow of water for irrigation;
- (l) to conduct general body meetings in such manner as may be prescribed;
- (m) to abide by the decisions of the Project Committee;
- (n) to cause regular budgeting and also the periodical social audit in such manner as may be prescribed;
- (o) to assist in the conduct of elections to the Managing Committee.

**Section 19 - Functions of Project Committees-**

The Project Committee shall perform the following functions, namely:—

- (a) to approve an operational plan based on its entitlement, area, soil, cropping pattern as prepared by the Competent Authority in respect of the entire project area at the beginning of each irrigation season;
- (b) to approve a plan for the maintenance of irrigation system including the major drains within its area of operation at the end of each crop season and execute the maintenance works with the funds of the committee from time to time and to provide funds for the maintenance of staff including such persons who are placed by the State Government with the Project Committee for the purpose of regulation and maintenance of irrigation system;
- (c) to maintain a list of the Distributory Committee and Water Users' Associations in its area of operation;
- (d) to maintain an inventory of the distributory and drainage systems in its area of operation;
- (e) to resolve disputes if any among the Distributory Committees;
- (f) to promote economy in the use of water;
- (g) to maintain accounts;
- (h) to cause annual audit of its accounts;
- (i) to maintain other records in such manner as may be prescribed;
- (j) to conduct general body meetings in such manner as may be prescribed; and

(k) to cause regular budgeting and also the periodical social audit in such manner as may be prescribed.

**Section 20 - Power to levy and collect fee-**

A Farmers' Organisation may, for carrying out the purposes of this Act, achieving the objects of the organisation and performing its functions, levy and collect fee as may be prescribed from time to time.

**Section 21 - Appointment of Competent Authority and his functions-**

(1) The State Government may, by notification, appoint such officer from the Water Resources Department, or any other department, as it considers necessary, to be the Competent Authority for every farmers' organisation for the purposes of this Act.

(2) The Competent Authority appointed under sub-section (1) shall be responsible to the respective Farmers' Organisations in the implementation and execution of all decisions taken by the Farmers' Organisation in the prescribed manner and shall provide technical advice and ensure that the work is executed in accordance with the technical parameters.

**Section 22 - Resources of Farmers' Organisation-**

The Funds of the Farmers' Organisation shall comprise of the following namely:—

- (i) grants and commission received from the State Government as a share of the water tax collected in the area of operation of the Farmers' Organisation;
- (ii) such other funds as may be granted by the State Government and Central Government for the development of the area of operation;
- (iii) resources raised from any financing agency for undertaking any economic development activities in its area of operation;
- (iv) income from the properties and assets attached to the irrigation system;
- (v) fees collected by the Farmers' Organisation for the services rendered in better management of the irrigation system; and
- (vi) amounts received from any other sources.

**Section 23 - Offences and Penalties-**

Whoever without any lawful authority does any of the following acts, that is to say:-

- (a) damages, alters, enlarges or obstructs any canal;
- (b) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal;

- (c) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal;
- (d) being responsible for the maintenance of water course or using water course, neglects to take proper precautions for the prevention of the water thereof, or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;
- (e) receiving water in his fields for irrigation, neglects to take proper precautions for the prevention of waste of such water;
- (f) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (g) being a permanent holder occupier, cultivator or agricultural labourer, resident in a village in which a proclamation under Section 36 of the Madhya Pradesh Irrigation Act, 1931 (No. 3 of 1931) has been made, neglects to attend at the place appointed or refuses or neglects to carry out the duties allotted to him;
- (h) destroys, injures, defaces or removes any land mark, level mark, water gauge or other apparatus fixed by the authority or a Canal Officer;
- (i) causes animals or vehicles to pass on or across any of the works, banks or channels or any canal after such passage has been prohibited by a Canal Officer;
- (j) causes or knowingly and wilfully permits animals to graze or be tethered upon the bank or border of any canal after such grazing or tethering has been prohibited by a Canal Officer;
- (k) removes or injures any tree, bush, grass or other vegetation growing on any canal; or
- (l) eases himself on the banks or in the channel of a canal, shall on complaint made by a Farmers' Organisation :—
  - (i) be punishable in respect of offences mentioned in clauses (a) to (h), with imprisonment which may extend to two years, or with fine which shall not be less than one thousand rupees but which may extend to five thousand Rupees or with both; and when the offence is a continuing one, with an additional fine not exceeding twenty rupees for every day after the first during which the offence has been persisted in; and
  - (ii) be punishable in respect of offences mentioned in clauses (a) to (l), with fine which shall not be less than rupees five hundred but which may extend to rupees two

thousand and if the same person is subsequently convicted for a like offence he shall be liable for imprisonment which may extend to six months for each such subsequent conviction.

**Section 24 - Punishment under other laws not barred-**

Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Act:

Provided that no person shall be prosecuted and punished for the same offence more than once.

**Section 25 - Composition of offences-**

(1) A Farmers' Organisation may accept from any person who committed or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Act or the Rules made thereunder, a sum of money not less than rupees one thousand in case of offences mentioned in clauses (a) to (h) of Section 23 and Rs. Five hundred for the offences mentioned in clauses (a) to (1) of Section 23 by way of composition.

(2) On payment of such sum of money, no further proceedings shall be taken against him/her in regard to the offence, so compounded by the Farmers' Organisation.

**Section 26 - Settlement of disputes-**

(1) Any dispute or difference touching the constitution, management, powers or functions of a Farmers' Organisation arising between members shall be determined by the Managing Committee of the Farmers' Organisation.

(2) Any such dispute or difference arising between a member and the Managing Committee of a Water Users' Association or between two or more Water Users' Associations shall be determined by the Managing Committee of the Distributory Committee.

(3) Any such dispute or difference arising between a member and the Managing Committee of a Distributory Committee or between two or more Distributory Committees shall be determined by the Managing Committee of the Project Committee.

(4) Any such dispute or difference arising between a member and the Managing Committee of a Project Committee or between two or more Project Committees shall be determined by the Apex Committee, whose decision shall be final.

(5) Every dispute or difference under this section shall be disposed of within fifteen days from the date of reference of the dispute or difference.

**Section 27 – Appeals-**

(1) A party to a dispute or difference aggrieved by any decision made or order passed by the Managing Committee of a Water Users' Association may appeal to the Managing Committee of the Distributory Committee, whose decision shall be final.

(2) A party to a dispute or different aggrieved by any decision made or order passed by the Managing Committee of a Distributory Committee may appeal to a Project Committee, whose decision shall be final.

(3) A party to a dispute or difference aggrieved by any decision made or order passed by the Managing Committee of a Project Committee may appeal to the Apex Committee, whose decision thereon shall be final.

(4) Any appeal under sub-section (1) or sub-section (2) or sub-section (3) shall be preferred within 15 days of communication of the decision or the order to the person aggrieved.

(5) Every appeal under this section shall be disposed of within 15 days from the date of filing of the appeal.

### **3. The [Madhya Pradesh] Agricultural Warehouse Act, 1947**

# The [Madhya Pradesh] Agricultural Warehouse Act, 1947

[Act No. I of 1948]  
[30th December 1947]

## PREAMBLE

An Act to encourage the establishment of warehouses for storing agricultural produce and to make provision for their proper supervision and control.

Whereas it is expedient to encourage the establishment of warehouses for storing agricultural produce and to make provision for their proper supervision and control;

It is hereby enacted as follows:

### <sup>1</sup>Statement of Objects and Reasons.--

(1) The main problem of agricultural credit in India is how to make adequate short-term finance available to the agriculturist at a reasonable rate of interest. In view of the special responsibility placed on the Reserve Bank of India in regard to agricultural credit, the Bank has been anxious to make within the scope of the Reserve Bank of India Act, credit more extensively available to agriculturists on reasonable terms. Section 17(4)(d) of the Reserve Bank of India Act provide that the Reserve Bank may make loans and advances repayable on demand or on the expiry of fixed periods not exceeding ninety days against security of promissory note of any schedule banks or provincial co-operative bank supported by documents of title to goods which have been transferred, assigned or pledged to any such banks as security for cash credit or overdraft granted for bona fide commercial or trade transactions or for the purpose of financing seasonal operations on the marketing of crops. The advances are to be made against the security of promissory notes of a scheduled or provincial co-operative bank and that the Reserve Bank cannot accept the goods pledged with and in the custody of the same scheduled or provincial co-operative bank as collateral. The documents of title to goods issued by independent warehousing companies can, however be accepted as a good collateral. The sub-section necessitates, therefore, the establishment of independent warehousing companies which will provide efficient storage arrangements and have authority to issue receipts which are negotiable. In America, the system of what are called "Field Warehouses" is very developed and forms an important link in the machinery for financing the marketing of agricultural produce.

(2) The establishment of warehouses in this province on these lines will open out an important avenue for the Reserve Bank to provide finance to agriculture. The Warehouse Receipt will be an ideal security for any bank, and a promissory note supported by it will be eligible for rediscount with the Reserve Bank. As a result there will be not only an increase in the volume of finance available to the agriculturists but there will also be a cheapening of the

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<sup>1</sup> For Statement of Objects and Reasons see C.P. & Berar Gazette, Extraordinary, dated the 23rd September, 1946 at p. 285

rates of interest and, incidentally, the system of warehouse will contribute to smooth and orderly marketing and enable the cultivator to realise better prices for his produce.

(3) In view of the above considerations, this Bill has been prepared. It provides for the establishment of a large number of warehouses both at the district and tahsil headquarters as well as in central villages in the interior where markets are held. At this warehouse the agricultural produce will be graded and stored and regularly inspected. It will be under a licensed warehouseman who will keep the produce in his personal custody, take proper care of it against theft, deterioration and all insurable accidents and issue a receipt of safe custody with an undertaking to give its delivery only to the person entitled to it. The need for such legislation has been stressed by the Reserve Bank of India, Government of India and also by the Fourteenth Conference of Registrars, Co-operative Societies held at Bombay in 1944.

### **Section 1 - Short title, extent and commencement-**

(1) This Act may be cited as The <sup>2</sup>[Madhya Pradesh] Agricultural Warehouse Act, 1947<sup>3</sup>.

<sup>4</sup>[(2) It extends to the whole of Madhya Pradesh.]

<sup>5</sup>[(3) It shall be in force in the Mahakoshal region<sup>6</sup> and shall come into force in any other regions of the State on such date as the State Government may, by notification in the Official Gazette appoint.<sup>7</sup>

### **Section 2 – Definitions-**

In this Act, unless there is anything repugnant in the subject or context,--

(a) "depositor", means a person who tenders agricultural produce to a warehouseman to be stored in his warehouse and includes any person who lawfully holds the receipt issued by the warehouseman in respect of such produce and derives title thereto by a proper endorsement or transfer thereof to him by the depositor or the depositors lawful transferee;

(b) "prescribed", means prescribed by rules made under this Act;

(c) "prescribed authority" means such authority as the State Government may, by rules, prescribe to carry out the duties under this Act;

(d) "warehouse" means a building or protected enclosure which is used or may be used for the purpose of storing agricultural produce;

(e) "warehouseman" means a person licensed as such under this Act to conduct a warehouse.

<sup>2</sup> Substituted by MP Extension of Laws Act 23 of 1958

<sup>3</sup> Received the assent of the Governor General on the 30th December, 1947 ; assent first published in the Central Provinces and Berar Gazette, Extraordinary on the 5th January, 1948

<sup>4</sup> Substituted by MP Extension of Laws Act 23 of 1958

<sup>5</sup> Substituted by MP Extension of Laws Act 23 of 1958

<sup>6</sup> The Act came into force on 1st December, 1943 vide Co-operative and Rural Development Department Notification No. 1230-1393-XXVII, dated the 29th September, 1948, published in the Central Provinces and Berar Gazette, dated the 8th October, 1938, Part I, p. 623

<sup>7</sup> The State Government has appointed the 1st March, 1959 as the date on which the Art shall come into force in all the regions of the State other than the Mahakoshal region vide MP Rajpatra, dated 27-2-59

**Section 3 – Warehouseman-**

- (1) For every warehouse there shall be a warehouseman.
- (2) No person shall carry on the business of a warehouseman except under a licence granted under this Act and in accordance with such terms and conditions thereof as may, from time to time, be prescribed under this Act.
- (3) The licence shall be valid for such period as may be prescribed.

**Section 4 - Grant of license-**

- (1) Application for a licence shall be made in the prescribed form to the prescribed authority.
- (2) The prescribed authority may, on receiving such application and on payment of such fees as may be prescribed, grant or renew a licence.

**Section 5 - Conditions for grant of license-**

Before granting a licence the prescribed authority shall satisfy himself--

- (i) that the warehouse is suitable for the proper storage of the agricultural produce in respect of which a licence has been applied for,
- (ii) that the applicant is competent to conduct such a warehouse,
- (iii) that no cause exists by reason of which in the opinion of the prescribed authority the applicant should be deemed to be disqualified for holding a licence, and
- (iv) that the applicant has furnished such security as may be prescribed.

**Section 6- Suspension or cancellation of licence of warehouseman-**

- (1) Every licence may be suspended or cancelled as hereinafter provided by the prescribed authority for reasons to be recorded in writing and in particular if the warehouseman--
  - (a) has been adjudicated as insolvent or bankrupt,
  - (b) has parted in whole or in part with his control over the warehouse,
  - (c) has ceased to conduct such warehouse,
  - (d) has made exorbitant or unreasonable charges for the services rendered by him as warehouseman,
  - (e) has in any other manner become incompetent to conduct the business of warehouseman, or
  - (f) has violated any term of this licence or any provision of this Act and the rules thereunder.
- (2) The State Government may prescribe any other cause for which a licence may be suspended or cancelled.
- (3) If a licence is suspended or cancelled the prescribed authority shall make an entry to that effect in the licence.

**Section 7 - Notice of cancellation of license-**

- (1) Before cancelling a licence the prescribed authority shall give notice to the warehouseman stating the grounds on which it is proposed to cancel his licence and calling on him to show cause within fifteen days why it should not be cancelled.
- (2) After considering the explanation, if any of the warehouseman, the prescribed authority may pass such orders as it deems just.

(3) At any time for reasons to be recorded in writing the prescribed authority may suspend a licence.

(4) If the licence of a warehouseman is suspended or cancelled the authority suspending or cancelling the licence shall have power to take over the warehouse for such period and on such terms and conditions as may be prescribed.

### **Section 8 - Duplicate license-**

(1) Where a licence granted to a warehouseman is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall, on payment of such fee as may be prescribed, issue a duplicate licence.

(2) When a duplicate licence is issued, it shall be clearly stamped "Duplicate" and shall be marked with the date of issue of the duplicate and that of the original from the record of the licence issuing office.

### **Section 9 - Reasonable care of the goods stores-**

Every warehouseman shall take such care of the produce stored in his warehouse as a man of ordinary prudence would take of his own produce under similar circumstances.

### **Section 10 - Preservation of identity of produce-**

Every warehouseman shall exercise such care in keeping distinct the produce of each depositor as will enable him at all times to identify it and to deliver it without undue delay on demand by the depositor:

Provided that where standardized and graded produce is stored in a warehouse, subject to any agreement between the warehouseman and a depositor, there may be pooling of the same grade and kind of produce belonging to several depositor and each depositor shall be entitled only to his portion of the produce according to weight or quantity, as the case may be, as shown in his receipt.

### **Section 11- Produce deteriorating in warehouse and its disposal-**

(1) Whenever produce stored in a warehouse is found to be deteriorating from causes beyond the control of the warehouseman, he shall as soon as possible give notice of such deterioration to the depositor requiring him to surrender his receipt and take delivery of the produce on payment of the warehouseman's dues.

(2) In the event of the depositor failing to comply with the notice within a reasonable time, the warehouseman may cause such produce to be removed from his warehouse and sold by public auction at the cost and risk of the depositor.

(3) A copy of the notice provided for in sub-clause (1) shall be given by the warehouseman to the bank on whose behalf the depositor's produce is stored in his warehouse.

### **Section 12 - Delivery of produce-**

Every warehouseman in the absence of any reasonable or lawful excuse shall without unnecessary delay deliver the produce stored in his warehouse to the depositor on a lawful demand made by him and on surrender of the warehouse receipt duly discharged and on payment of charges due to the warehouseman, and subject to any agreement between the

warehouseman and the depositor, the latter may take partial delivery of his produce stored in the warehouse.

**Section 13 - Insurance of produce stored in warehouse-**

Every warehouseman shall insure the produce stored in his warehouse against such risk and to such extent and in such manner as may be prescribed.

**Section 14 - Charges for storing produce to be made without undue preference-**

No warehouseman shall in the conduct of his business show undue preference to any person, but may make such charges for the storing of produce in his warehouse as may be agreed upon between him and the depositor, not exceeding the limits imposed by the conditions of his licence.

**Section 15 - Warehouseman not to lend money against the produce in his warehouse-**

No warehouseman shall either on his own account or that of others deals in or lends money on the produce which he receives in his warehouse:

Provided that this section shall not apply to co-operative societies <sup>8</sup>[or to warehousing corporations established under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (XXVIII of 1956), in relation to warehouses owned and run by such societies and corporations.]

**Section 16 - Issue of receipt-**

A warehouseman shall issue a receipt in the prescribed form containing full particulars in respect of the produce stored in his warehouse by each depositor.

**Section 17 - Receipt transferable by endorsement-**

Such receipt or a duplicate receipt issued under Section 18 shall unless specified otherwise, be transferable by endorsement and shall entitle its lawful holder to receive the goods specified in it on the same terms and conditions on which the depositor who originally deposited the produce would have been entitled to receive it.

**Section 18 - Duplicate receipt-**

- (1) Where a receipt issued by a warehouseman is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall, subject to rules made in this behalf, issue a duplicate receipt.
- (2) When a duplicate receipt is issued, it shall be clearly stamped "Duplicate" and shall be marked with the date of issue of the duplicate and that of the original available from the office of issue.

**Section 19 – Inspection-**

The prescribed authority may at any time during business hours inspect or examine or depute any person to inspect or examine a warehouse licensed under the Act, its equipment, the

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<sup>8</sup> Substituted by MP Extension of Laws Act 23 of 1958

produce stored, the account books and records for the purpose of satisfying itself that the requirements of the Act and the rules are being complied with.

#### **Section 20 - Licensed weighers, samplers and graders-**

- (1) The prescribed authority may issue licences to qualified and competent persons entitling them to act as weighers, samplers and graders of any produce stored or to be stored in a warehouse and to issue certificates as to weight, quality or grade of the produce which they have examined and the certificates so issued shall be binding on the warehouseman and the depositor as to the weight, quality or grade of the produce so certified.
- (2) The warehouseman shall not be responsible for any shortage caused to produce stored in his warehouse by driage or other causes beyond his control.
- (3) The warehouseman shall not be entitled to any excess caused to produce stored in his warehouse by absorption of moisture or other causes.
- (4) In the event of a dispute arising as to whether the shortage or excess is due to driage or absorption of moisture or is due to other causes beyond the warehouseman's control or in the event of a dispute arising over the action of weighers, samplers and graders and all other disputes of whatsoever nature relating to quality, grading or weight shall be referred to the prescribed authority whose decision in the matter shall be final and binding.

#### **Section 21- Suspension or cancellation of licence of weigher, sampler or grader-**

- (1) Subject to rule made in this behalf every licence granted to a sampler, weigher or grader shall be liable to be suspended or cancelled by the prescribed authority.
- (2) If a licence is suspended or cancelled the prescribed authority shall make an entry to that effect in the licence.
- (3) No person who does not hold a licence shall hold himself out or work as licenced weigher, sampler or grader.

#### **Section 22 – Duplicates-**

- (1) Where a licence granted to a sampler, weigher or classifier is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall, on payment of such fee as may be prescribed, issue a duplicate receipt.
- (2) When a duplicate receipt is issued, it shall be clearly stamped "Duplicate" and shall be marked with the date of issue of duplicate and that of the original from the record of the licence issuing office.

#### **Section 23 – Penalty-**

Any person who knowingly and wilfully infringes any of the provisions of requirements of this Act or the rules made thereunder shall on conviction by a Magistrate be liable to be punished with imprisonment for a term which may extend to three years, or with fine, or with both:

Provided that an offence under this Act shall be compoundable with permission of the Court.

#### **Section 24 – Rules-**

- (1) The State Government may, after previous publication, make rules for carrying out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--
  - (a) regarding all matters to be prescribed or for which rules are to be made under this Act;
  - (b) the authority to carry out the duties under this Act;
  - (c) the form of application for the grant of licence to a warehouseman, the period and conditions of the licence and its renewal;
  - (d) the form of receipt to be issued by a warehouseman, the particulars to be specified therein and the conditions for the issue of a duplicate receipt;
  - (e) the nature of accounts books and records to be maintained by a warehouseman;
  - (f) the manner of giving notice under this Act;
  - (g) the manner of conducting a public auction for the sale of produce deteriorating in a warehouse and accounting for the proceeds of such sales;
  - (h) the qualifications for, and grant of licences to, weighers, samplers and graders, the conditions and period of their licences, form of certificates to be issued by them, renewal of their licences, the conditions under which the licences may be suspended or cancelled;
  - (i) the amount of fees for the grant of licences under this Act and their renewal and for the issue of duplicate licences;
  - (j) the standard weights, measures, classifications, gradations, and methods of storage of produce to be used in warehouses under this Act;
  - (k) the publication of the grant, suspension or cancellation of licences and the list of licensed warehouses; and
  - (l) generally for the efficient conduct of the business of a warehouseman.

### **3.1 The Madhya Pradesh State Warehousing Corporation Rules, 1958**

# The Madhya Pradesh State Warehousing Corporation Rules, 1958<sup>1</sup>

## CHAPTER I

### PRELIMINARY

#### **1. Short title.--**

These rules may be called The Madhya Pradesh State Warehousing Corporation Rules, 1958.

#### **2. Definitions.--**

In these rules, unless the context otherwise requires,--

- (a) "Act" means the Agricultural Produce (Development and Warehousing) Corporation Act, 1956;
- (b) "Board of Director" means the Board of Directors of the Corporation constituted under Section 30;
- (c) "Corporation" means the Madhya Pradesh State Warehousing Corporation established under Section 28;
- (d) "Executive Committee" means the Executive Committee of the Corporation constituted under Section 35;
- (e) "Form" means a form appended to these rules;
- (f) "Section" means a section of the Act.

## CHAPTER II

### NOMINATION OF DIRECTORS OF STATE WAREHOUSING CORPORATION

#### **3. Term of office of Members of Board of Directors.--**

The term of office of every Director nominated under sub-section (1) of Section 30<sup>2</sup> [shall, unless the nomination is rescinded earlier by the nominating authority] in the case of official Director, be for the period for which he continues to hold the office and in any other case, be two years commencing on the date of his appointment.

#### **4. Casual vacancies of non-official members.--**

(1) A non-official member of the Board of Directors may resign his office as such member by writing under his hand, addressed to the State Government and such resignation shall be effective from the date from which it is accepted. The casual vacancy so caused shall be filled in by nomination by the Central Warehousing Corporation or by the State Government, as the case may be.

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<sup>1</sup> Published in the M.P. Gazette, Part IV (Ga), dated 25-8-1961, vide Notification No. 4046-4623-XV, dated 19-8-1961.

<sup>2</sup> Inserted by Notification No. 1 (dated 17-11-1961).

(2) A person nominated to fill a casual vacancy shall hold office for so long only as the member, whose place he fills would have been entitled to hold office, if the vacancy had not been occurred.

#### **4-A. Remuneration of Directors.--**

A non-official Director who undertakes a journey for attending meeting of the Corporation shall--

(a) where he resides at a place outside a radius of five miles from the place at which the meeting of the Corporation is held be entitled to--

- (i) travelling allowance for the journey to and from the place where such meeting is held at the rates as are admissible to Government servant of the first grade under the M.P. Travelling Allowance Rules;
- (ii) daily allowance at the rate of Rs. 7 per day if the meeting is held at any other place;

(b) where he resides at the place at which the meeting is held be entitled to the actual expenses incurred by him for attending such meeting subject to a maximum of <sup>3</sup>[Rs. 3 per day].

#### **5. Choosing of Directors of Executive Committee of the Corporation.--**

The three directors to be chosen under clause (c) of sub-section (1) of Section 35 shall include--

- (a) The Registrar, Co-operative Societies.
- (b) One non-official Director to be nominated by the <sup>4</sup>[Board of Directors];
- (c) One non-official Director to be nominated by the State Government.

### **CHAPTER III**

### **SHARE OF THE STATE WAREHOUSING CORPORATION**

#### **6. The Authorised Capital of the Corporation.--**

The Authorised Capital of the Corporation under sub-section (1) of Section 29 shall be two crores of rupees.

#### **7. Share-Movable property.--**

The shares of the Corporation shall be movable property.

#### **8. Conditions of first allotment of shares.--**

- (1) Subject to the provisions of the Act and these Rules, share of the Corporation shall be under the control of the Board of Directors.
- (2) The first allotment of shares shall be made by the Board of Directors in accordance with the provisions of Section 29.

<sup>3</sup> Substituted by Notification No. 981, dated 30-3-1962.

<sup>4</sup> Substituted by Notification No. 981, dated 30-3-1962.

(3) The Board of Directors may make allotment of shares either in full or in part depending on the number of shares issued by the Corporation.

#### **9. Share Register.--**

- (1) The Corporation shall maintain at head office, a register of shares issued under the Act and shall enter therein such particulars as may be deemed necessary by the Board of Directors.
- (2) In the share register, a separate ledger shall be maintained in respect of each category of shareholders referred to in Section 29 (2) of the Act.

#### **10. Share certificate.--**

- (1) Every share certificate shall be issued under the common seal of the Corporation.
- (2) Every share certificate shall specify the number and denote numbers of the shares in respect of which it is issued and shall be issued within three months from the date of application for shares.

#### **11. Every shareholder entitled to free Share Certificate.--**

The Central Warehousing Corporation and the State Government shall each be entitled, free of charge, to one share certificate for all the shares issued to them in first instance and the<sup>5</sup>[share certificate for each series of shares issued to them from time to time thereafter.]

#### **12. Renewal of Share Certificate.--**

- (1) If any share certificate is worn-out or defaced or tendered for sub-division, then upon production thereof to the head office of the Corporation, the Corporation may order the same to be cancelled and may issue a new certificate or certificates in lieu thereof.
- (2) If any share certificate is alleged to be lost or destroyed, then upon production of such evidence of the loss or destruction thereof, as the Board of Directors may consider satisfactory upon such indemnity with or without security as the Board of Directors may require, a new certificate in lieu thereof shall be given to the party entitled to such lost or destroyed certificate.
- (3) In case of loss or destruction the party availing itself of the provisions of this rule shall also pay to the Corporation all expenses incidental to the investigation of evidence of loss or destruction and the preparation of the requisite form of indemnity as aforesaid.
- (4) For every certificate issued under this rule, there shall be paid to the Corporation a sum of Re. 1 in addition to the incidental expenses which have been incurred by it under this rule.

### **CHAPTER IV**

### **MISCELLANEOUS**

#### **13. Maintenance of and operation upon Bank Account investment of the Corporation.--**

- (1) All moneys belonging to the Corporation shall be deposited in the Reserve Bank, or the State Bank of India, or subject to the provisions of this rule in such scheduled Bank or Co-

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<sup>5</sup> Substituted by Notification No. 981, dated 30-3-1962.

operative Bank as may be approved for this purpose, by the State Government, to the account of the Corporation.

(2) All payments by or on behalf of the Corporation shall be made by cheques except for amounts not exceeding Rs. 500 which may be made in cash from the amount of imprest sanctioned for such purposes.

(3) Such cheques and all orders for making deposit or investment or for the withdrawal of the same for the disposal in any other manner of the funds of the Corporation shall be signed by the Managing Director or by any other officer of the Corporation authorised by the Board of Directors in this behalf.

(4) No payment shall be made out of the accounts of the Corporation unless the expenditure is covered by financial estimate referred to in sub-section (1) of Section 36, provided, however, that the Executive Committee may, at its discretion authorise expenditure being incurred in anticipation of such estimate. The statement of expenditure so incurred shall be submitted to the Board of Directors at its next meeting.

(5) All monetary transactions shall be entered in the cash book as soon as they occur and be attested by an officer of the Corporation duly authorised in this behalf. The cash book shall be closed daily and completely checked by the Managing Director or the officer authorised by him in this behalf. At the end of each month, the Managing Director or the Officer so authorised shall verify the cash book and the cash in hand and record a signed and dated certificate to that effect.

(6) All payments by the Corporation shall be made on bills or other documents duly prepared and passed by the Managing Director or any other officer authorised in this behalf. The paid voucher shall be stamped "paid" or so cancelled that they cannot be used a second time. They shall then be kept serially numbered and produced at the time of audit.

#### **14. Deposition in bank of Investment in Securities of Surplus Funds.--**

(1) Any funds of the Corporation not required for current expenditure may be placed in fixed deposits with the Reserve Bank of India, State Bank of India or any scheduled or Co-operative Bank approved in this behalf by the State Government or invested in the name of the Corporation in the securities of the State Government or the Central Government.

(2) The placing of money in fixed deposit and the investment thereof and the disposal of money so placed or invested shall require the sanction of Executive Committee.

#### **15. Annual Statement of Account and Balance Sheet.--**

The Board of Directors shall cause the books of the Corporation to be balanced on the last working day of the month of March in every year and the annual accounts shall be set out as follows:

- (a) A Balance Sheet in Form "A".
- (b) A Profit and Loss Account in Form "B".

**FORM A**  
(See Rule 15)

**The Madhya Pradesh State Warehousing Corporation**  
**Balance Sheet as on 31st March**

<b>Capital and Liabilities</b>	<b>Property and assets.</b>
Rs. nP.	Rs. nP.
1. Capital—	
(i) Authorised	1. Cash in hand
(ii) Issued	2. Cash in Bank
(iii) Subscribed	(i) The Reserve Bank of India;
(a) State Government	(ii) The State Bank of India ;
(b) Central Warehousing Corporation	(ii) Scheduled Bank ; and
(iv) Paid up	(iv) Co-operative Banks.
2. Calls in arrears	3. Investments
	(i) Central Government securities
3. Reserve Fund under Section 40(1)	(ii) State Government securities
4. Bad and Doubtful Debts Fund under Section 40(2)	(iii) Shares of Co-operative Societies under Section 34(c)
5. Bonds and Debentures under Section 37(1)	(iv) Other investment.
6. Other funds	4. Fixed Assets—
7. Borrowing from	(i) Lands
(i) The Reserve Bank of India under Section 37(2)(i)(a)	(ii) Buildings
(ii) The Reserve Bank of India under Section 37(2)(i)(b)	(iii) Godowns and Warehouses
(iii) The State Bank of India under Section 37(2)(ii)	5. Value of dead stock
(iv) The State Government under Section 37(3)	6. Outstanding dues from purchases made on behalf of—
(v) Warehousing Board under Section 9(2)(b)	(i) Central Warehousing Corporation
(vi) National Co-operative Development and Warehousing Board under Section 37(3)	(ii) Central Government
	(iii) State Government

Contd....

<b>Capital and Liabilities</b>	<b>Property and assets.</b>
(vii) Central Warehousing Corporation under Section 37(3)	7. Guarantee by Government per <i>contra</i>
	8. Other items.
8. Advance received for purchase of agricultural commodities from—	
(i) Central Warehousing Corporation under Section 34(e)	
(ii) Central Government under Section 34(e)	
(iii) State Government under Section 34(e)	
9. Liability under Guarantee by State Government under Section 37(4) for bonds and debentures per <i>contra</i> .	
10. Provision for taxes.	
11. Other liabilities.	
12. Suspense.	
13. Other items.	
14. Profit and Loss Account. .	

<b>Capital and Liabilities</b>	<b>Property and assets.</b>
	1. State Government.
	2. Central Warehousing Corporation.
2. Establishment.	3. National Co-operative Development and Warehousing Board.
3. Director's Fees, etc.	4. Reserve Bank.
4. Rent, Rates, Taxes	
5. Depreciation.	3. Subsidies—
6. Repairs.	
7. Bad and Doubtful Debts Fund	From National Co-operative Development and Warehousing Board.
8. Author's fees or Remuneration	4. Dividend on shares in Co-operative Societies.
9. Stationery, printing etc.	5. Other income including agency commission.
10. Miscellaneous expenses	
Net Profit C/D	Net Loss B/D

### **3.2 The Madhya Pradesh Agricultural Warehouse Rules, 1961**

# The Madhya Pradesh Agricultural Warehouse Rules, 1961

[Notification No.4046-4623-XV, published in M.P.- Rajpatra (Asadharan) dated 25-8-61: Part IV-G -p. 593].-In exercise of the powers conferred by section 24 of the Madhya Pradesh Agricultural Warehouse Act, 1947 (P of 1948), the State Government hereby makes the following rules, the same having been previously-published as required by sub-section (1) of the said section, namely:

**1. Short title:**

These rules may be called the “Madhya Pradesh Agricultural Warehouse Rules, 1961.

**2. Definitions:**

In these rules, unless there is anything repugnant in the subject or context,-

- (i) “Act” means the Madhya Pradesh Agricultural Warehouse Act, 1947 (1 of 1948)
- (ii) “Co-operative Society” means a society registered as Cooperative Society under any law relating to, the registration of Co- operative Societies in force in any region of the State;
- (iii) “Form” means a form appended to these rules;
- (iv) “Grader” means a person licensed under the Act to classify the goods according to grade or otherwise and issue a certificate;
- (v) “Licence” means a licence issued under the Act by the prescribed authority;
- (vi) “Negotiable receipt” means a receipt in which it is stated that the goods therein specified will be delivered to bearer or to the order of a named person;
- (vii) “Non-negotiable receipt” means a receipt in which it is stated that the goods therein specified will be delivered to the depositor thereof;
- (viii) "Rules" means rules made under the Act;
- (ix) "Sampler" means a person licensed under the Act to sample the goods and issue a certificate thereof;
- (x) “Warehouseman’s bond” means the bond required under the Act to be given by warehouseman;
- (xi)“Warehouse receipt” means a receipt drawn tip in conformity with the rules (made under the Act) and issued by a warehouseman to a depositor showing that certain goods described therein have been deposited in his warehouse;
- (xii) "Weigher" means a person licensed under the Act to weigh goods and issue a certificate of the weight.

**3. Appointment of prescribed authority for administration of the Act and Rules.-**

- (1) Save as otherwise provided in sub-rule (2) or (3) the Registrar, Go-operative Societies Madhya Pradesh (hereinafter referred to as Registrar), shall be the prescribed authority within the meaning of clause (c) of section 2 of the Act and the rules.
- (2) For the purpose of sub-section (1) of section 18 of the Act, the prescribed authority shall be the warehouseman.
- (3) The Registrar may authorise any officer in writing to exercise within a specified area subject to such conditions, if any, as may be specified by the Registrar, all or any of the powers conferred upon him as prescribed authority under sub-rule (i) and thereupon such officer shall be deemed to be the prescribed authority to the extent of the authority conferred upon such officer by the Registrar.

**4. Application for licence.**

- (1) A warehouseman, desiring to carry on the business for warehousing in any area, shall make an application in Form No. 1 to the prescribed authority.
- (2) Such application shall be delivered at the office of the prescribed authority during office hours personally by the applicant or his agent or sent by registered post addressed to the prescribed authority.
- (3) An application for the first time may be made on any date, but an application for renewal of a licence shall be made not less than thirty days before its expiry.

**5. The period and form of licence.**

The licence shall be in Form II and shall be valid upto 30th June next following.

**6. Licence fee.**

There shall be charged an annual fee of Rs. 20 for issuing a licence to a warehouseman.

**7. Warehousing charges.**

A warehouseman shall not make any charge in excess of that authorised by his licence for services rendered. Before a licence to conduct a warehouse is granted under the Act, the warehouseman shall file with the prescribed authority for approval a copy erf his rules and a schedule of the maximum charges to be made by him, if licensed, Any change in such rules or schedule of charges shall be subject to the previous approval of the prescribed authority. Each warehouseman shall exhibit conspicuously a copy of his current rules and schedule of charges as approved by the prescribed authority, rie shall also exhibit a translation of it in Hindi.

**8. Grant of Licence.**

- (1) On receipt of the application for a licence the prescribed authority shall make the enquiry required under section 5 of the Act. It may, if satisfied tliat the security called for by it has been furnished and is sufficient and that conditions prescribed by that section have been complied with, grant the licence in Form No. II
- (2) The licences granted to warehouses shall be numbered consecutively, and a register of such licences shall be kept by the prescribed authority.

**9. Reasons for refusing to grant licence to be communicated to applicant.**

If the prescribed authority refuses to grant a licence, it shall in writing, communicate to the applicant the fact of such refusal, together with the reasons therefor.

**10. Warehouse bonds.-A** warehouseman applying for a licence shall file a bond with the prescribed authority to cover all obligations arising thereunder during the period of the licence for such amount as may be determined by it after taking into account the storage capacity of the warehouse, the nature of goods to be stored therein, and any other matter connected therewith:

<sup>6</sup>[Provide that no such bond need be filed by a Warehousing Corporation established under the Agricultural Produce (Development and Warehousing) Corporation Act, 1956 (28 of 1956)].

#### **11. Net assets.**

The warehouseman shall have and maintain above all exemptions and liabilities, net assets liable for the payment of any indebtedness arising from the conduct of the warehouse to such extent as may be prescribed by the prescribed authority after taking into account the storage capacity of the warehouse and the nature of goods to be stored therein, etc. In case of buildings, machinery or merchandise are included among such assets, the warehouseman shall keep them insured against loss or damage by fire with a company or companies approved by the prescribed authority.

<sup>7</sup>[Provide that no such bond need be filed by a Warehousing Corporation established under the Agricultural Produce (Development and Warehousing) Corporation Act, 1956 (28 of 1956)].

#### **12. Appeal against the order of the prescribed authority**

- (1) Where an application for a licence to conduct a warehouse is rejected by an officer other than Registrar, the person aggrieved by such rejection may prefer an appeal to the Registrar within thirty days from the date of the communication of the order of rejection to such person.
- (2) The appellate authority shall decide the appeal after giving the appellant or his pleader a reasonable opportunity to be heard. The decision of the appellate authority shall be final.

#### **13. Licence lost, destroyed, torn, defaced or otherwise rendered illegible.**

Upon satisfactory proof of the loss or destruction of a licence issued to a warehouseman or on the production of such a licence torn, defaced or otherwise rendered illegible, a duplicate thereof may, at the discretion of the prescribed authority, be issued under the same number as the original on payment of a fee of Rs. 5 and it shall be marked "DUPLICATE". A licence which is torn, defaced or rendered illegible shall be surrendered by the warehouseman.

#### **14. Warehouse receipt.**

<sup>6</sup> Added by M.P. Govt Co-operative Deptt. Notfn No 1222-XV-62 dated 22-3-62. Published in M.P. Rajpatra dated 20-4-62, Part IV- G, p. 238.

<sup>7</sup> Added by M.P. Govt Co-operative Deptt. Notfn No 1222-XV-62 dated 22-3-62. Published in M.P. Rajpatra dated 20-4-62, Part IV- G, p. 238.

For goods stored by a depositor in a warehouse licensed under the Act, the warehouseman shall issue a receipt to file depositor for such goods in Form No. III.

### **15. Stamp on receipt.**

Every receipt for the goods sp issued by the warehouseman shall bear stamp of the value prescribed in the Indian Stamp Act, 1899 (II of 1899), as in force in the State.

### **16. Form of warehouse receipts.**

A receipt shall contain the following particulars:

- (a) the location of the warehouse where the goods are stored;
- (b) the name of the person by whom or on whose behalf the goods are deposited;
- (c) the date of issue of receipt;
- (d) a statement either—
  - (i) that the goods shall be delivered to the holder thereof; or
  - (ii) that the goods will be delivered to bearer or to the order of a named person;
- (e) the rate of storage charges;
- (f) a description of the goods or of the packages containing them in the form laid down by the prescribed authority for the purpose;
- (g) the signature of the warehouseman or his authorised agents; and
- (h) a statement of the amount of any advance made and of any liability incurred for which the warehouseman claims a lien where the warehouseman is a Co-operative Society.

### **17. Liability of warehouseman for omission.**

Where a warehouseman omits from a negotiable receipt any of the particulars set forth in rule 16, he shall be liable for damage caused by the omission.

### **18. Omission not to affect validity of receipts.**

No receipt shall, by reason of the omission of any of the particulars set forth in rule 16, be deemed not to be a warehouse receipt.

### **19. Negotiable receipts.**

Words in negotiable receipts limiting its negotiability shall be void.

### **20. Marking of non-negotiable receipts**

A warehouseman who issued a non-negotiable receipt shall cause to be plainly marked upon its face the words “NOT NEGOTIABLE”.

### **21. Maintenance of a warehouse in proper conditions.-**

A warehouseman shall maintain his warehouse in good and proper condition, and shall comply with the detailed rules, if any, laid down in this behalf by the prescribed authority.

**22. Duty to deliver.**

A warehouseman in the absence of lawful excuse shall deliver the goods referred to in the warehouse receipt-

- (a) in the case of a negotiable receipt, to the bearer thereof, upon demand made by the bearer and during business hours after-
  - (i) the warehouseman's lien is satisfied;
  - (ii) the receipt is surrendered with such endorsement as are necessary, for the negotiation of the receipt; and
  - (iii) the delivery of the goods is acknowledged in writing;
- (b) in the case of non-negotiable receipt, to the depositor thereof upon the depositor—
  - (i) satisfying warehouseman's lien, and
  - (ii) acknowledging in writing the delivery of the goods.

**23. The depositor to examine the contents and give notice of loss or damage, if any.**

The depositor of goods shall examine the contents of goods at the time of taking delivery, and shall give notice to the warehouseman in writing with full particulars of the loss or damage if any, caused to the goods within 72 hours of delivery. A copy of the notice shall also be sent to the prescribed authority. Similar notice of claim for damage shall be given to the warehouseman by the depositor in case he (depositor) comes to know of the loss or damage while the goods are in the warehouse.

**24. Negotiable receipt must be cancelled on delivery of goods.**

- (1) Except as provided in rule 28, a warehouseman who delivers goods for which he has issued a negotiable receipt shall take up and cancel that receipt of the goods so delivered;
- (2) Negotiable receipt to be marked on delivery of part of goods.-Except as laid down in rule 29, every warehouseman who delivers part of the goods for which he has issued a negotiable receipt, shall place plainly upon it a statement of what goods or packages have been delivered.

**25. Receipt lost; destroyed, torn, defaced or otherwise rendered illegible.**

Where a negotiable receipt has been lost, destroyed, torn, defaced or otherwise becomes illegible- the warehouseman upon application by the person lawfully entitled to the possession of the goods, shall, upon satisfactory proof of such loss or destruction or on the production of such a receipt torn, defaced or otherwise rendered illegible, issue a duplicate receipt to the depositor after examination and certification, and it shall be marked "DUPLICATE". The receipt torn, defaced or rendered illegible shall have to be surrendered by the depositor. The warehouseman may require such a person to indemnify the warehouseman against any liability, cost or expense he may be under or be put to by the original receipt remaining outstanding.

**26. Co-mingled goods and warehouseman's liability there for.**

Where authorised by agreement, warehouseman may mingle flammable goods with other goods of the same kind and grade. In that case the Holder of the receipt for the mingled goods shall

own the entire mass in common, and each holder shall be entitled to such proportion thereof as the quantity shown by his receipt to have been deposited, bears to the whole.

### **27. Negotiable receipt must state charges for which lien is claimed.**

Where a negotiable receipt is issued for goods, the warehouseman shall have no lien on the goods except for charges of storage of those goods to the date of the receipt unless the receipt expressly enumerates other charges for which a lien is claimed.

### **28. Perishable and hazardous goods.**

(1) Where goods are of a perishable nature or by their storage will deteriorate greatly in value or injure other goods stored, the warehouseman shall give such notice as is reasonable and possible under the circumstances to the depositor requiring him to satisfy the lien upon the goods from the warehouse. On failure of such person to satisfy the lien and remove the goods within the time specified in the notice, the warehouseman may sell the goods at a public auction. A copy of the notice shall also be sent to the person on whose behalf the depositor's produce is stored in the warehouse, if the name and address of such person is known to the warehouseman.

#### **(2) Method of giving notice.-**The notice referred to in sub-rule

(1) may be given by sending it by registered post addressed to the person to whom it is to be given at the person's last known place of address.

**(3) Disposal of goods.**-If the warehouseman, after a reasonable effort, is unable to sell the goods at public auctions he may dispose them off in any manner he may think fit and shall incur no liability by reason thereof.

**(4) Proceeds of sale.**-The warehouseman shall, from the proceeds of any sale made pursuant to this rule, satisfy his lien, and shall hold the balance in trust for the holder of the receipt.

### **29. Effect of sale**

Where goods have been lawfully sold to satisfy a warehouseman's lien or have been lawfully sold, or disposed of pursuant to the provisions of rule 28, the warehouseman shall not be liable for failure to deliver the goods to the holder of the receipt.

### **30. Transfer receipt.**

The goods covered by a non-negotiable receipt may be transferred by the depositor to a purchaser or donee of the goods by a transfer in writing executed by the depositor but the transfer shall not affect or bind the warehouseman until he is notified in writing thereof.

### **31. Insurance.**

The warehouseman shall fully insure the warehouse against fire and also against other risk when so directed by the prescribed authority. He shall also insure the goods deposited in the warehouse against risks of fire etc., and shall be deemed to be an agent of the depositor for this purpose.

### **32. Fire-loss to be reported immediately**

If at any time a fire should occur at or within any warehouse, it shall be the duty of the warehouseman to report immediately within 24 hours to the prescribed authority and the insurance company, the occurrence of such fire and extent of damage.

### **33. System in of accounts.**

(1) Each warehouseman shall have and maintain a system of accounts approved for the purpose by the prescribed authority.

This shall include the following:

- (i) a store record, showing the specification and other particulars of goods received for storage, its location, the date received for and delivered out of stage;
  - (ii) the receipts issued and cancelled;
  - (iii) a separate record for each depositor of goods which shall include a detailed record of all moneys received and disbursed of all insurance policies taken out and cancelled.
  - (iv) a register for noting the subsequent holders of warehouse receipts for giving notice under rule 28;
  - (v) a general insurance account showing policy number, issuing company, amount binding and expiration, date of fire and other risks, insurance policies taken out by him and the property covered by such policies.
- (2) All records, books and papers pertaining to the warehouse shall be kept in a place of safety.
- (3) a warehouseman shall allow the persons authorized by the prescribed authority to inspect or examine his warehouse and also all books, records and papers maintained by him.
- (4) A warehouseman shall submit to the prescribed authority from time to time such reports as are required by him regarding conditions, contents, operation and business of the warehouse, etc.

### **34. Applications to act as weigher, sampler or grader.**

Application to act as weigher, sampler or grader shall be made in Form No. IV to the prescribed authority. The application shall be signed by the applicant. The prescribed authority may issue a licence to the weigher, sampler or grader on payment of the annual licence fee of Rs. 5 if it is satisfied that the applicant can correctly weigh, sample or grade, as the case may be, in accordance with the standard laid down by the State Government or in the absence of such standards in accordance with any standards approved by the prescribed authority. The applicant shall supply any further information that may be required in connection to his application to the prescribed authority.

### **35. Combined application.**

A single application may be made by any person for a licence to act as a weigher, sampler or grader.

### **36. Duties of weigher, sampler or grader.**

(1) Each higher, sampler or grader shall without discrimination, as soon as practicable, weigh, sample or classify, as the case may be, and certify the weight, grade, etc., of agricultural produce stored or to be stored in a warehouse.

(2) Each weigher, sampler or grader shall issue certificate in Form No. V and shall embody within its written or printed terms—

- (i) the caption-The Madhya Pradesh Agricultural Warehouse Act, 1947-Weight/Sample/Grade Certificate,
- (ii) the name and location of the warehouse in which the grain or produce is to be stored;
- (iii) the date of the certificate;
- (iv) the consecutive number of certificate;
- (v) the weight of grain or produce covered by the certificate;
- (vi) the kind of grain or produce covered by the certificate;
- (vii) the grade and or weight of grain or produce as determined by a licensed weigher or sampler or grader;
- (viii) that the certificate is issued under Warehouse Act and the Rules made thereunder;
- (ix) the signature of the licensed weigher, sampler or grader.

### **37. Grain appeals.**

The disputes referred to in sub-section (2) of section 20 shall be referred to the prescribed authority within 72 hours of the cause of the dispute.

### **38. Contents of the application referring a dispute.**

The application referring a dispute to the prescribed authority shall state—

- (i) the names and post office of the party referring the dispute;
- (ii) the names and post office addresses of other parties involved;
- (iii) the name and location of licensed warehouse in which grain or produce is or was to be stored;
- (iv) the identification and location of the grain at the time of submitting the dispute;
- (v) if samples have been agreed upon and are submitted;
- (vi) name of the sampler, grader or weigher; and
- (vii) such other information as may be required by the office in which such application is filed. Such application shall be signed by the party and may be signed by any one or more or all of the parties interested in such dispute.

### **39. When application may be rejected.**

The prescribed authority with whom the application is filed may reject such application without the decision—

- (i) upon request of the party referring the dispute;
- (ii) if it be found that the application was not submitted in good faith;
- (iii) for non-compliance with the rules; or
- (iv) because sufficient evidence is not available to decide the dispute.

### **40. Sampled to be examined and grade certificate to be issued.**

The sample or samples of the grain involved in the dispute shall be examined as soon as possible. Such tests shall be applied as are necessary. A grade or weight certificate shall be

issued by the prescribed authority hearing the dispute showing the grade or weight assigned by it to such grain. Such grade or weight certificate shall supersede the grade or weight certificate previously issued. Copies of the new certificate shall be forwarded to the warehouseman and the parties referring the dispute.

**41. The fees and charges.**

The fees payable in respect of disputes and other charges shall be on a scale to be fixed by the prescribed authority in that behalf, and shall be recovered from the complainants.

**42. No person shall prevent any party from referring a dispute to the prescribed authority**

No person licensed under the Act shall, directly or indirectly by any means, whatsoever, deter or prevent or attempt to deter or prevent any party from referring the dispute to the prescribed authority.

**43. Suspension or cancellation of licence**

The prescribed authority may, either on receiving a dispute or on his own initiative, suspend or cancel the licence of a weigher, sampler or grader for reasons to be recorded in writing.

**44. Unlicensed persons not to represent themselves as licensed.**

A licensed warehouseman shall display prominently by a suitable signboard for each warehouse that the warehouse has been licensed.

**45. Inspection.**

The prescribed authority shall get the licensed warehouse including its equipment, etc., examined and inspected at least <sup>3</sup>[once in a year], and receive a report in writing thereof; and shall give such direction, as it may deem fit, to the warehouseman. No warehouseman shall accept for storing in his warehouse goods which are contaminated or infected by worms and pests and which are likely to cause damage to other goods stored in the warehouse. If the warehouseman neglects or fails to carry out such directions the prescribed authority may, after hearing the warehouseman, cancel or suspend his licence.

**46. Information of violation of Act and Rules.**

Every person licensed under the Act shall immediately furnish to the prescribed authority any information which comes to his knowledge tending to show that any of the provisions of the Act or the Rules has been violated.

**47. Offences under Act.**

A warehouseman shall not—

- (i) issue a warehouse receipt without actually receiving the goods;
- (ii) make false statements in the warehouse receipt;
- (iii) issue a duplicate receipt without marking on the receipt the word ‘‘Duplicate’’;

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<sup>3</sup> Subs. by M.P. Gaz., Part I, dt. 7-5-1972, p.90

(iv) issue a receipt for goods of which he is the owner and not clearly stating the fact.

#### **48. Publication of grant of licences, etc.**

Grant of licences to warehouseman, weighers, samplers and graders as well as suspension or cancellation of licences shall be published in the Gazette. List of licensed warehouses together with the location of the warehouses as well as the list of licensed weighers, samplers or graders, shall also be published periodically in the Gazette.

#### **49. Taking over a warehouse.**

If, on suspending or cancelling the licence of a warehouseman the prescribed authority is of the opinion that the warehouse should be taken, it may take over the warehouse and appoint a suitable person of a registered Cooperative Society to conduct the business of the warehouseman for a period to be specified in the order not exceeding four years in the aggregate. The person or persons so appointed shall get such remuneration as the prescribed authority may fix and such remuneration shall be a first charge on the income of the warehouse and on the amount of security furnished by the warehouseman.

#### **50. Restoring or issuing fresh licence.**

On the expiration of the period specified in the order, the prescribed authority may restore the licence or issue a fresh licence, as the case may be, if it finds that no cause exists for the suspension or cancellation of the licence; but if the prescribed authority is of the opinion that no such restoration or fresh grant should be made in the name of the original warehouseman, it may issue a fresh licence in the name of a Co-operative Society, if any, is available on terms and conditions to be determined by the prescribed authority provided the original warehouseman is agreeable to the proposal, failing which the licence, if not already cancelled, shall be cancelled and find the possession of the warehouse delivered to the person entitled thereto.

#### **51. Notice under the Act.**

Every notice, order or document by or under the Act required or authorised to be sent or given to any person may be served or delivered, either personally or by registered post or left at the last known place of residence or business of the person concerned.

#### **52. Prescribed authority to maintain register of licences**

The prescribed authority shall maintain a register of licences issued by it showing the number, nature of the licence, the name of the licences, the date of issue of the licence, the date of suspension or cancellation, and each entry shall be attested by the signature of the prescribed authority. A register shall be maintained in like manner for duplicates of licences issued by the prescribed authority. Any person may inspect these registers on payment of a fee of annas eight for each inspection.

#### **53. Repeal and saving.**

The Madhya Pradesh Agricultural Warehouse Rules, 1951, and all other rules corresponding thereto in force in any region of the State of Madhya Pradesh immediately before the commencement of these rules are hereby repealed:

Provided that anything done or any action taken under any of the rules so repealed shall, unless such thing or action is inconsistent with any of the provisions of these rules, be deemed to have been done or taken under the corresponding provisions of these rules.

**4. The Madhya Pradesh Land Survey Act,  
1947**

# The Madhya Pradesh Land Survey Act, 1947

[Act No. 42 of 1947]  
[25th November, 1947]

## PREAMBLE

An Act to provide for the entry of authorized persons upon any land for the purpose of making survey to determine soil erosion in the State.

Whereas it is expedient to provide for the entry of authorized persons upon any land for the purpose of making a survey to determine soil erosion in the State;

It is hereby enacted as follows:-

## Section 1 - Short title, extent and commencement

(1) This Act may be cited as the <sup>1</sup>[Madhya Pradesh] Land Survey Act, 1947.

<sup>2</sup>[(2) It extends to and shall be in force in the whole of Madhya Pradesh.]

## Section 2 - Power to enter upon lands

(1) For the purpose of determining soil erosion in any area in the State, the State Government may, by written order, authorize any officer of the Government to enter upon any land, survey and mark out such land and do all acts necessary for such purposes as aforesaid.

(2) Any officer of the Government so authorized and, when authorized by him in writing, his subordinates and workmen, may, after giving not less than seventy-two hours' notice to the owner, occupier or other person having interest in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose as aforesaid, but shall cause no damage except such as may be necessary for such purpose as aforesaid.

(3) Where the damage exceeds ten rupees such authorized officer or his authorized subordinate shall certify accordingly and upon presentation of the certificate at the nearest Treasury the person suffering the damage shall be entitled to be paid the sum certified.

## Section 3 - Manner of serving notice

Every notice under section shall be served in the manner provided in the Central Provinces Land Revenue Act, 1917 <sup>3</sup>[x x x] for service of notice.

## Section 4 - Delegation of authority

The State Government may, by notification, delegate to any officer the power of authorization conferred on it by sub-section (1) of Section 2.

## Section 5 - Persons acting under the Act to be public servants

All persons acting in pursuance of the provisions of this Act shall be deemed to be public servants within the meaning of that expression in the Indian Penal Code (XLV of 1860).

<sup>1</sup> Substituted by MP. Act No. 23 of 1958

<sup>2</sup> Substituted by MP. Act No. 23 of 1958

<sup>3</sup> Omitted by MP. Act No. 23 of 1958

**Section 6 - Protection of persons acting in good faith and limitations of suits and prosecutions**

- (1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.
- (2) No suit shall be instituted against the Government and no prosecution or suit shall be instituted against any person for anything done or intended to be done under this Act unless the suit or prosecution has been instituted within three months from the date of the Act complained of.

## **5. The Madhya Pradesh Regulation of Uses of Land Act, 1948**

# The Madhya Pradesh Regulation of Uses of Land Act, 1948

(No. 47 of 1948)

[Received the assent of the Governor on the 24th September 1948; assent first published in the "Central Provinces and Berar Gazette" Extraordinary on the 2nd October, 1948]

An Act to regulate the use of land for purposes other than agricultural purposes in <sup>1</sup>[Madhya Pradesh].

**Preamble.**-Whereas it is expedient to regulate the use of land for purposes other than agricultural purposes in <sup>2</sup>[Madhya Pradesh];

It is hereby enacted as follows:-

## PART I PRELIMINARY

### 1. Short title, extent and commencement.-

(1) This Act may be cited as the <sup>3</sup>[Madhya Pradesh] Regulation of Uses of land Act, 1948.

<sup>4</sup>[(2) It extends to and shall be in force in the whole of Madhya Pradesh.]

### 2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,—

(1). "Agriculture" includes—

- (a) the raising of annual or periodical crops and garden produce;
- (b) horticulture;
- (c) the planting and upkeep of orchards; and
- (d) the reserving of land for fodder, grazing or thatching grass;

(2) "Building" means house, a hut, shed or other structure for whatsoever purpose and of whatsoever material constructed and every part thereof, whether used as a human habitation or not and includes well, latrine, drainage work, fixed platforms, verandah, plinth, doorstep, compound wall, fencing and the like, and any work connected therewith;

- i. <sup>5</sup>[Collector] includes an officer authorised by the State Government to perform all or any of the functions of the Collector under this Act;
- ii. "place of worship" means premises used for worship;
- iii. "prescribed" means prescribed by rules made under this Act;
- iv. "road" means a metalled road maintained by the State Government or by a local authority; and
- v. the expression "erect or re-erect any building" includes—

<sup>1</sup> Sub by A.O. 1959 for "Central Provinces and Berar".

<sup>2</sup> Sub by A.O. 1959 for "Central Provinces and Berar".

<sup>3</sup>Subs, by M.P. 23 of 1958 for "Central Provinces and Berar".

<sup>4</sup> Sub by M.P. 23 of 1958

<sup>5</sup> Sub by M.P.A.O. 1956

- (a) any material alteration or enlargement of any building;
- (b) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;
- (c) the conversion by structural alteration of any building originally constructed for human habitation into a place not meant for human habitation.
- (d) the conversion by a structural alteration of one or more places of human habitation into a greater number of such places;
- (e) the conversion by structural alteration of two or more places of human habitation into greater number of such places;
- (f) such alteration of the internal arrangement of a building as effects a change in its drainage or sanitary arrangements or affects its stability;
- (g) the addition of, any rooms, buildings, out houses or other structures to a building;
- (h) the reconstruction of the whole or any part of the external walls of a building or the renewal of the posts of wooden buildings.

**PART II**  
**DECLARATION OF CONTROLLED AREA,**  
**RESTRICTION ON BUILDING CONSTRUCTION**

**3. Declaration of controlled area.-**

- (1) The <sup>6</sup>[Collector] may with the previous sanction of the State Government by notification, declare any land adjacent to and within a distance of four hundred and forty yards from the centre line of any road in his district to be a controlled area for the purpose of this Act.
- (2) Not less than three months before making a declaration under sub-section (1) the [Collector] shall cause to be published in the Gazette and in at least two locally read newspapers printed in the court language of the district a notification stating that he proposes with the previous sanction of the State Government, to make such a declaration and specifying therein the boundaries of the land in respect of which the declaration is proposed to be made, and copies of every such notification or of the substance thereof shall be published by the [Collector] in such manner as he thinks fit at his office and at such other places in the area of which any part is included within the said boundaries.
- (3) Any person interested in any land included within the said boundaries may, at any time before the expiration of thirty days from the last date on which the notification is published by the [Collector] object to the making of the declaration or both inclusion of his land or any part of it within the said boundaries.
- (4) Every objection under sub-section (3) shall be made to the Sub-Divisional Officer in writing and the Sub-Divisional Officer shall give to every person so objecting an opportunity of being heard either in person or by pleader and shall after all such objections have been heard and after such further enquiry, if any, as he thinks necessary, forward to the [Collector], the record of the proceeding held by him together with a report setting forth his recommendations on the objection.
- (5) If before the expiration of the time allowed by sub-section (3) for the filling of objection no objection has been made, the [Collector] may proceed at once to the making of a declaration under sub-section (1). If any such objection has been made, the [Collector] shall consider the record and the report referred to in

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<sup>6</sup> Sub by M.P.A.O. 1956

sub-section (4) and shall hear any parties applying to be heard and may either—

- (a) abandon the proposal to make a declaration under sub-section (1), or
- (b) make such a declaration in respect of either the whole or a part of the land included within the boundaries specified in the notification under sub-section (2),
- (6) A declaration made under sub-section (1) shall, unless and until it is withdrawn be conclusive evidence of the fact that the area to which it relates is a controlled area.

**Explanation.-** For the purpose of sub-section (3) a person shall be deemed to be interested in land if he is a “person interested” as defined in clause (2) of section 3 of the Land Acquisition Act, 1894 (1 of 1894), for the purposes of that Act or where the land is occupied by or for the purposes of place of worship if he is a follower of the religious faith to which the place of worship belongs.

#### **4. Plans of controlled area to be deposited at certain office.-**

(1) The Sub-Divisional Officer shall deposit at

- (a) the District Officer,
- (b) the office of the <sup>7</sup>[Chief Town Planner] to the Government of <sup>8</sup>[Madhya Pradesh],
- (c) the Tahsil Office and the offices of the Local Government bodies within whose jurisdiction any part of the controlled area is included, and
- (d) at any other place which he considers plans necessary, showing all lands declared to be controlled area for the purposes of this Act and setting forth the nature of the restrictions applicable to the land in any such controlled area.

(2) The plans so deposited shall be available for inspection by the public free of charge at all reasonable times.

#### **5. Right of entry,-**

For the purpose of preparation of any such plan, any public servant or any person duly appointed or authorised in this behalf by the State Government or the [Collector] 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 ancillary thereto.

**6. Restrictions on building, etc., in a controlled area.-** No person shall erect or re-erect any building, or make or extend any excavation, or lay out any means of access to a road, in a controlled area except with the previous permission of the Sub-Divisional Officer in writing.

#### **7. Application for permission to build, etc, and the grant or refusal of such permission.-**

(1) Every person desiring to obtain the permission referred to in section 6 shall make an application in writing to the Sub-Divisional Officer in such form and containing such information in respect of the building, excavation or means of access to which the application relate as may be prescribed.

(2) On receipt of such application the Sub-Divisional Officer shall at once furnish the applicant with a written acknowledgment of its receipt and after making such enquiry as he considers necessary shall by order in writing, either—

- (a) grant the permission subject to such conditions. If any, as may be specified in the order; or
- (b) refuse to grant such permission:

<sup>7</sup> Sub by M.P. 15 of 1961

<sup>8</sup> Sub by A.O. 1950

Provided that the Sub-Divisional Officer shall not grant such permission without obtaining the previous concurrence of the <sup>9</sup>[Chief Town planner] unless the <sup>10</sup>[Chief Town Planner] fails to communicate his decision in the matter to the Sub-Divisional Officer within two months from the date of reference to him by the Sub-Divisional Officer.

(3) When the sub-Divisional Officer grant permission subject to conditions under clause (a) of sub-section (2) or refuses to grant permission under clause (b) of that sub-section, the condition imposed or the grounds of refusal shall be such as are reasonable having regard to the circumstances of each case.

(4) The Sub-Divisional Officer shall not refuse permission to the erection or re-erection of a building not being a dwelling house if such building is required for purposes sub-servient to agriculture nor shall the permission to erect or re-erect any such building be made subject to any conditions other than those which may be necessary to ensure that the building will be used solely for the purposes specified in the application for permission.

(5) The Sub-Divisional Officer shall not refuse permission to the erection or re-erection of a building which was in existence on the date on which the declaration under sub-section (1) of section 3 was made nor shall he impose any condition in respect of such erection or re-erection unless it involves the addition of one or more storeys to the building or the extension of the plinth area of the building by more than one-eighth of the original plinth area, or there is a probability that the building will be used for a purpose other than that for which it was used on the date on which the said declaration was made.

(6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Sub-Divisional Officer, no order in writing has been passed by the Sub-Divisional Officer, permission shall be deemed to have been given without the imposition of any conditions.

(7) The Sub-Divisional Officer shall maintain a register in a prescribed form of all permissions given by him under the section and the register shall be available for inspection without charge by all persons interested and such person shall be entitled to take extracts therefrom.

**8. Right of appeal.-** (1) Any person aggrieved by an order of the Sub-Divisional Officer under sub-section (2) of section 7 granting permission subject to conditions or refusing permission may within thirty days from the date of such order prefer an appeal to the [Collector].

(2) The order of the [Collector] on appeal shall be final.

**9. Compensation.** -(1) No person shall be entitled to claim compensation except as expressly provided under this Act, for any injury, damage or loss caused or alleged to have been caused by an order—

(a) refusing permission to make or extend an excavation, or granting such permission but imposing condition on the grant, or

(b) refusing permission to lay out a means of-access to a road ,or granting such permission but imposing conditions on the grant, or

(c) granting permission to erect or re-erect a building but imposing conditions on the grant.

(2) When an order has been made refusing permission to erect or re-erect a building, any person who has exercised the right of appeal given by sub-section (1) of section 8, may within three months of the date of the order of the [Collector] make to the [Collector] a claim for compensation on the ground that his interest in the land concerned is injuriously affected by the said order:

Provided that no claim for compensation may be made under this sub-section in respect of any land

<sup>9</sup> Subs. by M.P. 15 of 1961

10Subs. by M.P. 15 of 1961

situated in a controlled area adjoining a road which has been constructed after the commencement of this Act or which was not at the commencement of this Act a road within the meaning of clause (6) of section 2.

(3) On receipt of a claim under sub-section (2) the [Collector] shall either proceed to acquire the land concerned under the Land Acquisition Act, 1894 (1 of 1894), or transfer the claim for disposal to an officer exercising the powers of a Collector under the said Act:

Provided that in case the [Collector] decides to acquire the land, the claimant shall be entitled to be repaid by the acquiring authority the amount of expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and in default of agreement such amount shall be determined by the authority deciding the value of the land in the proceedings under the Land Acquisition Act, 1894 (1 of 1894).

(4) Nothing in this section shall be deemed to preclude the settlement of a claim by mutual agreement.

**10. Compulsory acquisition.-** If the [Collector] decides to acquire the land under the Land Acquisition Act, 1894 (1 of 1894), then notwithstanding anything contained in that Act,

(i) proceedings under section 5-A of that Act shall not be required;

(ii) the notification under section 6 of that Act shall be published within six months from the date of institution of the claim failing which the claim shall be transferred for disposal to an officer exercising the power of a Collector under that Act;

(iii) the market value of the land shall be assessed as though no declaration under sub-section (1) of section 3 had been made in respect of the area in which it is situated arid no restriction upon its use and development had been imposed, any compensation already paid to the claimant or to any of his predecessors-in- interest for injurious affection being deducted from the market value as so assessed.

**11. Amount of compensation how determined.-**(1) When a claim is transferred for disposal under section 9 or 10 to an officer exercising the powers of a Collector under the Land Acquisition Act, 1894 (1 of 1894), such officer shall make an award determining the amount of compensation, if any, payable to the claimant.

(2) The amount of compensation awarded under sub-section (1) shall in no case exceed—

(a) the amount that would have been payable if the land had been acquired under section 10, or

(b) the difference between the market value of the land in its existing conditions having regard to the restrictions actually imposed upon its use and development by the order refusing permission to erect or re-erect a building thereon, and its market value immediately before the publication under subsection (2) of section 3 of the notification in pursuance of which the area in which it is situated was declared to be a controlled area, and no compensation shall be awarded under sub-section (1)—

(i) unless the claimant satisfies the officer making the award that proposals for the development of the land which at the date of the application under sub-section (1) of section 7 are immediately practicable, or would have been so, if this Act had not been passed, are prevented or injuriously affected by the restrictions imposed under this Act, or

(ii) if and in so far as the land is subject to substantially similar restrictions in force under some other enactment which were so in force at the date when the restrictions were imposed under this Act, or

(iii) if compensation in respect of the same restrictions in force under this Act or of substantially similar restrictions in force under some other enactment has already been paid in respect of the land to the claimant or to any predecessor-in- interest of the claimant.(3) The provisions of Parts III, IV, V and VIII of .the Land Acquisition Act, 1894 (1 of 1894), shall so far as may be, apply to an award made under

sub-section (1) as though it were an award made under that Act.

**12. Saving for other enactments.**-Nothing in this Act shall affect the power of any authority to acquire land or to impose restrictions upon the use and development of land under any other enactment for the time being in force.

**13. Prohibition of use of any land as a brick-field, etc., without a licence.**-(1) No land within a controlled area shall be used for the purposes of a charcoal-kiln, pottery-kiln, lime-kiln, brick-field or brick-kiln except under, and in accordance with the conditions of, a licence from the [Collector] which shall be renewable annually.

(2) The [Collector] may charge such fees for the grant and renewal of such licences and may impose such conditions in respect thereof as may be prescribed.

(3) No person shall be entitled to claim compensation under this Act or any other Act for any injury, damage or loss caused or alleged to have been caused by the refusal of licence under sub-section (1).

**14. Offences and penalties.**-(1) Any person who—

(i) erect or re-erect any building or makes or extends any excavation or lays out any means of access to a road in contravention of the provisions of section 6 or—in contravention of any conditions imposed by an order under section 7 or section 8, or

(ii) uses any land in contravention of the provisions of subsection (1) of section 13, shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with a further fine which may extend to ten rupees for every day after the date of first conviction during which he is proved to have persisted in the contravention.

(1) Without prejudice to the provisions of sub-section (1) the Sub-Divisional Officer may order any person who has committed a breach of the provisions of the said sub-section to restore to its original state or to bring into conformity with the conditions which have been violated, as the case may be, any building or land respect of which a contravention such as is described in the said sub-section has been committed, and if such person fails to do so within three months of the order may himself take such measures as may appear to him to be necessary to give effect to the order, and the cost of such measures shall be recoverable from such person as an arrear of land revenue.

**15. Trial of offences.**-No Court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

**16. Protection of person acting under this Act.** -No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**17. Savings.**-Nothing in this Act shall apply to—

(a) the erection or re-erection of a building upon land included in the inhabited site of any village as defined in the revenue records;

(b) the erection or re-erection of a place of worship or a tomb or cenotaph or of a wall enclosing a graveyard, place of worship, cenotaph or samadhi on land which is at the time, a notification under sub-section (2) of section 3 is published by the [Collector] occupied by or for the purposes of such place of worship, tomb, samadhi, cenotaph or graveyard;

(c) excavation (including wells) made in the ordinary course of agricultural operation;

(d) the construction of an unmetalled road intended to give access to land solely for agricultural purposes

**18. Power to make rules.**-(1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the form in which a notice under section 5 shall be given;

(b) the form in which applications under sub-section (1) of section 7 shall be made and the information to be furnished in such applications;/

(c) the form in which a register under sub-section U) of section 7 shall be maintained;

(d) the regulation of the laying out of means access to roads;

(e) the fees to be charged for the grant and renewal of licences under section 13 and the conditions governing such licences.

(3) All rules made under the section shall be subject to the condition of previous publication, which publication shall be made in the Gazette and in at least two newspapers printed in the court language of the area, and the date to be specified under clause (3) of section 22 of the Central Provinces and Berar General Clauses Act, 1914 (1 of 1914), shall not be less than two months from the date on which the draft to the proposed rule was published.

## **6. The Central Provinces Reclamation of Lands (Eradication of Kans) Act, 1948**

# The Central Provinces Reclamation of Lands (Eradication of Kans) Act, 1948

[Received the assent of the Governor on the 9<sup>th</sup> April 1948: assent first published in the "Central Provinces and Berar Gazette. Extraordinary on 10<sup>th</sup> April 1948].

As amended by:-

1. M.P. Act No. 6 of 1950:

2. M.P. A.O. 1956:

3. M.P. A.O. 1957: and

4. Extended to Bhopal region of the State by M.P. Act No. 8 of 1957 with some provisions modified.

An Act to provide for reclamation of lands by eradication of lands by eradication of Kans weed in retains areas of the Central Provinces:

**Statement of objects and Reasons.**-Large areas of rabi and particularly wheat have gone fallow in the northern districts of this province on account of Kans infestation and it is estimated that Kans intend land in the three districts of Saugor, Hoshangabad and Jabalpur ranges approximately between two and three lakhs of acres. This has entailed a heavy reduction in wheat cropping in these districts during the last five years. Under the grow-more-food plan, the Provincial Government have formulated a scheme according to which tractors will be hired from Government of India for mechanized operations to clear Kans, half the cost to be charged to the holder of the affected land and the other half to be subsidised by Government. It is accordingly proposed to plough by tractors during this open season an area of 10,000 acres in about 25 contiguous villages in Khurai tahsil of the Saugor district where the majority of cultivators have come forward for tractor ploughing on payment. Two tractor units have been requisitioned and they are due to commence the ploughing operations by the middle of March. Government are advised that for the efficient working of the scheme and the continuity of mechanized operations it is essential to secure homogeneous blocks of land comprising 500 acres each in the minimum inclusive of intervening patches of cultivated land which may be comparatively free from Kans. This bill has therefore been designed to take power for temporary possessions of such blocks of mechanized ploughing. A provision has been made to award compensation to cultivators whose land suffers any damage on account of the mechanized operations or the passage of tractors.

It is hereby enacted as follows:—

**1. Short title and Extent.**-(1) This Act may be cited as the **Central Provinces Reclamation of Lands (Eradication of Kans) Act, 1948**.

(2) It extends to the whole of the <sup>1</sup>[Mahakoshal region excluding the merged territories.]

**Note:** In its application to the Bhopal region of the State, through the Act, for the words "Kans area", wherever they occur, the words "reclamation area" shall be deemed to be substituted.

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<sup>1</sup> Sub by A.O. 1956

**2. Definitions.**-In this Act unless there is anything repugnant in the subject or context,—

- (a) “eradicating operations” means such operations as are considered necessary by the Reclamation Officer to eradicate Kans from a Kans area [reclamation area];
- (b) "Kans" means a kind of weed known as *Saccharum Spontaneum* (hereinafter referred to as Kans);

**Clause (a) and (b) for Bhopal Region only:** —

"(a) 'Eradicating Operations' means—

- (i) such operations as are considered necessary by the Reclamation Officer for eradication of Kans from reclamation area, or
  - (ii) such operations for the eradication of Kans as may be performed by the Reclamation Officer in any land at the request of the person having interest in the land, or
  - (iii) such operations as the Reclamation Officer considers necessary on any land with a view to check the spread of Kans into the adjoining area;
- (b) 'Kans' means a kind of weed known as *Saccharum Spontaneum* and includes such bushes and shrubs on any land as hinder the cultivation thereof in a proper and efficient manner."
- (c) "Kans area [reclamation area]" means the area which the State Government may by notification declare under clause (a) of sub section (1) of section 3 to be an area infested with Kans;
- (d) "Reclamation Officer" means an officer appointed as such by the State Government and includes any other officer authorised by the Reclamation Officer to exercise all or any powers conferred upon him under this Act.

**3. Declaration of Kans area [reclamation area].**-(1) If the State Government is of opinion that any area is infested with Kans, it may, by notification—

- (a) declare such area giving full particulars thereof, to be a Kans area [reclamation area] for the purposes of this Act: and
- (b) authorise the Reclamation Officer to enter upon any land in such area and take possession thereof for such period as may be specified for the purpose of eradication of Kans from such area.

(2) Such notification shall be a sufficient notice of the facts stated therein to all persons owning or having interest in the land comprised in such area.-

(3) The <sup>2</sup>[Collector] of the district comprising the Kans area [reclamation area] shall give publicity to the notification issued under sub-section (1) in such manner as he deems fit.

**4. Constitution of Reclamation Committee.**- The State Government for the purpose of assisting the Reclamation Officer appoint a Reclamation Committee consisting of such persons as it may think fit, and assign such duties to the committee as it may deem fit.

**5. Power to survey and carry on eradicating operation.**- On the issue of a notification under sub-section (1) of section 3, the Reclamation Officer and his subordinates and workmen authorised by him in this behalf may—

- (a) enter upon any land in the Kans area for the purpose of survey and any other ancillary purpose: and

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<sup>2</sup> Subs, by M.P.A.O. 1957.

(b) take possession of the whole or any part of the kans area and carry on eradicating operations therein.

**<sup>3</sup>[6. Liability of owners, etc, for cost of eradicating operations. -**

(1) Every person owning or having interest in the land, in which eradicating operations have been carried on, shall be liable to pay for such operations costs at such rates and in accordance with such principles as may be prescribed.

(2) The Reclamation Officer shall, in consultation with the Reclamation Committee, fix the amount of cost payable by each owner or other person having interest in the land comprised in the Kans area [reclamation area]. The amount so fixed shall be a charge on the land to which it relates and shall not be called in question in any suit or other legal proceeding.

**Sub-section (2) for Bhopal Region only:—**

"(2) The Reclamation Officer shall, in consultation with the Reclamation Committee, fix the amount of cost payable by each owner or other person having interest in the land comprised in the on which eradicating operations have been carried on. The amount so fixed shall be a charge on the land to which it relates and shall not be called in question in any suit or other legal proceeding."

(3) The reclamation officer shall also determine whether the amount so apportioned shall be paid by the person owning or having interest in the land in one lump sum or by annual instalments, and where he directs annual instalments, he may fix the amount and number of such instalments.]

**7. Recovery of costs.-** (1) The <sup>4</sup>[Collector] shall cause to be served on a person owning or having interest in the land in which eradicating operations have been carried on, notice of demand specifying the amount of cost of reclamation payable by him and the period within which it shall be paid.

(2) The said costs shall be recoverable as arrears of land revenue.

**8. Compensation for damages.-** (1) Any person may within thirty days from the date of restoration of the land, to him, apply to the Reclamation Committee for payment of compensation for destruction of or damage to any plant or tree in his land as a result of the eradicating operations carried on under section 5.

(2) On receipt of such application the Reclamation Committee may make such enquiry as it deems fit and if in its opinion the payment of compensation is justified, it may grant such amount of compensation as it deems fit.

(3) The decision of the Reclamation Committee shall be final in all respects and shall not be called in question in any Court of law.

**9. Power of Collector to enforce compliance.-** The <sup>5</sup>[Collector] may take or cause to be taken such steps or use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with the provisions of this Act.

<sup>3</sup> Subs, by MP 6 of 1950.

<sup>4</sup> Subs, by M.P.A.O. 1957.

<sup>5</sup> Subs, by MP. A.O. 1957.

**10. Persons acting under the Act to the public servants.**-All persons acting in pursuance of the provisions of this Act shall be deemed to be public servants within the meaning of that expression in the Indian Penal Code, 1860 (XLV of 1860).

**11. Protection of persons acting in good faith;**-(1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be instituted against the Government and no prosecution or suit shall be instituted against any person for anything done or intended to be done under this Act.

**12- Repeal and savings.**-(1) The Central Provinces Reclamation of Lands (Eradication of Kans) Ordinance, 1948 (III of 1948), is hereby repealed.

(2) Any notification issued, appointment, authorization or enquiry made, duty assigned, notice served or any action taken under the said Ordinance shall if not inconsistent with the provisions of this Act, be deemed to have been issued, made, assigned served or taken under this Act.

**13. Power to make rules.**-(1) The State Government may by notification make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for the assessment of damage to embankments and field boundaries and payment of compensation therefor.

## **7. The Madhya Bharat Kans Eradication Act Samvat, 2005**

# The Madhya Bharat Kans Eradication Act

## Samvat, 2005

[Act No. 17 of 1949]

[11th January, 1949]

### **PREAMBLE**

An Act to provide for the eradication of Kans weed in certain areas of the United State of Gwalior, Indore and Malwa (Madhya Bharat).

Whereas it is expedient to provide for the eradication of Kans weed in certain areas of the United State of Gwalior, Indore and Malwa (Madhya Bharat);

It is hereby enacted as follows:

### **Section 1 - Short title, extent and commencement**

(1) This Act may be called "The United State of Gwalior, Indore and Malwa (Madhya Bharat) Kans Eradication Act, Samvat 2005"<sup>1</sup>.

(2) It extends to the whole of the United State of Gwalior, Indore and Malwa<sup>2</sup>[(Madhya Bharat region)] and shall come into force immediately on its publication in the Government Gazette<sup>3</sup> of the said United State.

### **Section 2 – Definitions-**

For the purposes of this Act,--

(a) "United State" means the United State of Gwalior, Indore and Malwa (Madhya Bharat);

(b) "Government" means the Government of the United State;

<sup>4</sup>[(c) "Eradication operation" means--

(i) such operations as are considered necessary by the Kans Eradication Officer to eradicate Kans from Kans area, or

(ii) such operations for the eradication of Kans as may be performed by the Kans Eradication Officer in any land either with the consent express or implied of the person having interest in the land, or

<sup>1</sup> Received the assent of H.H. the Raj Pramukh on 11-1-1949.

<sup>2</sup> Substituted by M.P. A.O. of 1956.

<sup>3</sup> Published in M.B. Gazette, dated 1-2-1949.

<sup>4</sup> Substituted by M.B. Act No. 6 of 1956 (w.e.f. 17-11-1949).

(iii) such operations as the Kans Eradication Officers considers necessary on any land with a view of check the spread of Kans into the adjoining area.]

(d) "Kans" means a kind of weed which grows spontaneously in the field and which is usually known as Kans;

(e) "Kans area" means the area which the Government may by notification declare under clause (a) of sub-section (1) of Section 3 to be an area infested with Kans;

(f) "Kans Eradication Officer" means an officer appointed as such by the Government and includes any other officer authorised by the Kans Eradication Officer to exercise all or any powers conferred upon him under this Act.

### **Section 3 - Declaration of Kans area-**

(1) If the Government is satisfied that any area is infested with Kans, it may, by notification--

(a) declare such area, giving full particulars therefore, to be a Kans area for the purpose of this Act; and

(b) authorise the Kans Eradication Officer to enter upon any land in such area and take possession thereof for such period as may be specified for the purpose of eradication of Kans from such area.

(2) Such notification shall be a sufficient notice of the facts stated therein to all persons owning or having interest in the land comprised in such area.

(3) The Sub (Collector) of the District comprising the Kans area shall give publicity to the notification issued under sub-section (1) in such manner as he deems fit.

### **Section 4 - Constitution of Kans Eradication Committee-**

The Government may for the purposes of assisting the Kans Eradication Officer, appoint a Kans Eradication Committee consisting of such persons as it may think fit, and assign such duties to the Committee as it may deem proper.

### **Section 5 - Power to survey and carry on eradicating operations-**

On the issue of notification under sub-section (1) of Section 3, the Kans Eradication Officer and his subordinates and workmen authorised by him in this behalf may--

(a) enter upon any land in the Kans area for the purpose of survey and any other ancillary purpose; and

(b) take possession of the whole or any part of the Kans area and carry on eradication of operation therein.

### **Section 6 - Liability of owners, etc., for cost of eradicating operations-**

<sup>4</sup>[(1) The cost of eradication operations shall be determined by the Government or such Collector as the Government may authorise in this behalf by notification in the Gazette and shall if there are several owners or persons having interest in the land covered by the operations be equitably apportioned between them by the Kans Eradication Officer after consulting the Kans Eradication Committee.]

(2) Every persons owning or having interest in the land in which eradication operations have been carried on shall be liable to pay the costs of such operations carried on his land.

(3) The Kans Eradication Officer shall fix the amount of cost payable by each owner or other person having interest in the land comprised in the Kans area. The amount so fixed shall be a charge on the land to which it relates, and shall not be called in question in any suit or other legal proceeding.

(4) The Kans Eradication Officer in consultation with the Kans Eradication Committee shall also determine whether the amount so apportioned shall be paid by the person owning or having interest in the land in one lump-sum or by annual or other instalments and where he directs annual or other instalments, he may fix the amount and number of such instalments.

#### **Section 6-A - Dispute regarding consent how to be settled-**

<sup>5</sup>[In the case of dispute regarding whether the person having interest in the land had or had not consented for the performance of eradication operations in the land, the Kans Eradication Officer shall refer the matter to the Deputy Collector specially authorised in this behalf by the Government for decision. The Deputy Collector shall, after giving person or persons having interest in the land an opportunity of objections being heard, declare his decision in this respect and an appeal against such decision shall lie to the Board of Revenue within 30 days of the decision. The orders passed by the Board of Revenue on such appeal shall be final and shall not be called in the question in any Court of law.]

#### **Section 7 - Recovery of costs-**

(1) The Suba (Collector) shall cause to be served on a person owning or having interest in the land in which eradicating operations have been carried on, a notice

<sup>4</sup> Substituted by M.B. Act No. 6 of 1956.

<sup>5</sup> Inserted by M.B. Act No. 6 of 1956.

demand specifying the amount of cost of eradication payable by him and the period within which it shall be paid.

(2) The said costs shall be recoverable as arrears of land revenue.

#### **Section 8 - Compensation for damage-**

(1) Any person may within thirty days from the date of restoration of the land to him, apply to the Kans Eradication Committee for payment of compensation for destruction of or damages to any plant or tree in his land as a result of the eradication operations carried on under Section 5.

(2) On receipt of such application the Kans Eradication Committee may make such enquiry as it deems fit, and if in its opinion the payment of compensation is justified, it may grant such amount of compensation as it deems fit.

(3) The decision of the Kans Eradication Committee shall be final in all respects and shall not be called in any Court of Law.

#### **Section 9 - Power of Suba (Collector) to enforce compliance-**

The Suba (Collector) may take or cause to be taken such steps or use or cause to be used such force as may in his opinion be reasonably necessary for securing compliance with the provisions of the Act.

#### **Section 10 - Persons acting under the Act to be public servants-**

All persons acting in pursuance of the provisions of this Act, shall be deemed to be public servants within the meaning of that expression in the Penal Code in force in the area concerned of the United State.

#### **Section 11 - Protection of persons acting in good faith-**

(1) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is good faith done or intended to be done under this Act.

(2) No suit shall be instituted against the Government for anything done or intended to be done under this Act.

#### **Section 12 - Power to make rules-**

(1) The Government may by notification make rules for carrying out the purpose of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for the assessment of damages to embankment and field-boundaries and payment of compensation therefor.

#### **Section 13 – Repeal-**

As soon as this Act comes into force, the United State of Gwalior, Indore and Malwa (Madhya Bharat) Kans Eradication Ordinance, Samvat 2005, shall stand repealed:

Provided that all orders made, and actions taken under the said Ordinance shall be deemed to have been made or taken, as the case may be, under this Act.

## **8. The Madhya Bharat Regulation of Weighment of Agricultural Produce Act, 1956**

# The Madhya Bharat Regulation of Weighment of Agricultural Produce Act, 1956

[Act No. 11 of 1956]<sup>1</sup>

[18th May, 1956]

## PREAMBLE

An Act to provide for the regulation of weighment of agricultural produce in the regulated and unregulated markets of Madhya Bharat.

Be it enacted in the Seventh Year of the Republic of India as follows:--

## Section 1 - Title, extent and commencement

- (1) This Act may be called the Madhya Bharat Regulation of Weighment of Agricultural Produce Act, 1956.
- (2) It extends to the whole of <sup>2</sup>[Madhya Bharat region].
- (3) It shall come into force on such date as may be notified by the Government in this behalf.

## Section 2 - Definitions

- (1) In this Act, unless there is anything repugnant in the subject or context--
  - (i) "Agricultural Produce" includes all produce of agriculture, horticulture and animal husbandry specified in the Schedule.
  - (ii) "Agriculturist" means a person who ordinarily by himself or who by his tenants or hired labour or otherwise is engaged in the production or growth of agricultural produce, but does not include a dealer or broker in agricultural produce although such dealer or broker may also be engaged in the production or growth of agricultural produce.
  - (iii) "Director" means the Director of Industries and Commerce for the State of Madhya Bharat.
  - (iv) "Regulated Market" means a market to which the provisions of the Madhya Bharat Agricultural Produce Market Act, Samvat 2009, apply.
  - (v) "Unregulated Market" means a market other than a regulated market.
  - (vi) "Schedule" means schedule to his Act.
- (2) If a question arises whether any person is or is not an agriculturist for the purpose of this Act, the decision of the Government on such question shall be final.

## Section 3 - Trade allowance

- (1) No person shall make or recover any trade allowance other than allowances prescribed by rules or bye-laws, if any, made under the Madhya Bharat Agricultural Produce Market Act,

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<sup>1</sup> Received the assent of H.H. the Raj Pramukh on 18th May, 1956

<sup>2</sup> Substituted by M.P. A.O. 1956.

1952, from any agriculturist in any regulated or unregulated market in any transaction in respect of the agricultural produce concerned.

(2) No Civil Court, in any suit or proceeding arising out of any such transaction, shall have regard to or recognise any trade allowance not so prescribed.

**Explanation:**-- Every deduction other than a deduction on account of deviation from sample when the purchase is made by sample or on account of deviation from standard when the purchase is made by reference to a known standard or on account of difference between the actual weight of the container and standard weight or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purpose of this section.

#### **Section 4 - Penalty for contravention of Section 3**

Whoever contravenes the provisions of sub-section (1) of Section 3 shall, on conviction, be punishable with fine which may extend to two hundred rupees.

#### **Section 5 - Trial of offences**

- (1) Offences under this Act shall be tried by a Magistrate of the First or Second Class.
- (2) Prosecutions under this Act may be instituted by any agriculturist who is party to a transaction, the Director of Industries or any officer authorised by him in writing in this behalf or the Collector.

#### **Section 6 - Rules**

- (1) The Government may make Rules for the purpose of carrying out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing provisions, such Rules may provide for--
  - (a) the powers to be exercised and the duties to be performed by Government Officers;
  - (b) the trade allowance which may be made or received by any person in any transaction in agricultural produce in any market other than a regulated market; and
  - (c) Prescribing the rates of deduction under explanation to Section 3.

#### **SCHEDELE**

[See Section 2 (1) (i)]

- 1. Fibres.**-- (i) Cotton (ginned and unginned).  
(ii) Sunhemp.
- 2. Cereals.**-- 1. Wheat. 2. Paddy (husked and unhusked). 3. Jowar. 4. Bajra. 5. Maize. 6. Barley. 7. Kodon.
- 3. Pulses.**-- 1. Tuar. 2. Gram. 3. Urad. 4. Mung. 5. Moth. 6. Mussor. 7. Matar. 8. Batra. 9. Chawala (Ramas). 10. Tevra. 11. Basari.
- 4. Oilseeds.**-- 1. Ground-nut. 2. Linseed. 3. Sesamum. 4. Safflower. 5. Ambadi. 6. Cotton seed. 7. Castor seed. 8. Sarson. 9. Sonha. 10. Ramtilli. 11. Laha.
- 5. Narcotics.**-- 1. Tobacco.
- 6. Gur, Sugar and Sugarcane.**

- 7. Fruits.**--1. Lemon. 2. Banana and Mango. 3. Pomegranate. 4. Orange.
- 8. Vegetables.**--1. Potato. 2. Onion. 3. Tomato. 4. Leafy and fresh vegetable. 5. Sweet potatoes. 6. Arbi. 7. Yam. 8. Kaddoo.
- 9. Animal Husbandry Products.**--1. Cattle. 2. Sheep. 3. Goat. 4. Wool. 5. Butter. 6. Ghee. 7. Milk.
- 10. Condiments, spices, etc.**--1. Ginger. 2. Garlic. 3. Chillies. 4. Cuminseed (Jira). 5. Rai. 6. Methi Dana. 7. Aniseed. 8. Turmeric Curcuna. 9. Coriander Seed. 10. Ajwan. 11. Onion.
- 11.** Grass, Fodder and Karbi.
- 12. Forest Produce.**--1. Gum, all sorts. 2. Honey. 3. Wax. 4. Kareli. 5. Lac. 6. Chironji. 7. Amla. 8. Bahera.
- 13. Other articles.**--1. Hemp-seed. 2. Gowar. 3. Waternut.

**8. The Madhya Pradesh Sugarcane  
(Regulation of Supply and Purchase) Act, 1958**

# The Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958

[Act No. 1 of 1959]

## PREAMBLE

Be it enacted by the Madhya Pradesh Legislature in the Ninth year of the Republic of India as follows:—

### Section 1 - Short title, extent and commencement-

- (1) This Act may be cited as the Madhya Pradesh Sugarcane (Regulation of Supply or Purchase) Act, 1958<sup>1</sup>.
- (2) It extends to the whole of Madhya Pradesh.
- (3) It shall come into force on such date<sup>2</sup> as the State Government may, by notification, appoint.

### Section 2 – Definitions-

In this Act, unless there is anything repugnant in the subject or context,—

- (a) "assigned area" means an area assigned to a factory under Section 16;
- (b) "Board" means the Sugarcane Board established under Section 3;
- (c) "cane" means sugarcane intended for use in a factory;
- (d) "Cane Commissioner" means the Officer appointed to be Cane Commissioner under Section 9, and includes an Additional Cane Commissioner appointed under Section 10;
- <sup>3</sup>[(d-1) "Cane development" means and includes—
  - (i) (a) improvement of land;
  - (b) construction of wells and other works for supply of water; and
  - (c) purchase of seeds, pesticides, fertilizers and irrigation and other mechanical equipment; for purposes of cultivation of sugarcane; and
  - (ii) such other matters as the State Government may from time to time, by notification, declare to be cane development;]
- (e) "Cane-grower" means a person who cultivates cane either by himself or by members of his family or by hired labour and who is not a member of a Canegrowers' Co-operative Society;
- (f) "Cane-growers' Co-operative Society" means a Society registered under any law relating to Co-operative Societies in force in any part of Madhya Pradesh, one of the objects of which is to sell cane grown by its members and includes the federation of such societies, registered under such law;

<sup>1</sup> Received the assent of the President on the 26th February, 1959; assent first published in the Madhya Pradesh Gazette on the 13th March, 1959.

<sup>2</sup> W.e.f. 1-7-1959 vide Notification. No. 2712-1381-XIV, dated 23-6-1959.

<sup>3</sup> Inserted by M.P. Act No. 4 of 1970.

- (g) "Collector" includes any person whom the State Government may, by notification, appoint to exercise and perform the powers and duties of a Collector under this Act;
- (h) "Council" means the Cane Development Council established under Section 5;
- (i) "crushing season" means the period beginning on the 1st October in any year and ending on the 30th June next following;
- (j) "factory" means any premises, including the precincts thereof wherein twenty or more workers are working or were working on any day during the preceding twelve months and in any part of which any manufacturing process connected with the products of sugar by means of vacuum pans is being carried on or is ordinarily carried on with the aid of mechanised power;
- (k) "managing agent" has the meaning assigned to it in the Indian Companies Act, 1956 (1 of 1956);
- (l) "occupier of a factory" means the person who has ultimate control over the affairs of the factory, and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;
- (m) "purchasing agent" means a person licensed under this Act to act as a purchasing agent; and
- (n) "reserved area" means an area specified in an order issued under Section 15.

## CHAPTER II ADMINISTRATIVE MACHINERY

### **Section 3 - Sugarcane Board-**

- (1) There shall be established by the State Government, by notification, Sugarcane Board for Madhya Pradesh.
- (2) The Board shall consist of—
  - (a) the Minister-in-charge of Agriculture;
  - (b) the Minister-in-charge of Industries;
  - (c) nine members to be appointed by the State Government of whom three shall be representatives of Sugar factories and three shall be representatives of Cane-growers and the Cane-growers' Co-operative Societies and the remainder shall be persons possessing technical knowledge in sugarcane or otherwise interested in the development of sugarcane and its products;
  - (d) the Cane Commissioner; and
  - (e) the Secretary to the State Government in the Agriculture Department or such other officer as may be nominated by the State Government.
- (3) The Minister-in-charge of Agriculture shall be the Chairman of the Board and the officer nominated under clause (e) of sub-section (2) shall be the Secretary of the Board.
- (4) The term of office of a member appointed under clause (c) of sub-section (2) shall be three years from the date of the publication of the name of such member in the Gazette.
- (5) The Chairman shall, if present, preside at all meetings of the Board and in his absence the Minister-in-charge of Industries. If the Chairman and the Minister-in-charge of Industries are

both absent at a meeting of the Board then the members present shall elect a Chairman for the meeting.

#### **Section 4 - Functions of the Board-**

The Board shall advise the State Government on the following matters, namely :—

- (a) matters pertaining to the regulation of supply and purchase of cane for sugar factories;
- (b) the varieties of cane which are suitable or unsuitable for use in sugar factories;
- (c) the maintenance of healthy relations between occupiers or managers of factories, Cane-growers' Co-operative Societies, Cane Development Council and purchasing agents; and
- (d) such other matters as may be prescribed.

#### **Section 5 - The Cane Development Council-**

(1) There shall be established, by notification for the reserved area of a factory a Cane Development Council which shall be a body corporate by the name of such area or such other name as the State Government may notify in this behalf having perpetual succession, and subject to such restrictions or qualifications as may be imposed under this Act or any other enactment, vested with the capacity of suing and being sued in its corporate name, of acquiring, holding, administering and transferring property both movable and immovable, and of entering into contracts :

Provided that where the Cane Commissioner so directs, the Council may be established for a larger or smaller area than the reserved area of a factory.

(2) The area for which a Council is established shall be called a zone.

(3) The Council shall consist of—

- (a) the Chairman to be nominated by the Cane Commissioner with the approval of the State Government;
- (b) two members representing sugar factories to be nominated by the Cane Commissioner;
- (c) two members representing the Cane-growers and the Cane-growers' Co-operative Societies of the zone to be nominated by the Cane Commissioner;
- (d) a member of the Legislative Assembly residing in or representing any area comprised in the zone to be nominated by the State Government; and
- (e) the District Agriculture Officer or an officer nominated by the Cane Commissioner who shall be Member-cum-Secretary.

(4) Every person nominated under sub-section (3) shall enter upon his office on the date on which the notification nominating him is published in the Gazette and the term of office of such person shall be three years from the date of such notification.

(5) The Cane Commissioner, if he is satisfied that it is necessary so to do, may with the approval of the State Government, dissolve the Council before the expiry of its term, or remove any member thereof for reasons to be recorded :

Provided that no action under this sub-section shall be taken unless the Council or the member, as the case may be, has been given a reasonable opportunity of being heard in the matter.

(6) Where a Council is dissolved, the following consequences shall follow :—

- (a) all members including the Chairman shall on a date to be specified in the order vacate their offices but without prejudice to their eligibility for renomination;
- (b) the Council shall be reconstituted by the Cane Commissioner in accordance with the provisions of sub-section (3); and
- (c) the duties, powers and functions of the Council shall, pending its reconstitution, be discharged, exercised and performed by the Cane Commissioner or such other officer as he may direct.

### **Section 6 - Functions of the Council-**

(1) Functions of the Council shall be—

- (a) to consider and approve the programme of development for the zone;
- (b) to devise ways and means for the execution of the development plan in all its essentials such as cane varieties, cane-seed, sowing programme, fertilizers and manures;
- (c) to undertake the development of irrigation and other agricultural facilities in the zone;
- (d) to take necessary steps for the prevention and control of diseases and pests and to render all possible help in the soil extension work;
- (e) to impart technical training to cultivators in matters relating to the production of cane;
- (f) to administer the funds at its disposal for the execution of the development scheme subject to such conditions as may be prescribed; and
- (g) to perform other prescribed functions pertaining and conducive to the general development of the zone.

(2) The State Government may at any time direct the Cane Commissioner to convene a joint meeting of two or more councils. Every such meeting shall be presided over by such person as may be nominated in that behalf by the State Government.

### **Section 7 - Casual Vacancy-**

A casual vacancy in the Council shall be filled up in the manner stated in sub-section (3) of Section 5 and any person nominated to fill the casual vacancy shall hold office for the unexpired term of his predecessor.

### **Section 8 - Council Fund-**

(1) There shall be a fund at the disposal of the Council to meet the charges in connection with the discharge of its duties and performance of its functions under this Act.

(2) The fund of the Council shall consist of—

- (a) grants, if any, made by the Indian Central Sugarcane Committee;
- (b) grants, if any, made by the State Government;

- (c) sums received by the Council by way of commission under Section 21; and
- (d) any other sums which may be credited to it under the general or special orders of the State Government.

**Section 9 - Cane Commissioner-**

The State Government may, for purposes of this Act, appoint Cane Commissioner who shall perform such duties and exercise such powers as are conferred or imposed upon him by or under this Act.

**Section 10 - Additional Cane Commissioner-**

- (1) The State Government may appoint or designate such Government Officer as it thinks fit to be Additional Cane Commissioner.
- (2) An Additional Cane Commissioner shall exercise such powers and discharge such duties of the Cane Commissioner as the State Government may direct.

**Section 11 – Inspectors-**

- (1) The State Government may for purposes of this Act appoint any person or designate such officer of the Government as it thinks fit to be Inspector within such local limits as may be assigned to him.
- (2) The Inspector shall perform the duties and exercise the powers conferred or imposed upon him by or under this Act.

**CHAPTER III**  
**SUPPLY AND PURCHASE OF CANE**

**Section 12 - Estimates of requirements-**

- (1) The Cane Commissioner may, for purposes of Section 15, 16 or 17 by order, require the occupier to furnish in the manner and by the date specified in the order to the Cane Commissioner an estimate of the quantity of cane which will be required by the factory during such crushing season as may be specified in the order.
- (2) The Cane Commissioner shall examine every such estimate and shall publish the same with such modifications, if any, as he may make.
- (3) An estimate under sub-section (2) may be revised by an authority to be prescribed.

**Section 13 - Register of Cane-growers and Cane-growers' Co-operative Society or Societies-**

- (1) The occupier shall maintain in the prescribed form a register of all such Cane-growers and Cane-growers' Co-operative Societies, as shall sell cane to that factory.
- (2) The State Government may make rules for the inspection of such register and the procedure for the correction of any entry therein and obtaining copy of an entry from such register and in making such rules the State Government may also provide for payment of charges for correction and supply of copies.

**Section 14 - Power of survey, etc.-**

- (1) The State Government, for purposes of Section 15, 16 or 17 by order, provide for—
  - (a) survey to be made of the area proposed to be reserved or assigned for supply of cane to a factory and the recovery of the cost of such survey from the occupier;
  - (b) the appointment of an officer for purposes of such survey, his duties and powers;
  - (c) the procedure in accordance with which the survey shall be made;
  - (d) the assistance and facilities to be provided to the officer appointed in pursuance of clause (b) by the persons owing or occupying land in the area; and
  - (e) such incidental and consequential matters as may appear to be necessary or desirable for this purpose.
- (2) Any amount due from the occupier in pursuance of clause (a) of sub-section (1) shall be recoverable from such occupier as an arrear of land revenue.

**Section 15 - Declaration of reserved area-**

Without prejudice to any order under clause (d) of sub-section (2) of Section 19, the Cane Commissioner may, after consulting in the prescribed manner, the occupier and Cane-growers' Co-operative Society, if any, in any area to be reserved for a factory reserve such area for such factory and thereupon occupier thereof shall subject to provisions of Section 22 be liable to purchase all cane grown in such area which is offered for sale to the factory.

**Section 16 - Declaration of assigned area-**

Without prejudice to any order under clause (d) of sub-section (2) of Section 19, the Cane Commissioner may after consulting in the manner prescribed, the occupier and Cane-growers' Co-operative Society, if any, in any area to be assigned, assign such area for the purpose of the supply of cane to a factory in accordance with the provisions of Section 19 during any crushing season; and thereupon the occupier thereof shall subject to the provisions of Section 22 be liable to purchase such quantity of cane grown in that area and offered for sale to the factory as may be determined by the Cane Commissioner.

**Section 17 - Alteration of reserved or assigned area-**

The Cane Commissioner may, at any time, if he considers it expedient so to do cancel any order reserving or assigning any area or alter the boundaries of an area so reserved or assigned.

**Section 18 – Appeal-**

An appeal shall lie to the State Government against the order of the Cane Commissioner passed under Section 15, 16 or 17 before the expiry of thirty days from the date of the order: Provided that the State Government may for sufficient cause admit any appeal after the expiry of such period.

**Section 19 - Regulation of purchase and supply of cane in the reserved and assigned areas-**

- (1) The State Government may, for maintaining supplies, by order regulate—

- (a) a distribution, sale or purchase of cane in any reserved or assigned area; and
- (b) purchase of cane in any area other than a reserved or assigned area.
- (2) Without prejudice to the generality of the foregoing powers such order may provide for—
  - (a) the quantity of cane to be supplied by each Cane-grower or Cane-growers' Co-operative Society in such area to the factory for which the area has been so reserved or assigned;
  - (b) the manner in which cane grown in the reserved area or the assigned area shall be purchased by the factory for which the area has been so reserved or assigned and the circumstances in which the cane grown by a cane-grower shall not be purchased except through a Cane-growers' Co-operative Society;
  - (c) the form and terms and conditions of the agreement to be executed by the occupier of the factory for which an area is reserved or assigned for the purchase of cane offered for sale;
  - (d) the circumstances under which permission may be granted—
    - (i) for the purchase of cane grown in reserved or assigned area by a purchasing agent or any person other than the factory for which area has been reserved or assigned; and
    - (ii) for the sale of cane grown in a reserved or assigned area to any other person or factory other than the factory for which the area is reserved or assigned;
  - (e) such incidental and consequential matters as may appear to be necessary or desirable for this purpose.

#### **Section 20 - Payment of cane price-**

- (1) The occupier shall make suitable provision to the satisfaction of the Collector for the payment of the price of cane.
- <sup>4</sup>[(2) Upon the delivery of cane, the occupier shall, subject to the deductions specified in sub-section (2-a) be liable to pay immediately the price of the cane so supplied, together with all other sums connected therewith and where the supplies have been made through a purchasing agent, the purchasing agent shall similarly be liable in addition to the occupier.]
- (2-a) Where a Cane-grower or a Cane-growers' Co-operative Society, as the case may be, to whom price is payable under sub-section (1) has borrowed a loan for cane development from any agency notified by the State Government in this behalf, the occupier or the purchasing agent, as the case may be, shall be, on being authorised by that agency so to do, entitled to deduct from the price so payable, such amount as may be prescribed, towards the recovery of such loan and pay the same to the agency concerned forthwith.]
- <sup>5</sup>[(3) Where the person liable under sub-section (2) is in default in making the payment of the price for a period exceeding fourteen days from the date of delivery he shall also pay interest at the rate of 14-1/2 per cent, per annum from the said date of delivery upto the date of

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<sup>4</sup> Substituted by M.P. Act No. 4 of 1970.

<sup>5</sup> Substituted by M.P. Act No. 5 of 1976.

payment but the Cane Commissioner may, in any case, direct with the approval of the State Government that no interest shall be paid or be paid at such reduced rate as he may fix.]

(4) The Cane Commissioner shall forward to the Collector a certificate under his signature specifying the amount of arrears on account of the price of cane plus interest, if any, due from the occupier and the Collector, on receipt of such certificate, shall proceed to recover from such occupier the amount specified therein as if it were an arrear of land revenue together with further interest up to the date of recovery.

### **Section 21 - Commission on purchase of cane-**

(1) There shall be paid by the occupier a commission for every one maund of cane purchased by the factory—

(a) where the purchase is made through a Cane-growers' Cooperative Society, the commission shall be payable to the Cane-growers' Co-operative Society and the Council in such proportion as the State Government may declare; and

(b) where the purchase is made directly from the Cane-grower, the commission shall be payable to the Council.

(2) The commission payable under clauses (a) and (b) of sub-section (1) shall be at such rates as may be prescribed provided, however, that the rate fixed under clause (b) shall not exceed the rate at which the commission may be payable to the Council under clause (a).

(3) The provisions relating to payment, interest and recovery, including recovery as arrears of land revenue, applicable to price of cane shall mutatis mutandis apply to payment and recovery of commission under sub-section (1).

### **Section 22 - Power to declare varieties of cane to be unsuitable for use in factories-**

(1) The State Government may, by notification, declare that—

(a) cane of any variety grown in any area specified in such notification is unsuitable for use in a factory situated in the said area;

(b) ratoon cane of any variety grown in any area specified in such notification is unsuitable for use in a factory situated in the said area; and

(c) seed cane of any variety is unsuitable for distribution to cultivators in the area specified in such notification.

(2) A notification under sub-section (1) shall be issued not later than the 20th November of the year immediately preceding the crushing season with respect to which such notification is to operate.

(3) Where any seed cane of any variety has been declared under sub-section (1) to be unsuitable for distribution to cultivators in that area, the occupier or any other person acting on his behalf or Cane-growers' Co-operative Society shall not distribute seed cane of such variety or varieties to any person to be used by Cane-growers or the members of the Cane-growers' Co-operative Societies in any area.

(4) Where cane or ratoon cane of any variety has been declared under sub-section (1) to be unsuitable for use in a factory, the occupier or any other person acting on his behalf or a Cane-grower or a Cane-growers' Co-operative Society shall not plant cane of any variety or keep ratoon cane of any such variety.

## CHAPTER IV MISCELLANEOUS

**Section 23 - [Omitted]**

<sup>6</sup>[xxx]

**Section 24 - Reference of dispute to Cane Commissioner-**

If any dispute arises—

- (a) between a Cane-growers' Co-operative Society and a factory, or between a Cane-grower and a factory, or between a Cane-growers' Co-operative Society and a Cane-grower; or
  - (b) between the Council and Cane-growers' Co-operative Society or between the Council and a factory, or between the Council and a Cane-grower regarding the payment of contribution to the Council by a Society or a factory; or
  - (c) relating to the business of the Council;
- it shall be referred for decision to the Cane Commissioner or if he so directs to the Arbitrator nominated by him and the decision of the Cane Commissioner or the Arbitrator, as the case may be, shall be final.

**Section 25 - Determination of occupier for the purpose of this Act-**

(1) Where the occupier is a firm or other association of individuals, any one or more of the partners or members thereof may be prosecuted and punished under this Act for any offence for which the occupier is punishable:

Provided that the firm or association may give notice to the Collector that it has nominated one of its members to be occupier for the purpose of this Act, and such individual shall be deemed to be occupier for the purpose of this Act, until further notice cancelling his nomination is received by the Collector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier is a company any one or more of the Directors thereof, or in the case of a private company any one or more of the shareholders thereof may be prosecuted and punished under this Act for any offence for which the occupier is punishable:

Provided that the company may give notice to the Collector that it has nominated a Director, or in the case of a private company, a share-holder to be the occupier for the purposes of this Act and such Director or share-holder shall be deemed to be the occupier for the purposes of this Act until further notice cancelling his nomination is received by the Collector or until he ceases to be a Director or share-holder.

**Section 26 – Penalties-**

If any person contravenes any of the provisions of this Act or any rule or order made thereunder he shall be liable to imprisonment extending to six months or to a fine not exceeding rupees five thousand or both and in the case of continuing contravention to a

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<sup>6</sup> Omitted by M.P. Act No. 39 of 1961.

further fine not exceeding rupees one thousand for each day during which the contravention continues.

### **Section 27 - Institutions of proceeding-**

- (1) No prosecution shall be instituted under this Act except upon complaint made by or under authority from the Cane Commissioner or the Collector of the district.
- (2) On the application of a person accused of an offence under this Act, the Cane Commissioner or the Collector of the district with the previous concurrence of the Cane Commissioner may at any stage compound such offence by levying a composition fee not exceeding the fine which could be imposed for such offence.
- (3) No Court inferior to that of a Magistrate of the Second Class shall try any offence against this Act or any order or rule made thereunder.

### **Section 28 - Special powers of Magistrate-**

Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1898<sup>1</sup> (V of 1898) it shall be lawful for a Magistrate of the First Class especially empowered by the State Government in this behalf and trying any case under this Act or any order or rule made thereunder to pass a sentence of fine not exceeding five thousand rupees on any person convicted for any offence under this Act.

### **Section 29 - Protection of action taken under the Act-**

- (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order or rule made under this Act.
- (2) No suit or other legal proceeding shall lie against the State 1 See now the Code of Criminal Procedure, 1973 (2 of 1974). Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order or rule made under this Act.

### **Section 30 - Power to make rules-**

- (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.
- (2) Without prejudice to the generality of foregoing power, such rules may provide—
  - (a) the conduct of business by the Board and Council;
  - (b) the business to be transacted at meetings convened under sub-section (2) of Section 6;
  - (c) the manner and form in which the fund placed at the disposal of the Council under Section 8 shall be maintained and the application and payment from such fund;
  - (d) the duties, powers and functions of the Cane Commissioner;
  - (e) the matters relating to the appointment and other conditions of service of inspectors to be appointed under Section 11 and their duties, powers and functions;
  - (f) the fees to be paid in respect of applications and appeals under this Act;

- (g) the appointment and licensing of purchasing agents, and other persons to be employed by the purchasing agents and the sugar factories for the purchase of cane, their functions and duties and the securities to be deposited by them and the conditions under which these securities may be forfeited;'
- (h) the form of the agreement to be entered into by or under the provisions of this Act and the penalty to be paid for breach of conditions of agreement;
- (i) the constitution, operation, management, supervision and audit of Cane-growers' Co-operative Societies and federation and conditions relating to recognition of such societies or federation for purposes of this Act and rules and control of their staff and finances;
- (j) the rate at which and the manner in which commission shall be paid to the Cane-growers' Co-operative Society on supply of cane by them;
- (k) the correct weighment of cane, the provision of facilities for weighment and for checking weighments and of timings of weighments;
- (l) the provision of approach roads, parking space for carts bringing cane to factories, sheds for bullocks and cart-drivers, water-troughs for bullocks and other connected matters;

<sup>7</sup>[(l-l) deduction of amount under sub-section (2-a) of Section 20;]

<sup>8</sup>[(m) x x x]

- (n) the procedure for matters falling under Section 24;
- (o) the form of the statements, returns, register and other forms required to be maintained by or under this Act and the filling of such returns, statements and forms;
- (p) the form and the manner in which application shall be made for various purposes under this Act;
- (q) the duties of any officer or authority having jurisdiction under this Act and the procedure to be followed by such officer or authority; and
- (r) the matters which are to be or may be prescribed.

(3) The rules made under this section shall come into force from a date to be appointed by the State Government.

(4) All rules made under this section shall, as soon as may be, after they are made be laid before the Legislative Assembly and shall be subject to such modifications as the Legislative Assembly may make.

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<sup>7</sup> Inserted by M.P. Act No. 4 of 1970

<sup>8</sup> Omitted by M.P. Act No. 39 of 1961

## **10. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960**

# The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960

[Act No. 20 of 1960]

[1st October, 1960]

An Act to provide for the imposition of ceiling on agricultural holdings, acquisition and disposal of surplus land and matter ancillary thereto.

Be it enacted by the Madhya Pradesh Legislature in the Eleventh Year of the Republic of India as follows:

## Section 1 - Short title, extent and commencement

- (1) This Act may be called the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960.
- (2) It extends to the whole of Madhya Pradesh.
- (3) It shall come into force on such date<sup>1</sup> as the State Government may, by notification, appoint.

## Section 2 - Definitions

In this Act, unless the context otherwise requires,--

- (a) "agricultural labour" means a person who does not hold any land and whose principal means of livelihood is manual labour on land;
- <sup>2</sup>[(b) "appointed day" means the date of commencement of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1972];
- <sup>3</sup>[(bb) "assured irrigation" means irrigation from any source of irrigation belonging to the State Government on the appointed day;
- <sup>4</sup>[(bbb) "assured private irrigation" means irrigation on or before the 15th August, 1972--
- (i) from tube wells;
- (ii) by lift irrigation from a perennial source of water operated by diesel or electrical energy.

Explanation -- For the purpose of item (ii) of this clause, "perennial source of water" means a source of water from which water flows throughout the year but does not include a well;]

- <sup>5</sup>[(c) "better farming society" means a co-operative society registered or deemed to be registered as a better farming society under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961);]

- (d) "ceiling area" means the maximum area of land which a holder is entitled to hold under section 7;

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<sup>1</sup> Effective from 15.11.1961 vide Notification No. 3467-28-61 dt. 4-11-1961

<sup>2</sup> Substituted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>3</sup> Inserted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>4</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>5</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

(e) "competent authority" means --

<sup>6</sup>[(i) in respect of a holder whose entire land is situate within a Sub-Division, the Sub-Divisional Officer and/or such other Revenue Officer, not below the rank of a Deputy Collector as may be appointed by the State Government;

(ii) in respect of a holder whose entire land is situate in more than one Sub-Division of the same district, the Collector or the Additional Collector and where there is no Additional Collector for the district such Deputy Collector, as may be empowered by the State Government to exercise the powers of Collector under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) for the purpose; and]

(iii) in respect of a holder whose land is situate in more than one district such authority as may be appointed by the State Government;

<sup>7</sup>[(ee) "Co-operative society" means a society registered or deemed to be registered under the Madhya Pradesh Cooperative Societies Act, 1960 (No. 17 of 1961);]

<sup>8</sup>[(f) "dry land" means any land which neither receives water through assured irrigation nor assured private irrigation;]

(g) "exempted land" means land exempted from the provisions of this Act under section 3;

<sup>9</sup>[(gg) "family" means husband, wife and their minor children, if any;]

<sup>10</sup>[(h) "holder" means a tenure holder or an occupancy tenant or a Government lessee of land within the State and the expression "to hold land" or "holding land" shall be construed accordingly;

(i) "holding" means all land held by a holder in any one or all of the capacities specified in clause (h) within the State;]

<sup>11</sup>[(j) "joint farming society" means a co-operative society registered or deemed to be registered as a joint farming society under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961), in which the ownership of all the land under its control vests, and which gets all such land cultivated jointly by its members;]

(k) "land" means land held for an agricultural purpose but does not include land diverted to or used for non-agricultural purpose;

<sup>12</sup>[(l) [XXX]

(m) [xxx]

(n) [xxx]]

(o) "surplus land" means land which is declared to be surplus land under the provisions of this Act;

<sup>6</sup> Substituted vide M.P. Act No. 37 of 1976 (w.e.f. 16.7.1976)

<sup>7</sup> Inserted vide M. P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>8</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>9</sup> Inserted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>10</sup> Substituted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>11</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>12</sup> Omitted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

(p) words and expressions used but not defined in this Act, and defined in the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), shall have the meaning respectively assigned to them in that Code.

## CHAPTER II EXEMPTIONS AND RESTRICTION ON TRANSFER OF LAND

### **Section 3 - Exempted lands**

<sup>13</sup>[The followings lands shall be exempted from the provisions of this Act, that is to say,--

- (a) land held by a local authority or a University established by law within the State;
- (b) land held by the Madhya Pradesh State Agro Industries Development Corporation Ltd., or any other Corporation, controlled or managed by the State Government or the Central Government, whether singly or jointly;
- (c) land which is the property of a public trust or a wakf for a religious purpose :

Provided that --

(i) such public trust or wakf is registered on or before <sup>14</sup>[the 1st January, 1971] under any enactment relating to public trust or wakf for the time being in force and the entire income of such land is appropriated for the purpose of such trust or wakf;

(ii) such land is property of the public trust or wakf on the appointed day;

(d) land held by a Bhoojan Yagna Board under the Madhya Pradesh Bhoojan Yagna Adhiniyam, 1968 (No. 28 of 1968);

<sup>15</sup>[(e) land held by a co-operative land development bank or, any other co-operative bank registered or deemed to be registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961);]

(f) land held by a bank;

Explanation -- For the purpose of this clause "bank" means a banking company as defined in section 5 of the Banking Regulation Act, 1949 (No. 10 of 1949), and includes the State Bank of India constituted by the State Bank of India Act, 1955 (No. 23 of 1955), a subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (No. 38 of 1959), a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (No. 5 of 1970), the Agricultural Re-finance Corporation established under the Agricultural Re-finance Corporation Act, 1963 (No. 10 of 1963), the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (No. 1 of 1956) and any other financial institution as the State Government may, by notification specify in this behalf;]

<sup>13</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>14</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>15</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>16</sup>[(g) land held by such Co-operative Societies as hold land not exceeding the total area arrived at by aggregating the ceiling area in respect of each of its members on the register of members for the time being and approved by general or special order by the State Government in this behalf:

Provided that in the case of a Joint Farming Society no member shall hold land in excess of the ceiling area;]

(h) any piece of land which the State Government may, for a public purpose, by notification, exempt from the provisions of this Act.]

#### **Section 4 - Transfers or partitions made after the publication of the Bill but before the commencement of the Act**

<sup>17</sup>[(1) Notwithstanding anything contained in any law for the time being in force, where after, <sup>18</sup>[the 1st January, 1971] but before the appointed day, any holder has transferred any land held by him by way of sale, gift, exchange or otherwise or has effected a partition of his holding or part thereof or the holding held by the holder has been transferred in execution of a decree of any Court, the competent authority may, after notice to the holder and other persons affected by such transfer or partition and after such enquiry as it thinks fit to make, declare the transfer or partition to be void if it finds that the transfer or the partition, as the case may be, was made in anticipation of or to defeat the provisions of this Act.]

<sup>19</sup>[(2) Nothing in this section shall apply to a transfer made by a holder --

(a) who does not hold land in excess of the ceiling area as specified in Sub-section (1) of Section 7, as substituted by Section 8 of M.P. Ceiling on Agricultural Holdings (Amendment) Act, 1974 on the date of the transfer; or

(b) who is a member of a family and where all the members of the family together do not hold land in excess of the ceiling area; as specified in Sub-section (1) of section 7 as substituted by section 8 of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1974 on the date of the transfer.]

(3) Any person aggrieved by an order of the competent authority under this section may prefer an appeal against such order to the Board of Revenue. The decision of the Board and subject to the decision of the Board in appeal the decision of the competent authority shall be final.

<sup>20</sup>[(4) <sup>21</sup>[In regard to every transfer to which this section applies] the burden of proving that the transfer was not benami or was not made in any other manner to defeat the provisions of this Act shall be on the transferor.

(5) Notwithstanding anything contained in any law for the time being in force,--

(i) no Court shall entertain any suit for the specific performance of any contract of sale of land on the basis of any agreement or document made <sup>2</sup>[on or before the 1st January, 1971], or

<sup>16</sup> Substituted vide M.P. Act No. 2 of 1976.

<sup>17</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>18</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>19</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>20</sup> Inserted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>21</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

(ii) any decree passed by a Civil Court for the specific performance of the contract of sale of land on the basis of any agreement or document made [on or before the 1st January, 1971] shall be null and shall not be enforceable, if such suit or decree is for the purpose of defeating the provisions of this Act.]

**Section 5 - Restrictions on transfer or sub-divisions of land and consequences of transfer or sub-division made in contravention thereof**

(1) Notwithstanding anything contained in any law for the time being in force, no land shall be--

(a) transferred whether by way of sale (including sale in execution of a decree of a Civil Court or of an award or order of any other lawful authority) or by way of gift, exchange, lease or otherwise; or

(b) sub-divided (including sub-division by a decree or order of a Civil Court or any other lawful authority) whether by partition or otherwise;

until a final order under section 11 is passed except with the permission in writing of the Collector.

(2) The Collector may refuse to give such permission if in his opinion the transfer or sub-division of land is likely to defeat the object of this Act.

<sup>22</sup>[<sup>23</sup>(3) Nothing in this section shall apply to a transfer made by holder--

(a) who does not hold land in excess of the ceiling area as specified in Sub-section (1) of Section 7 as substituted by Section 8 of Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1974 on the date of the transfer; or

(b) who is a member of a family and where all the members of the family together do not hold land in excess of the ceiling area; as specified in Sub-section (1) of section 7 as substituted by section 8 of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1974 on the date of the transfer.]

(4) The registering officer shall furnish to the Collector or such other officer as may be authorised by him in writing in this behalf, particulars relating to every transfer of land made on or after <sup>24</sup>[the 1st January, 1971] and before the appointed day in such form and within such period as may be prescribed.

(5) In regard to every transfer <sup>25</sup>[to which this section applies] the burden of proving that the transfer was not benami or was not made in any other manner to defeat the provisions of this Act shall be on the transferor.]

**Section 5A - Deleted**

<sup>26</sup>[xxx]

**Section 5B - Deleted**

<sup>27</sup>[xxx]

<sup>22</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>23</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>24</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>25</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>26</sup> Deleted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>27</sup> Deleted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

**CHAPTER III**  
**FIXATION OF CEILING AREA, DETERMINATION OF SURPLUS LAND AND**  
**ACQUISITION THEREOF**

**Section 6 - Certain persons deemed or not deemed to be holders for purposes of this Chapter**

For the purposes of this Chapter--

- (i) where certain land is held by two or more holders jointly or as tenants-in-common, the area of land corresponding to the interest of each holder on the appointed day shall be deemed to be held by such holder;
- (ii) where land is held by a joint Hindu family, each member of such family who is entitled to share in the joint family property shall be deemed to hold an area of such land proportionate to his share in the property to which he would be entitled if a partition were to take place on the appointed day;
- <sup>28</sup>[(iii) any land belonging to a tenure holder which is held by occupancy tenant specified in Sub-section (1) of section 185 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) shall not be deemed to be held by such tenure holder;]
- <sup>29</sup>[(iv) any land belonging to a tenure holder which is on or after the 1st January, 1971 held by an occupancy tenant or a Bhumiswami to whom such rights have accrued under section 169 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) or Sub-section (2-A) of section 190 thereof shall notwithstanding anything contained in the said Code, be deemed to be held by such tenure holder and not by the occupancy tenant or Bhumiswami, as the case may be, to whom such rights have accrued under the said respective sections.]

**Section 6A - Deleted**

<sup>30</sup>[xxx]

**Section 6B - Accrual of right of occupancy tenant or Bhumiswami under code to be void**

<sup>31</sup>[Where as a consequence of lease given by a tenure holder of land comprised in his holding in contravention of section 168 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) rights of an occupancy tenant or Bhumiswami, as the case may be, have accrued to the lessee under section 169 or Section 190 of the said Code during the period commencing from 1st January, 1971 and ending on the appointed day, accrual of such rights shall be void and of no legal effect whatsoever for the purposes of this Act, notwithstanding anything contained in

<sup>28</sup> Substituted vide M.P. Act No. 1 of 1984 with Retrospective effect from the beginning again Act

<sup>29</sup> Inserted vide M.P. Act No. 1 of 1984 with Retrospective effect from 1.1.1971

<sup>30</sup> Deleted vide M.P. Act No. 14 of 1984 (w.e.f. 24.1.1984)

<sup>31</sup> Inserted vide M.P. Act No. 1 of 1984 (w.e.f. 24.1.1984)

this Act or any other law for the time being in force or any judgment, decree or order of any court.]

### **Section 6BB - Declaration of surplus land in cases to which section 6-B apply**

<sup>32</sup>[Where as a result of operation of section 6-B, there is an addition to the quantum of land held by a holder prior to such operation so as to necessitate declaration of surplus land, then notwithstanding anything contained in this Act, the competent authority shall in declaring the surplus land specify the land in the following order :

- (i) the land held by such holder other than the land to which section 6-B relates;
- (ii) if the land so held by him falls short of the requisite surplus the entire land so held and so much of the land to which section 6-B relates as falls short of the requisite surplus.]

### **Section 6 C - Bar of Jurisdiction of Civil Court in matters falling under section**

<sup>33</sup>[Notwithstanding anything contained in Sub-section (4) or Sub-section (5) of section 11 no civil court shall entertain any suit in respect of title to land comprised in holding of a holder to which the provisions of section 3[6-B] apply.]

### **Section 7 - Maximum extent of land to be held by a person or family-**

<sup>34</sup>[(1) Subject to the provisions of this Act, no holder or where the holder is a member of a family, no such family, shall, as from the appointed day, be entitled to hold land other than exempted land in excess of the land as is specified below—

(a) where the holder is not a member of a family	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">(1) land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops;</td><td style="width: 40%; text-align: right;">10 acres</td></tr> <tr> <td>(2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop;</td><td style="text-align: right;">15 acres</td></tr> <tr> <td>(3) dry land.</td><td style="text-align: right;">30 acres</td></tr> </table>	(1) land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops;	10 acres	(2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop;	15 acres	(3) dry land.	30 acres
(1) land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops;	10 acres						
(2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop;	15 acres						
(3) dry land.	30 acres						

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<sup>32</sup> Inserted vide M.P. Act No. 14 of 1984 (w.e.f. 24.1.1984)

<sup>33</sup> Substituted vide M.P. Act No. 14 of 1984 (w.e.f. 24.1.1984)

<sup>34</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

(b) where the holder is a member of a family of five members or less.	(1) land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops;	18 acres
	(2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop;	27 acres
	(3) dry land.	54 acres.
(c) where the holder is a member of a family of more than five members.	(1) land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops;	18 acres plus 3 acres for each member in excess of five subject to the maximum of 36 acres.
	(2) land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop;	27 acres plus 4.5 acres for each member in excess of five subject to the maximum of 54 acres
	(3) dry land	54 acres plus 9 acres for each member in excess of five subject to the maximum of 108 acres:

Provided that where all or any one of the members of a family is also holder and holds land in his own rights, the aggregate land which such family shall hold shall not exceed the ceiling area specified above and the members of the family shall continue to hold land within the ceiling area in proportion to the extent of the land held by each one of them before the appointed day.

(2) Where a holder who is member of a family has one or more major sons, each such son shall, subject to the ceiling area specified in Sub-section (1) for a holder, be entitled to hold

land separately from out of the land belonging to the family before the appointed day, as if each such son were a holder:

Provided that if such major son or a member of his family hold land in his own rights and the extent of such land is less than the ceiling area specified in Sub-section (1) for the category of holders under which he falls, he shall be entitled to hold land out of such family holding only to the extent by which the land held by him as on 1st January, 1971 falls short of the ceiling area:

Provided further that no major son shall be entitled to have land under the preceding proviso, unless he files before the competent authority a declaration in such form and within such period as may be prescribed.]

(3) In computing the ceiling area under Sub-section (1)--

(i) orchards other than banana gardens and vine yards shall be treated as dry land; and  
(ii) land which a holder or member of a family has in a<sup>35</sup>[Joint Farming Society or any other Co-operative Society] as member thereof shall be treated as land held by such holder or member of a family;

<sup>36</sup>[(iii) one acre of land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops shall be equal to 1.5 acres of land capable of yielding one crop and receiving assured irrigation or assured private irrigation for the crop or three acres of dry land.]

Explanation -- For the purposes of this section different kind of crops grown in either Rabi or Kharif season shall be deemed to be one crop.]

### **Section 8 - Deleted**

<sup>37</sup>[x x x]

### **Section 9 - Submission of return by person holding land in excess of ceiling-**

Every holder who on the appointed day holds land in excess of the ceiling area shall in respect of all land held by him including exempted land, if any, furnish within the period of three months from the appointed day to the competent authority a return containing the following information--

- (i) full particulars of land held by him within the State;
- (ii) full particulars of the encumbrances, if any, on such land together with the name and address of his creditor;
- (iii) <sup>38</sup>[x x x]
- <sup>39</sup>[(iii-a) full particulars of any transfers or partition of land effected by him on or after <sup>40</sup>[the 1st January, 1971] and before the appointed day;]
- <sup>41</sup>[(iv) full particulars of any pending litigation respecting such land or part thereof;

<sup>35</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>36</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>37</sup> Deleted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974).

<sup>38</sup> Deleted vide M.P. Act No. 2 of 1976 (w.e.f. 25.2.1976)

<sup>39</sup> Inserted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>40</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>41</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

(v) full names, ages and addresses of the members of his family, their relation with him and land held by each of them];

<sup>42</sup>[(v-a) full names, ages and addresses of his major sons and land held by each of them as on 1st January, 1971;]

(vi) full description of the land which he desires to retain; and (vii) such other information as may be prescribed:

Explanation -- Any person having lawful custody of the minor, lunatic or idiot or of his property, for the time being, shall be deemed to be his guardian:

Provided further that where land is held by a joint Hindu family, a joint return may be filed by the manager of such family in respect of such land specifying therein the portion of the land which the family desires to retain.

### **Section 10 - Collection of information**

(1) If any person holding land in excess of the ceiling area fails to submit the return under section 9, the competent authority may, by a notice in such form and served in such manner as may be prescribed, require such person to furnish the return within the time specified in the notice and on his failure to do so obtain the necessary information in such manner as may be prescribed.

<sup>43</sup>[(2) xxx]

### **Section 11 - Preparation of statement of land held in excess of the ceiling area**

(1) On the basis of information given in the return under section 9 or the information obtained by the competent authority under section 10, the said authority shall after making such enquiry as it may deem fit, prepare a separate draft statement in respect of each person holding land in excess of the ceiling area, containing the following particulars--

<sup>44</sup>[(i) the name and address of the holder;

(i-a) if the holder is a member of a family, names, addresses and ages of members of the family;]

<sup>45</sup>[(i-b) if the holder who is a member of family has major sons, names, ages and addresses of his major sons and land held by each of them as on the 1st January, 1971;]

(ii) full particulars of land held by him and other members of his family within the State and the total area of such land;]

(iii) the total area of land which the holder is entitled to hold in accordance with the provisions of this Act;

(iv) the description of land which he desires to retain;

<sup>42</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>43</sup> Deleted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>44</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>45</sup> Substituted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

- (v) the description of land which the competent authority proposes to declare surplus; and
- (vi) such other particulars as may be prescribed :

<sup>46</sup>[Provided that if the holder fails to specify the portion of land which he wishes to retain, the competent authority shall, to the extent possible, include the encumbered and improved land in the land to be retained by the holder :]

Provided further that a joint statement may be prepared in respect of holders who are members of a Joint Hindu Family or who hold land jointly or as tenants-in-common.

(2) The transferor shall, for the purpose of this Act, be deemed to be the holder of land the transfer of which -

- (i) has been declared to be void under Sub-section (1) of section 4; or
- (ii) has been found by the competent authority, on such enquiry as may be prescribed to be in contravention of the provisions of Sub-section (1) of section 5.

(3) The draft statement shall be published at such place and in such manner as may be prescribed and a copy thereof shall be served on the holder or holders concerned, the creditors and all other persons interested in the land to which it relates. Any objection to the draft statement received within thirty days of the publication thereof shall be duly considered by the competent authority who after giving the objector an opportunity of being heard shall pass such order as it deems fit.

(4) If while considering the objections received under Sub-section (3) or otherwise, the competent authority finds that any question has arisen regarding the title of a particular holder and such question has not already been determined by a court of competent jurisdiction, the competent authority shall proceed to enquire summarily into the merits of such question and pass such orders as it thinks fit:

<sup>47</sup>[xxx]

<sup>48</sup>[(5) The order of the competent authority under Sub-section (4) shall subject to the decision in appeal or revision be final and conclusive.]

<sup>49</sup>[(6) After all such objections, have been disposed of, the competent authority shall, subject to the provision of this Act and the rules made thereunder, make necessary alterations in the draft statement in accordance with the orders passed on objections and shall declare the surplus land held by each holder. The competent authority shall, thereafter, publish a final statement specifying therein the entire land held by the holder, the land to be retained by him and the land declared to be surplus and send a copy thereof to the holder concerned. Such a statement shall be published in such manner as may be prescribed and shall be conclusive evidence of the facts stated therein.]

(7) <sup>50</sup>[xxx]

<sup>46</sup> Substituted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>47</sup> Deleted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>48</sup> Substituted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>49</sup> Substituted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>50</sup> Deleted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>51</sup>[(8) <sup>52</sup>[xxx] If the land in excess of the ceiling area consists of a small script of land which cannot be cultivated economically or which cannot be detached from the land having regard to the efficient use thereof for agricultural purposes, the holder of the land may be permitted by the competent authority, for reasons to be recorded in writing, to retain the said strip of land subject to a maximum of one acre in excess of the ceiling area.]

<sup>53</sup>[(9) The competent authority shall dispose of the case --

- (i) to which Section 11-A applies, within six months from 1st November, 1988;
  - (ii) which is pending with him on the 1st November, 1988 or which has been remanded to him before such date within six months from the 1st November, 1988;
  - (iii) which may be remanded to him or initiated after 1st November 1988; within six months from the date of remand or intimation as the case may be : Provided that if the competent authority is unable to dispose of the case within the period aforesaid, it shall make report to--
- (i) the Board of Revenue where the competent authority is the Commissioner or Settlement Commissioner;
  - (ii) the Commissioner where the competent authority is any other Revenue Officer;
- before the expiry of such period stating therein the reasons for its inability to do so and the Board of Revenue or the Commissioner as the case may be, may allow it such further period as it/he may consider necessary to dispose of such case. No record of the case or proceedings relating thereto shall be forwarded along with the report unless specially called for by the Board of Revenue/the Commissioner].

#### **Section 11A - Consequences to ensure commencement of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1989**

<sup>54</sup>[(1) On the commencement of the Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1989, the following consequences shall ensue namely --

The competent authority shall --

- (a) proceed to deal with and dispose of the cases which were heretofore deferred for decision consequent on reference to Civil Court for decision in the matter of title of land;
- (b) take or cause to be taken possession of the land declared surplus under Sub-section (6) of section 11 and vested in the State Government absolutely free from all encumbrances under section 12 immediately; and
- (c) by a notice require the holder to give his option within a period of fifteen days from the date of receipt of such notice about the land he intends to retain failing which

<sup>51</sup> Substituted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>52</sup> Deleted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>53</sup> Inserted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>54</sup> Inserted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

the competent authority shall to the extent possible include the encumbered and improved land in the land to be retained by the holder.

(2) The Civil Court before whom the cases arising out of section 11 as it stood immediately before 1st November, 1988 were pending may deal with those cases but such pendency before the Civil Court shall not prevent the competent authority from disposing of the cases under this Act, notwithstanding any stay granted or other process issued by the Civil Court debarring the competent authority for doing so.

(3) If the final disposal of the case pending before the Civil Court results in declaration of the title of land to a person other than the holder of the land who had filed return under this Act, such person shall not be entitled for the land of which he had claimed the title, if such land already stands distributed in accordance with the provisions of this Act and in that event the said person shall be paid market value of the said land calculated in such manner as may be prescribed:

Provided that where the total land together with the land to which holder has become entitled under this section exceeds the ceiling limit, nothing in this Sub-section shall apply in respect of that such land which is in excess of the ceiling limit.

(4) (a) No suit or proceeding for declaration of title or any right over any agricultural land declared surplus and vested in the State Government under this Act shall be entertained by any Court unless the plaintiff or applicant, as the case may be, has impleaded the State of Madhya Pradesh as one of the defendants or non-applicants, as the case may be, to such suit or proceeding.

(b) No Court shall proceed with pending suit or proceeding referred to in clause (a) unless, as soon as may be, the State Government is so impleaded as a defendant or non-applicant.

**Explanation** The expression "suit or proceeding" used in this Sub-section shall include appeal, reference or revision but shall not include any proceeding for or connected with execution of any decree or final order passed in such suit or proceeding.

#### **Section 11B - Consequence of final disposal by appellate or Revisional Authority-**

If the final disposal of the case before the Appellate Authority or Revisional Authority results in --

- (i) declaration of title of land to a person other than the holder of the land who has filed return under this Act; or
- (ii) declaration of land to be exempted from the provisions of this Act; or
- (iii) entitlement of holder or person other than holder under any of the provisions of this Act; such person shall not be entitled for the land of which he had claimed the title or such holder shall not be entitled for the land in respect of which he had claimed exemption or the holder or such other person shall not be entitled for land declared in his favour under (iii) above as the case may be, if such land already stands distributed in accordance with the provisions of this Act and in that event the provisions of Sub-section (3) of section 11-A shall apply to such person or holder, as the case may be.]

#### **Section 12 - Vesting of surplus land in the State-**

<sup>55</sup>[All surplus land shall be deemed to be needed for a public purpose and shall vest in the State absolutely free from all encumbrances with effect from the date declaring it surplus under Sub-section (6) of section 11 :

Provided that if on such land any crop is standing such vesting shall take place after the crop has been harvested.]

### **Section 13 - Consequence of vesting-**

With effect from the date of vesting --

- (i) all rights, title and interests of the holder in the surplus land or of any person having interest in such land through him shall cease; and
- (ii) all arrears of revenue, cesses or other dues, in respect of the land so vesting and due by the holder for any period prior to the date of vesting, shall continue to be recoverable from such holder and may, without prejudice to any other mode of recovery, be realized by deducting the amount from the compensation money payable to such holder under this Act.

### **Section 13A - Holder liable to pay compensation for profit on surplus land-**

<sup>56</sup>[Where any land vests in the State Government under section 12, the holder of the land shall be liable to pay to the State Government in such manner and in accordance with such principles as may be prescribed profits earned on the land by him during the period the land has remained with him after the appointed day.]

### **Section 14 - Demarcation of land and assessment thereof-**

Where any land vest in the State Government under section 12, the Sub- Divisional Officer shall demarcate it in accordance with the rules made under Sub-section (5) of section 198 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), and also fix the land revenue in respect of the land remaining with the holder.

### **Section 15 - Ceiling how effective in future-**

<sup>57</sup>[Where after the appointed day the total land held by any holder and where such holder is a member of a family the total land held by such family at any time exceeds the ceiling area by reason of--

- (a) acquisition of land by the holder or member of his family; or
- (b) change in the nature of land, that is to say, dry land subsequently having assured irrigation for one crop or two crops as the case may be, or land having assured irrigation for one crop subsequently having assured irrigation for two crops; or
- (c) land having ceased to be exempted land; all the provisions of this Chapter shall, so far as may be, apply to such holder and where such holder is a member of a family to such family :

<sup>55</sup> Substituted vide M.P. Act No. 37 of 1976 (w.e.f. 16.7.1976)

<sup>56</sup> Substituted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>57</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

Provided that the period of submission of return by such holder under section 9 shall,--

- (i) in case of acquisition of land, be ninety days from the date of such acquisition; and
- (ii) in the case of change in the nature of land, be ninety days from the date the nature of land is changed; and
- (iii) in the case of land ceasing to be exempted land, be ninety days from the date of commencement of the Madhya Pradesh Ceiling on Agricultural Holdings (Second Amendment) Act, 1972 or the date on which such land has ceased to be exempted, whichever is later.]

## CHAPTER IV PAYMENT OF COMPENSATION

### **Section 16 - Liability of State Government to pay compensation for surplus land-**

(1) The State Government shall pay compensation for surplus land vesting in the State under section 12 to the holder of such land in accordance with the rules contained in Schedule II.

<sup>58</sup>[(2) In addition to the compensation payable under Sub-section (1) the State Government shall pay to the holder of such land additional compensation--

- (i) for any improvement made by him on land; or
- (ii) for trees, if any, standing on land.]

(3) In determining the additional compensation payable under Sub-section (2) the following matters shall be taken into consideration, namely:--

- (a) the enhancement of the value of the land due to the improvement;
- (b) probable duration of the effect of the improvement;
- (c) labour and capital spent by the holder on the improvement;
- <sup>59</sup>[(d) nature of trees and value thereof].

(4) The compensation payable under Sub-sections (1) and (2) shall be due as from the date of vesting of surplus land and shall carry interest at the rate of three per centum per annum from the date of vesting to the date of payment.

### **Section 17 - Manner of payment of compensation-**

Subject to the provisions of this Act and the rules made thereunder the compensation payable under section 16 shall be paid in the following manner, namely--

- (a) in cash in full within six months of the date of vesting where the total amount of compensation does not exceed one thousand rupees;
- (b) in other cases, a sum not less than one thousand rupees shall be paid within six months of the date of vesting and the balance shall be paid in equal annual installments not exceeding nineteen, subject to the condition that no installment except the one that relates to final payment shall be less than one hundred rupees :

<sup>58</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>59</sup> Added vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

Provided that the State Government may at any time for special reason pay to any holder the amount of future installments not exceeding five in advance.

### **Section 18 - Interim payment-**

- (1) Where the amount of compensation is not paid to a holder within a period of six months from the date of vesting, the State Government shall, subject to such restrictions and conditions as to security, repayment or otherwise as may be prescribed, direct the payment to each such holder of interim compensation which shall not be less than one-twentieth of the estimated amount of compensation subject to the maximum of one thousand rupees.
- (2) Such interim compensation shall be deemed to be part of the compensation payable under this Act, and shall be deducted from and adjusted against it.

### **Section 19 - Determination of compensation-**

After the land of a holder is declared surplus the competent authority shall after making such enquiry as it thinks fit and giving the holder concerned an opportunity of being heard, determine the amount of compensation due to such holder and such compensation shall be payable in accordance with the provisions of this Act.

### **Section 20 - Apportionment of compensation in certain cases-**

Where the holder of the land vested in the State Government under section 12, is--

- (i) a widow; or
- (ii) an unmarried daughter; or
- (iii) a married women who has been deserted by her husband; or
- (iv) a minor; or
- (v) a person subject to physical or mental disability due to old age or otherwise; or
- (vi) a person detained or imprisoned under any process of law; or
- (vii) a person in the service of Armed Forces of the Union; or
- (viii) a public charitable or religious institution; or
- (ix) a local authority or a co-operative society; and such holder has prior to such vesting leased such land in pursuance of the provisions of Sub-section (2) of section 168 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), the compensation payable in respect of the land shall be apportioned between the holder and the lessee in the manner prescribed.

### **Section 21 - Payment of compensation to be full discharge-**

- (1) The payment of compensation to the holder or other person entitled thereto in the manner prescribed by or under the Act shall be a full discharge of the State Government from all liability to pay compensation for the divesting of the surplus land and no further claims for payment of compensation in respect thereof shall lie.
- (2) Nothing in this section shall prejudice any rights in respect of the said surplus land to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.

**CHAPTER V**  
**ENCUMBRANCES OF SURPLUS LAND**

**Section 22 - Definition**

In this Chapter--

- (a) "creditor" means a person to whom a secured debt or claim is owing and "debtor" means the person by whom such debt is owed;
- (b) "excluded debt" refers to secured debt or claims due in respect of --
  - (i) any liability in respect of any sum due to any society registered or deemed to be registered under any law relating to co-operative societies in force in any part of Madhya Pradesh;
  - (ii) any liability in respect of maintenance whether under decree of court or otherwise;
  - (iii) any liability due to a bank or a company;
  - (iv) a mortgage claim against property in the hands of a subsequent transferee who has taken the transfer in order to satisfy the mortgage;
  - (v) any liability arising between mortgagor and mortgagee in respect of land revenue of the mortgaged property which has been paid by the mortgagee on behalf of the mortgagor;
- (c) "secured debt or claim" means debt or claim subsisting on the appointed day whether due or not due and secured by the mortgage of or a charge on the surplus land but shall not include land revenue or anything, recoverable as land revenue or any money for the recovery of which a suit is barred by limitation.

**Section 23 - Application by creditor to competent authority-**

- (1) Any creditor of a holder of surplus land may, within sixty days from the publication of the final statement under Sub-section (6) of section 11, file an application to the competent authority specifying therein the amount and particulars of his debt or claims against such holder.
- (2) An application under Sub-section (1) shall contain such further particulars as may be prescribed and shall be signed and verified in accordance with the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints.
- (3) The claim of every creditor other than a creditor mentioned in the return filed under section 9, who fails to file an application under Sub-section (1) shall be deemed for all purposes and all occasions to have been discharged against the debtor.
- (4) The provision of section 5 of the <sup>60</sup>[Indian Limitation Act, 1908 (IX of 1908)] shall apply to an application under this section.

**Section 24 - Withholding of compensation money-**

Upon receipt of an application under section 23 if the competent authority finds that any suit or proceeding is pending against the holder of surplus land for the recovery of any amount in

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<sup>60</sup> Refer to Limitation Act 1963(36 of 1963)

respect of a secured debt or claim the competent authority shall issue a notice to the Court concerned and thereupon such suit or proceeding shall be stayed.

#### **Section 25 - Submission of claims and production of documents-**

(1) Upon receipt of an application under Sub-section (1) of section 23 the competent authority shall fix a date for hearing and shall cause a notice of the date of hearing together with a copy of the application received, to be served on the holder and shall cause a copy of such application together with a copy of the return filed under section 9 to be affixed on a conspicuous place in its office.

(2) The competent authority shall also issue notice to every creditor, who according to the return filed under section 9 has an interest in the surplus land but has not filed any application under Sub-section (1). Such notice shall be accompanied by a copy of the return.

(3) Every creditor who has filed an application under section 23 or to whom a notice is issued under Sub-section (2) shall, on or before such date as may be fixed by the competent authority file a written statement of his claim signed and verified in the manner prescribed by rule 15 of Order VI of the Code of Civil Procedure, 1908 (V of 1908). Such statement shall be submitted in person or by an agent authorised in writing or by registered post with acknowledgment due and every claim not so submitted shall be deemed for all purposes and all occasions to have been discharged as against the debtor:

Provided that if a creditor files a statement of claim within a further period of two months and satisfies the competent authority that such creditor was for good and sufficient cause unable to file the same before the date fixed for hearing the competent authority may revive the claim.

(4) On the date on which the case is fixed for hearing the creditor shall produce the documents in his possession or control on which he bases his claim. If such documents are not produced at such hearing or at an adjourned hearing fixed for this purpose by the competent authority, the competent authority may declare such claim to be discharged for all purposes and all occasions against the debtor:

Provided that if the competent authority is satisfied that any creditor was for good and sufficient cause, unable to produce such documents he may require them to be produced on a date fixed for the purpose and may revive the claim.

#### **Section 26 - Determination of debt-**

Subject to the provisions of section 27, the competent authority shall, after hearing the debtor and the creditor, if present and making such further enquiry as it may deem fit, determine the amount which should be paid to creditors out of the amount of compensation determined under section 16.

#### **Section 27 - Calculation of interest and reduction of principal in all transactions-**

(1) The competent authority shall, notwithstanding anything contained in any other enactment for the time being in force, re-open all transactions made twelve years before the last transaction or before the 1st January, 1940, whichever is earlier, and as far as may be, ascertain in respect of each loan the date on which it was originally advanced. It shall

notwithstanding the provisions of any agreement or law to the contrary, calculate the interest due at six per centum per annum or such lower rate of interest as may have been agreed upon between the parties. It shall also determine the amount of principal, if any, of each loan which would have remained unpaid if the calculation of interest had been made as herein provided.

(2) If the competent authority finds that the loan was originally advanced prior to the 1st January, 1940, then it shall reduce the principal determined under Sub-section (1) by twenty per centum.

(3) Notwithstanding anything contained in any law for the time being in force, no competent authority shall, in respect of any secured debt or claim to which this Chapter applies, award on account of arrears of interest a sum greater than the principal of the loan as determined under Sub-section (1).

(4) If the competent authority finds that nothing is due to the creditor, it shall pass an order discharging the secured debt or claim.

(5) The amounts determined due shall not carry any interest after the date of determination.

(6) Nothing in Sub-sections (1) to (5) shall apply to excluded debts. The amount due for such debts shall be determined in accordance with the terms of the contract between the parties or any law for the time being in force.

### **Section 28 - Priority amongst creditors-**

Subject to rules framed under this Act, the competent authority shall, where there are two or more creditors, settle the order of priority in which each creditor shall be entitled to receive the amount due to him.

### **Section 29 - Distribution of compensation money-**

(1) The compensation payable to a holder under section 16 shall be distributed between the secured creditors in the order of their priority and if there are more than one such creditors holding the same order of priority, it shall be distributed rateably between them in proportion to the amounts determined due.

(2) The amount determined payable to the creditors shall be payable in as many instalments as may be fixed for the payment of compensation to the holder of surplus land under the provisions of this Act.

(3) If the total amount determined payable to creditors is less than the compensation payable under section 16 the amount payable to creditor shall be deducted from such compensation and the balance shall be payable to the holder of surplus land.

### **Section 30 - Order regarding unpaid amount of claims-**

If the amount of compensation payable to the holder under section 16 is not sufficient to satisfy the claims of the creditors as determined under this Chapter, the competent authority shall record an order specifying--

- (a) the amount remaining unpaid in respect of each claim;
- (b) the name of the creditor to whom it is due; and
- (c) the particulars of the property other than surplus land belonging to the holder remaining encumbered in respect of each claim.

**Section 31 - Recoveries of unpaid amount-**

- (1) If the property of a holder other than surplus land is encumbered in respect of any claim of the creditor in whose favour an order under section 30 has been passed, the creditor may within one year of the date of such order apply to the civil court for passing a preliminary decree for sale of the encumbered property and the civil court shall accordingly pass a preliminary decree for sale for the amount remaining unpaid in respect of that amount as specified in the said order fixing such time as it may deem fit.
- (2) Subject to the provisions of Sub-section (1) any creditor in whose favour an order under section 30 has been passed may recover the amount remaining unpaid in respect of any claim which is due to such creditor according to the said order from the holder in the same manner as an arrear of land revenue.

**Section 32 - Court fees by a creditor-**

- (1) Any creditor who applies to a civil court under section 31 shall be liable to pay such court-fees upon the amount declared as due as he would be liable to pay upon a plaint filed for the recovery of the same and the civil court shall not proceed with the application until such court-fee has been paid:

Provided that no court-fees shall be payable if court-fees have already been paid in respect of a debt.

- (2) The amount of court-fees paid by the creditor shall form costs of the proceeding and be recoverable from the debtor.

**Section 33 - Appeal against orders of the competent authority-**

- (1) Any person aggrieved by an order of the competent authority under this Chapter may file an appeal against such order --
- (i) in the Court of the District Judge within whose jurisdiction the whole or any part of surplus land which is subject to mortgage or charge, as the case may be, lies if the secured debt or claim does not exceed Rs. 10,000;
  - (ii) in the High Court if the secured debt or claim exceeds Rs. 10,000.
- (2) No appeal under Sub-section (1) shall lie--
- (a) to the Court of District Judge, unless it is preferred within 30 days of the communication of the order appealed against;
  - (b) to the High Court, unless it is preferred within 60 days of the communication of the order appealed against.

**Section 34 - Finality of decision-**

The decision of the District Court or the High Court, as the case may be, in an appeal under section 33 shall be final and where no appeal has been preferred the decision of the competent authority shall be final.

**CHAPTER VI**  
**DISPOSAL OF SURPLUS LAND**

**Section 35 - Allotment of surplus land vesting in the State Government under this Act-**

(1) Subject to the provisions of this Act and the rules framed thereunder surplus land vesting in the State under section 12 shall be allotted in Bhumiswami rights to the persons mentioned hereunder in the order of priority as indicated therein on payment of a premium equivalent to the compensation payable in respect of such land --

<sup>61</sup>[(i) agricultural labourers,

- (a) belonging to Scheduled Castes and Scheduled tribes; and
- (b) others;

(ii) joint farming society, the members of which are agricultural labourers, or landless persons whose main occupation is cultivation or manual labour on land, or a combination of such persons;

(iii) better farming society, the members of which are agricultural labourers, or landless persons whose main occupation is cultivation or manual labour on land, or a combination of such persons;]

<sup>62</sup>[(iv) freedom fighters;]

(v) displaced tenants subjects to the provisions of section 202 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959);

(vi) holders holding contiguous land;

(vii) joint farming society of agriculturists;

(viii) better farming society of agriculturists;

(ix) any other co-operative farming society subject to the condition that land (including the land as owner or tenant individually by members) shall not exceed the area equal to the number of members multiplied by the ceiling area;

(x) an agriculturist holding land less than the ceiling area :

Provided that unless the State Government otherwise directs surplus land consisting of compact area shall be either reserved for Government farm or allotted to co-operative societies or any other public purpose.

<sup>63</sup>[Explanation I -- For the purpose of clause (iv), "freedom fighter" means a person who by reason of his taking part in any national movement for independence prior to the 15th August, 1947--

(i) had been awarded capital punishment; or

(ii) had to suffer imprisonment or detention for a period exceeding six months; or

(iii) had been permanently incapacitated on account of injuries infected upon his person in firing or lathi charge; or

(iv) had to suffer loss of property, whether wholly or partly or loss of employment or loss of his means of livelihood, and includes his principal heir where such person --

(a) was hanged in execution of the capital punishment; or

(b) died during the course of imprisonment or detention.

<sup>61</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

<sup>62</sup> Inserted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

<sup>63</sup> Inserted vide M.P. Act No. 20 of 1974 (w.e.f. 7.3.1974)

Explanation II -- For the purpose of Explanation I, "principal heir" means the eldest son of the deceased or, if there is no son of the deceased or, if there is no son surviving, such other heir of the deceased, as the Collector may declare to be the principal heir.]

(2) The premium payable under Sub-section (1) may be paid by the allottee either in a lump sum within six months of the commencement of the agricultural year next following the date of allotment or in twenty equal instalments, the first instalment being payable on the commencement of the agricultural year next following the date of allotment. If the premium is paid in instalments the unpaid balance of such premium shall carry interest at the rate of 3 per centum per annum with effect from the date on which the first instalment falls due.

<sup>64</sup>[(3) Where the land allotted under Sub-section (1) is an orchard other than banana gardens and vine yards, the allottee shall maintain the orchard intact.]

### **Section 36 - Recovery of premium in case of transfer of allotted land**

Where land allotted under section 35 is transferred, the amount of premium remaining unpaid in respect of such land shall be a first charge thereon and shall be recoverable from the transferee in the same manner as an arrear of land revenue.

### **Section 37 - Temporary leases of land liable to be allotted under section 35-**

(1) If in the case of land vesting in the State under this Act the Collector considers that allotment of such land under section 35 is likely to take time and that with a view to preventing the land remaining uncultivated, it is necessary to take such a step, he may lease the land for cultivation to any agriculturist who has under personal cultivation land less than the ceiling area subject to the following conditions--

- (i) the lease shall be for a period of one year.
- (ii) the lessee shall pay rent at the rate fixed by the Tahsildar subject to the provisions of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959);
- (iii) the lessee shall be liable to pay the land revenue and the other cesses payable in respect of the land;
- (iv) if the lessee fails to vacate the land on the expiry of the term of the lease, he shall be liable to be summarily evicted by the Tahsildar.

(2) The amount of rent realised under Sub-section (1) shall be credited to Government.

## **CHAPTER VI A**

### **OFFENCES AND PENALTY**

### **Section 37A - Offences and punishment**

<sup>65</sup>[<sup>66</sup>(1) If any person who is under an obligation to furnish a return under this Act refuses or wilfully fails to furnish a return within the time specified for the purpose, or wilfully furnishes an incomplete or incorrect return, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

<sup>64</sup> Inserted vide M.P. 13 of 1974 (w.e.f. 7.3.1974)

<sup>65</sup> Inserted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>66</sup> Substituted vide M.P. Act No. 37 of 1976 (w.e.f. 16.7.1976)

(2) If any person who is under an obligation to furnish a return under this Act furnishes a return which he knows or has reason to believe to be false, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.]

#### **Section 37B - Cognizance of offence-**

<sup>67</sup>[(1) No Court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

(2) No Court shall take cognizance of any offence punishable under this Act except on a complaint in writing by an Officer empowered by the State Government in this behalf.]

### **CHAPTER VII MISCELLANEOUS**

#### **Section 38 - Presumption about entries in records of rights, etc.-**

Every entry in the record of rights and the annual papers prepared in the Mahakoshal region in accordance with the provisions of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959), and every entry in the records of a like nature maintained under any law for the time being in force in any other region of this State shall, for the purpose of this Act, be presumed to be correct.

#### **Section 39 - Taking possession of land vested in the State-**

Where under the provisions of this Act any land vests in the State, the Tahsildar may, after removing any obstruction that may be offered, forthwith take possession of the land and such land shall, subject to such rules as may be prescribed, be managed by the Collector until it is disposed of in accordance with the provisions of this Act.

#### **Section 40 -Revenue Officer to direct delivery of possession-**

The competent authority may upon its own motion or on the application of any person who is entitled to the possession of any land under any of the provisions of this Act, direct that possession of such land be delivered to such person.

#### **Section 41 – Appeals-**

<sup>68</sup>[ Except where the provisions of this Act provide otherwise, against every order of a Revenue Officer or competent authority under this Act or the rules made thereunder, an appeal shall lie :

- (i) if such order is passed by a Revenue Officer either as competent authority or otherwise to the authority competent to hear appeals under Sub-section (1) of Section 44 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) from an order passed by a Revenue Officer of the same rank under the said Code;

<sup>67</sup> Inserted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>68</sup> Substituted vide M.P. Act No. 25 of 1966 (w.e.f. 15.10.1966)

(ii) if such order is passed by the competent authority where such authority is an officer other than a Revenue Officer appointed under sub-clause (iii) of clause (e) of section 2 to the Board of Revenue as if such officer were an Additional Settlement Commissioner appointed under section 65 of the said Code] :

<sup>69</sup>[Provided that the surplus land vested in the State Government shall not revert to the holder thereof as a consequence of remand of the case.]

#### **Section 42 – Revision-**

The Board of Revenue or the Commissioner may on its/his motion or on the application by any party at any time for the purpose of satisfying itself/himself as to the legality or propriety of any order passed by or as to the regularity of the proceedings of any competent authority subordinate to it/him call for and examine the record of any case pending before or disposed of by such competent authority, and may pass such orders in reference thereto as it/he thinks fit:

Provided that it/he shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard: Provided further that no application for revision shall be entertained against an order against which an appeal is provided under this Act :

<sup>70</sup>[Provided also that the surplus land vested in the State Government shall not revert to the holder thereof as a consequence of remand of the case.]

#### **Section 42A - Bar to grant stay-**

<sup>71</sup>[No stay shall be granted by appellate authority under section 41 or by the revisional authority under section 42:

Provided that the stay granted before 1st November, 1988 shall on 1st November, 1988 stand vacated.]

#### **Section 43 - Court fees-**

Notwithstanding anything contained in the Court Fees Act, 1870 (Act 7 of 1870), every application or memorandum of appeal or an application for revision under this Act shall bear a Court Fees Stamp of such value as may be prescribed.

#### **Section 44 – Limitation-**

Every appeal or application for revision under this Act unless specifically provided otherwise in the Act, shall be filed within a period of sixty days from the date of the order against which such appeal or revision is preferred. The provisions of Sections 4, 5,12 and 14 of the Indian Limitation Act, 1908 (IX of 1908)<sup>72</sup>, shall apply to the filing of such appeal or application for revision.

<sup>69</sup> Amended vide M.P. Act No. 8 of 1989

<sup>70</sup> Added vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>71</sup> Inserted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>72</sup> Refer Limited Act, 1963 (36 of 1963)

**Section 45 - Enquiries and proceedings to be judicial proceedings-**

All enquiries and proceedings before any Revenue Officer, or competent authority shall be deemed to be judicial proceedings within the meaning of Section 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860 (XLV of 1860).

**Section 46 - Bar of jurisdiction of Civil Courts-**

<sup>73</sup>[Save as expressly provided in this Act, no Civil Court shall have any jurisdiction--

- (i) to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the competent authority; and
- (ii) to grant stay in any case under this Act.]

**Section 47 - Power to remove difficulties-**

If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing the doubt or difficulty.

**Section 48 - Protection of action taken under this Act-**

- (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.
- (2) No suit or other legal proceedings shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered, by virtue of any provision of this Act or for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

**Section 49 -Act to override other enactments, contracts etc.-**

The provisions of this Act and any rules made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other enactment for the time being in force or any custom, usage or agreement or decree or order of a court or other authority.

**Section 50 - Power to make rules-**

- (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:
  - (a) the procedure to be followed by the competent authority exercising powers under this Act;
  - (b) the manner in which notices and orders under this Act shall be issued, served, communicated or enforced;
  - <sup>74</sup>[(c) xxx]

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<sup>73</sup> Substituted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

- (d) the form in which and the period within which particulars in respect of transfer of land shall be furnished under Sub-section (4) of section 5;
- (e) the period within and the manner in which the return has to be submitted under section 9;
- (f) (i) the enquiry to be held under Sub-section (2) of section 11;  
(ii) the manner in which a copy of the draft statement shall be served on the person or persons concerned under section 11;
- <sup>75</sup>[(ff) the manner in which the market value of the land shall be calculated under section 11-A (3)].
- <sup>76</sup>[(fff) the manner in which and the principles in accordance with which the holder shall pay to the State Government the profits under section 13-A;
- (g) the manner in which an appeal under section 41 may be preferred;
- (h) the manner in which any land vested in the State Government shall be disposed of;
- (i) any other matter which is to be or may be prescribed under this Act.
- (3) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.

## <sup>77</sup>[SCHEDULE I

### SCHEDULE II {See Section <sup>78</sup>[16(1)]}

1. The amount of compensation payable to a holder of any surplus land in Bhumiswami right, shall be computed on the basis of land revenue per acre of such land according to the scale specified below:

#### SCALE

Land revenue per acre	Amount of compensation payable per acre
(1)	(2)
(1) Where the land revenue per acre does not exceed one rupee.	Fifty times the land revenue per acre subject to a minimum of rupees twenty.

<sup>79</sup>[Provided that in the case of land having assured irrigation or assured private irrigation, the land revenue per acre shall be a sum arrived at by adding one rupee to land revenue of such land.]

<sup>74</sup> Deleted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>75</sup> Inserted vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>76</sup> Part (ff) Remembered on part (fff) vide M.P. Act No. 8 of 1989 (w.e.f. 1.11.1988)

<sup>77</sup> Deleted vide M.P. Act No. 12 of 1974 (w.e.f. 7.3.1974)

<sup>78</sup> Substituted vide M.P. Act No. 35 of 1961 (w.e.f. 20.10.1961)

<sup>79</sup> Substituted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

2. The amount of compensation payable to a holder of any land in occupancy rights shall be the amount of compensation determined in accordance with rule 1 as if the land were held in Bhumiswami rights less 15 times the land revenue of such land.
- <sup>80</sup>[2-A. The amount of compensation payable to a holder of any land as a Government lessee shall be the amount of compensation determined in accordance with rule 1 had the land been assessed to land revenue under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959)].
3. Where any land is not separately assessed to land revenue the land revenue of such land shall be determined on the basis of the land revenue of the entire land separately assessed to land revenue of which it forms part

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<sup>80</sup> Inserted vide M.P. Act No. 13 of 1974 (w.e.f. 7.3.1974)

## **10.1 Rules Under The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960**

# Rules under the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960

Notfn. No. 2949-545/XXVIII-62, published in M.P. Rajpatra, Part IV (Ga) dated 26-10-1962 at p. 788. In exercise of the powers conferred by clause (b) of sub-section (2) of Section 50 of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (No. 20 of 1960), the State Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of Section 50 of the said Act, namely:

### **1. Definition.**

In these rules, "the Act" means the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (No. 20 of 1960).

### **2. Issue of notice.**

- (1) Every notice under the Act shall be in writing, in duplicate and shall be signed and sealed by the officer issuing it or by such person as he empowers in this behalf, and it shall specify the time and place at which the person therein named is required to attend, and also whether he is required to give evidence or to produce a document.
- (2) A notice to produce documents may be for the production of certain specified documents or for production of all documents of certain description in the possession or power of person named therein.

### **3. Service of notice.**

- (1) Every notice under the Act shall be served by tendering or delivering a copy of it to the person concerned personally or to his recognised agent :

Provided that, where the recognised agent of the person concerned is a pleader, the notice may be served by leaving a copy thereof at his office or at the place of his ordinary residence and such service shall be deemed to be effectual as service on the recognised agent personally.

- (2) Where the person concerned cannot be found and has no recognised agent, service may be made on any adult male member of the family of the person concerned, who is residing with him.

Explanation.-A servant is not a member of the family within the meaning of this sub-rule.

- (3) Where the serving officer delivers or tenders a copy of the notice to the person concerned personally or to an agent or other person on his behalf, he shall require the signature of the person, to whom the copy is delivered or tendered to an acknowledgment of service endorsed on the original notice.

- (4) If service of the notice cannot be effected in the manner provided in sub-rules (1), (2) and (3) a copy thereof may be affixed at the last known place of residence of the

person concerned or at some place of public resort in the village in which the land to which the notice relates is situate or from which the land is cultivated.

(5) Where a copy of the notice is affixed as provided in sub-rule (4), the serving officer shall return the original copy of the notice to the officer who issued it with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, the name and address of the person in whose presence the copy was affixed and where the copy is affixed at the last known place of residence of the person noticed, the report shall also contain the name of the person by whom the house was identified.

(6) If the person to whom a notice is to be served resides in another district, the notice may be sent by post to the Collector of such district for service.

#### **4. Contents of order.**

Every order under the Act shall be in writing and contain a concise statement of the case, the points for decision, the decision thereon and the reasons for such decision.

#### **5. Final order.**

No final order shall be passed to the detriment of any person without giving him an opportunity to be heard and hearing him if he so desires and where the conflicting rights and interests of two parties are concerned, they shall both be given such an opportunity.

#### **6. Delivery and communication of order.**

Subject to the provisions of the Act, the following procedure shall be followed by a Revenue Officer and competent authority in respect of passing orders under the Act;

- (1) (a) After arguments are heard, a definite date may be fixed possible, for passing of the order, and signature of parties or counsel shall be taken on the order-sheet in token of their having been informed of the date.  
 (b) On the date so fixed, the order shall be delivered. If parties or counsel are present, their presence shall be recorded. If they are absent, the order sheet should indicate their absence in spite of having been intimated of the date of the order and no further communication of the order to the parties shall be necessary.

- (2) (a) In case where it is not possible to fix a definite date for passing of the order, the case may be closed for orders after argument.  
 (b) When the order is ready for delivery, intimation in the following form, in duplicate shall be served on counsel where they appear or on parties where there is no counsel:  
 ..... "Order in case No ..... of 20 ...will be passed on ..... of  
 ..... 20.....".

One copy of the form shall be returned after signature by Counsel or parties, as the case may be.

- (c) On the date fixed for delivery of the order in the notice, the presiding officer shall proceed to sign and deliver the order. If counsel or parties are present, their presence shall be recorded; if they are absent, their absence, in spite of notice having been duly communicated, shall also be recorded and no further communication of the order to

the parties shall be necessary.

(3) In either of the cases, referred to in sub-rules (1) and (2), the order shall be delivered on the date fixed. If, however, this is not possible for any reason a fresh date shall be fixed, and notice thereof shall be given to the parties or their counsel.

(4) No order shall be delivered in any case, unless the acknowledgment by counsel or parties of the notice fixing a date is on record. The date fixed for passing of the order shall accordingly be determined, having due regard to the time required for return of the notice.

**7. Enforcement of the order.**-An order under the Act shall be enforced in the manner provided for the enforcement of the order of the Revenue Officers and Revenue Courts in or under the Madhya Pradesh Land Revenue Code, 1959.

**11. The Madhya Pradesh Ceiling on  
Agricultural Holdings (Validation) Adhiniyam,  
1982**

# The Madhya Pradesh Ceiling on Agricultural Holdings (Validation) Adhiniyam, 1982

[Act No. 12 of 1983]

[19th February, 1983]

An Act to validate certain appointments made and proceedings taken under the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-third Year of the Republic of India as follows:

## **Section 1 - Short title**

This Act may be called the Madhya Pradesh Ceiling on Agricultural Holdings (Validation) Adhiniyam, 1982.

## **Section 2 - Validation of appointment of Additional Settlement Commissioner**

All persons whose names are specified in column (2) of the Schedule and who passed orders, in the cases and on the dates specified in the corresponding entries in columns (3) and (4) thereof, as competent authority shall, notwithstanding the fact that their appointment as competent authority was not made in accordance with sub-clause (iii) of clause (e) of section 2 of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (No. 20 of 1960) be and shall be deemed always to have been validly appointed and continued as competent authority within the meaning of sub-clause (iii) of clause (c) of the said section on the dates on which they passed the said orders.

## **Section 3 - Validation**

Notwithstanding anything contained in any judgment, decree or order of a court all things done, proceedings and actions taken and order passed by the competent authority to whom section 2 applies shall be and shall be deemed always to have been validly done, taken or passed as if the said persons were validly appointed as competent authority under sub-clause (iii) of clause (e) of section 2 of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (No. 20 of 1960) before such things were done, proceedings and actions were taken and orders were passed and the validity of any such thing, proceeding, action or order shall not be called into question in any court of law or before any other authority whatsoever merely on the ground that their appointment was not made in accordance with the provisions of sub-clause (iii) of clause (c) of section 2 of the said Act.

## **Schedule I –**

### **Schedule**

[See Section 2]

Not Reproduced.

**13. The Madhya Pradesh Bhumi Sudhar  
Yojana Adhiniyam, 1967**

# The Madhya Pradesh Bhumi Sudhar Yojana Adhiniyam, 1967

[Act No. 13 of 1967]  
[02<sup>nd</sup> May, 1967]

## PREAMBLE

An Act to provide for the preparation and execution of Land Improvement Scheme including schemes for the conservation and improvement of soil resources, the prevention or mitigation of soil erosion, the protection of land against damage by floods and drought <sup>1</sup>[the reclamation of waste land and consolidation of holdings] in Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the Eighteenth Year of the Republic of India as follows:

## CHAPTER I PRELIMINARY

### Section 1 - Short title and extent

- (1) This Act may be called The Madhya Pradesh Bhumi Sudhar Yojana Adhiniyam, 1967<sup>2</sup>.
- (2) It extends to the whole of Madhya Pradesh.

### Section 2 - Definitions

In this Act unless the context otherwise requires,--

- (1) "Board" means the Madhya Pradesh Land Improvement Board constituted under Section 3;
- (2) "Collector" means the Collector of a district and includes any other officer specially appointed by the State Government to perform the functions of a Collector under this Act;
- <sup>3</sup>[(2-a) "Consolidation of holdings" means the redistribution of all or any of the land included in the scheme so as to allot to the owners contiguous plots of land for the convenience or cultivation;
- (2-b) "Consolidation Officer" means a Revenue Officer not below the rank of Tahsildar, appointed by the State Government for any district or districts to exercise the powers and perform the duties of a Consolidation Officer under this Act.]
- (3) "District Committee" means the District Committee constituted under Section 5;
- (4) "Erosion" means the removal or displacement of earth, stones or other materials by the action of wind or water,

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<sup>1</sup> Substituted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974).

<sup>2</sup> Received the assent of the President on the 2nd May, 1967; assent first published in the "Madhya Pradesh Gazette extraordinary" on the 3rd May, 1967

<sup>3</sup> Inserted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974).

- <sup>4</sup>[(5) "Executive Officer" means an officer appointed under Section 14 to execute scheme and shall include a firm, company or body-corporate deemed to be the Executive Officer;]
- (6) "Inquiry Officer" means an officer appointed by the District Committee under Section 18;
- (7) "Owner" in relation to any land, means the person who is, or who would, but for a grant, be liable to pay land revenue or rent in respect of such land to the State Government and includes a mortgagee with possession;
- (8) "Reclamation" means the conversion of land from uncultivable to cultivable condition and includes afforestation or any other improvement of land brought about by physical or chemical process;
- (9) "Scheme" means a land improvement scheme prepared under this Act;
- (10) "Soil Conservation Officer" means an officer appointed for the time being to be the Soil Conservation Officer;
- (11) "Waste land" means any land lying waste on account of water logging, salinity, accumulation of sand, growth of woods, soil erosion or any other cause or lying uncultivated for not less than two consecutive years;
- (12) "Work" means any work of public utility constructed, erected or carried out under a scheme and includes a pasture or forest provided or raised under a scheme;
- (13) The expression "cattle", "forest produce", "timber" and "tree" shall have the meanings respectively assigned to them in the Indian Forest Act, 1927 (XVI of 1927);
- (14) The words and expressions used in this Act, but not defined shall have the meanings assigned to them in the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).

## CHAPTER II

### CONSTITUTION OF THE BOARD AND THE DISTRICT COMMITTEES

In this Act unless the context otherwise requires,--

- (1) "Board" means the Madhya Pradesh Land Improvement Board constituted under Section 3;
- (2) "Collector" means the Collector of a district and includes any other officer specially appointed by the State Government to perform the functions of a Collector under this Act;
- <sup>5</sup>[(2-a) "Consolidation of holdings" means the redistribution of all or any of the land included in the scheme so as to allot to the owners contiguous plots of land for the convenience or cultivation;
- (2-b) "Consolidation Officer" means a Revenue Officer not below the rank of Tahsildar, appointed by the State Government for any district or districts to exercise the powers and perform the duties of a Consolidation Officer under this Act.]
- (3) "District Committee" means the District Committee constituted under Section 5;
- (4) "Erosion" means the removal or displacement of earth, stones or other materials by the action of wind or water,
- <sup>6</sup>[(5) "Executive Officer" means an officer appointed under Section 14 to execute scheme and shall include a firm, company or body-corporate deemed to be the Executive Officer;]

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<sup>4</sup> Substituted by M.P. Act No. 1 of 1977 (w.e.f. 4-1-1977).

<sup>5</sup> Inserted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974).

- (6) "Inquiry Officer" means an officer appointed by the District Committee under Section 18;
- (7) "Owner" in relation to any land, means the person who is, or who would, but for a grant, be liable to pay land revenue or rent in respect of such land to the State Government and includes a mortgagee with possession;
- (8) "Reclamation" means the conversion of land from uncultivable to cultivable condition and includes afforestation or any other improvement of land brought about by physical or chemical process;
- (9) "Scheme" means a land improvement scheme prepared under this Act;
- (10) "Soil Conservation Officer" means an officer appointed for the time being to be the Soil Conservation Officer;
- (11) "Waste land" means any land lying waste on account of water logging, salinity, accumulation of sand, growth of woods, soil erosion or any other cause or lying uncultivated for not less than two consecutive years;
- (12) "Work" means any work of public utility constructed, erected or carried out under a scheme and includes a pasture or forest provided or raised under a scheme;
- (13) The expression "cattle", "forest produce", "timber" and "tree" shall have the meanings respectively assigned to them in the Indian Forest Act, 1927 (XVI of 1927);
- (14) The words and expressions used in this Act, but not defined shall have the meanings assigned to them in the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).

### **Section 3 - Constitution of the Board**

- (1) The State Government may, for the purpose of carrying out the provisions of this Act, constitute for the State of Madhya Pradesh a Board called the Madhya Pradesh Land Improvement Board.
- (2) The Board shall consist of--
  - (a) the Minister in charge of Agriculture who shall also be the Chairman;
  - (b) four members to be elected by the members of the Madhya Pradesh Legislative Assembly, from amongst themselves;
  - (c) the Secretary to Government of Madhya Pradesh, Agriculture Department, or an officer not below the rank of a Deputy Secretary nominated by him;
  - (d) two persons having a special attitude for land improvement schemes, to be nominated by the State Government;
  - (e) the Chief Engineer, Public Works Department (Irrigation), Madhya Pradesh;
  - (f) the Chief Conservator of Forest, Madhya Pradesh; and
  - (g) the Director of Agriculture, Madhya Pradesh.
- (3) The Secretary of the Board shall be such person as the State Government may, from time to time, appoint in this behalf.
- (4) (a) The State Government, may, from time to time, on the recommendation of the Board, appoint not more than two persons whose assistance or advice the Board may desire in carrying out any of the provisions of this Act to associate themselves with the

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<sup>6</sup> Substituted by M.P. Act No. 1 of 1977 (w.e.f. 4-1-1977).

Board in such manner, for such purposes and for such period as the State Government may, by order specify.

- (b) A person associated with the Board under clause (a) for any purpose shall have a right to take part in the discussions but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.

(5) The name of every person elected, nominated or appointed under sub-section (2) or sub-section (4) as the case may be, shall be notified in the Gazette.

(6) The members of the Board elected under clause (b) or nominated under clause (d) of sub-section (2) shall hold office for a term of five years from the date his election or nomination, as the case may be, is notified in the Gazette under sub-section (5) :

Provided that if the member, elected under clause (b) ceases to be a member of the Legislative Assembly, he shall cease to be member of the Board also.

(7) An elected, nominated or appointed member may at any time resign his membership by tendering his resignation in writing under his hand to the Chairman, and his seat shall thereupon become vacant.

(8) A casual vacancy occurring in the office of a member by reason of his death, resignation or otherwise shall be filled by election, nomination or appointment, as the case may be, and the person elected, nominated or appointed to fill the vacancy shall hold office for the unexpired term of his predecessor.

(9) If there is a difference of opinion amongst the members of the Board regarding any question under this Act, decision of the majority of the members present shall prevail:

Provided that when the opinion is equally divided, the Chairman shall have a casting vote.

(10) All communications and orders of the Board shall be issued by the Secretary or by such officer subordinate to him as may be authorised by the Board in this behalf.

#### **Section 4 - Functions of the Board**

The functions of the Board shall be--

- (a) to direct either at its own instance or on the orders of the State Government, the preparation of a scheme by a District Committee, within their respective jurisdiction;
- (b) to consider and approve the schemes so prepared;
- (c) to suggest ways and means for the execution of the schemes approved by it; and
- (d) to perform such other functions as are or may be entrusted to it by or under this Act.

#### **Section 5 - Constitution of District Committees**

(1) The State Government shall constitute in each district a District Committee consisting of--

(i) the Collector,

<sup>1</sup>[(ii) an officer of the Agriculture Department at the district level not below the rank of Deputy Director of Agriculture],

(iii) soil Conservation Officer,

(iv) an officer of the Forest Department at the district level,

(v) one officer of the Public Works Department (Irrigation) at the district level,

- (vi) two non-official members as may be appointed by the State Government.
- (2) The Collector shall preside over the meeting of the District Committee and if the Collector be not present in any meeting, such one of their number as the members present may elect, shall preside over the meeting.
- <sup>7</sup>[(3) The Soil Conservation Officer shall be the Secretary of the District Committee].
- (4) The members appointed under clause (vi) of sub-section (1) shall hold office for a term of five years from the date of their appointment.
- (5) A non-official member may, at any time, resign his membership by tendering his resignation in writing under his hand to the Collector, and his seat shall thereupon become vacant.
- (6) If there is difference of opinion among the members of the District Committee regarding any question under the provisions of this Act, the decision of the majority of the members present shall prevail :

Provided that when their opinion is equally divided the Chairman shall have a casting vote.

### **Section 6 - Functions of the District Committees**

The functions of the District Committee shall be--

- (a) to prepare scheme for areas in the districts;
- (b) to execute scheme in the district;
- (c) to perform such other functions pertaining to land improvement as are entrusted to the District Committee by or under this Act;
- (d) to carry out the instructions issued by the State Government or the Board from time to time under the provisions of this Act.

### **CHAPTER III**

#### **PREPARATION OF LAND IMPROVEMENT SCHEME**

The functions of the District Committee shall be--

- (a) to prepare scheme for areas in the districts;
- (b) to execute scheme in the district;
- (c) to perform such other functions pertaining to land improvement as are entrusted to the District Committee by or under this Act;
- (d) to carry out the instructions issued by the State Government or the Board from time to time under the provisions of this Act.

### **Section 7 - Matters which the scheme may provide**

The District Committee may on its own motion, and shall on receipt of a direction from the State Government or the Board, prepare land improvement schemes for any area within its jurisdiction. A scheme may make provision for any of the following matters, namely:

- (i) prevention of erosion of soil;

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<sup>7</sup> Substituted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974).

- (ii) preservation and improvement of soil;
- (iii) introduction of dry farming methods;
- (iv) improvement in the methods of cultivation and extension of cultivation;
- (v) provision and improvement of water supply and training of streams;
- (vi) control and maintenance of tree growth;
- (vii) prohibition or control of grazing or reservation of land for pasture;
- (viii) regulation or prohibition of firing of vegetation;
- (ix) cultivation of waste or fallow land;
- (x) reclamation of waste, saline or water-logged land;
- (xi) eradication of kans or any other kind of weed or vegetation which is likely to adversely affect or interfere with cultivation;
- (xii) soil and water use management;
- <sup>8</sup>[(xii-a) consolidation of holdings;]
- (xiii) any other matter which may be prescribed.

### **Section 8 - Draft Scheme**

When a District Committee decides to prepare a scheme under Section 7, it shall appoint an officer to prepare, in accordance with such instructions as it may issue, a draft scheme setting out--

- (a) the object of the scheme;
- (b) the boundaries and approximate area of the lands to be included in the scheme;
- (c) the work or kind of work to be carried out under the scheme;
- (d) the agency or agencies through which the work shall be carried out;
- (e) the persons, including the State Government, who will be affected by the scheme;
- (f) estimated cost of the scheme and the benefits accruing therefrom;
- (g) such other particulars as may be prescribed.

### **Section 9 - Publication of draft scheme**

- (1) The draft scheme prepared under Section 8 shall be submitted to the District Committee, which shall either approve the scheme with or without modifications or may reject it and prepare or cause to be prepared another draft scheme.
- (2) Whenever the District Committee approves any draft scheme, it shall appoint an officer called the Inquiry Officer for the purpose hereinafter specified.
- (3) The scheme approved by the District Committee under sub-section (1) shall be published by the Inquiry Officer by affixing a copy thereof on the notice boards of the Office of the Collector, Tahsildar and in the office of the Gram Panchayat. The scheme shall also be published at conspicuous places in villages or towns in which the lands proposed to be included in the scheme are situate.
- (4) The Inquiry Officer shall simultaneously with the publication of the scheme under sub-section (3), issue a notice requiring all persons affected by the scheme who wish to make any objections to the scheme or any part thereof to submit their objections in writing to him, or

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<sup>8</sup> Substituted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974).

appear before him and state their objections within twenty-one days of the publication of the notice at such place as may be specified in the notice.

### **Section 10 - Inquiry Officer to consider objections and submit report to District Committee**

- (1) The Inquiry Officer shall enquire into the objections received or recorded by him and submit his report together with the objections to the District Committee.
- (2) The Inquiry Officer may while submitting his report under sub-section (1) recommended any modifications which in his opinion are required in any of the particulars contained in the scheme approved by the District Committee under sub-section (1) of Section 9.

### **Section 11 - Power of Board and District Committee to sanction scheme with or without modifications**

- (1) After consideration of the objections and the report submitted under Section 10 and of any further report which the District Committee may require, the Inquiry Officer to submit the District Committee may sanction the scheme with or without modification, or reject it, or direct that in lieu thereof a fresh scheme be prepared and submitted for its sanction :

Provided that if not less than <sup>9</sup>[20 per cent] of the total number of the owners of the land included in the scheme other than the Government, or owners other than the Government owning in the aggregate not less than <sup>10</sup>[20 per cent] of the land included in the scheme have made objections to the scheme or part thereof, the District Committee shall submit the scheme to the Board for its orders. The Board may thereupon sanction the scheme with or without modifications or reject it :

Provided further that before ejecting any scheme prepared on the direction of the State Government or the Board, the Committee shall submit the scheme together with its recommendations thereon to the State Government or the Board, as the case may be, who may either sanction the scheme with or without modifications or reject it.

- (2) The Scheme as sanctioned under sub-section (1) shall be published in the same manner as the draft scheme was published and shall on such publication be final.

### **Section 12 - Effect of scheme**

The scheme shall come into force on the date on which it is published under Section 11 and shall have effect as if it were enacted in the Act.

### **Section 13 - Power of State Government or of Board to make regulations**

For the purpose of carrying out the objections of scheme, which has come into force under Section 12, the State Government or with the approval of the Board, the District Committee may make regulations requiring any person or persons or the public generally to take certain

<sup>9</sup> Substituted by M.P. Act No. 2 of 1992, Section 2 (w.e.f. 3-1-1992) for "33 percent"

<sup>10</sup> Substituted by M.P. Act No. 2 of 1992, Section 2 (w.e.f. 3-1-1992) for "33 percent"

action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.

#### CHAPTER IV EXECUTION OF THE SCHEME

For the purpose of carrying out the objections of scheme, which has come into force under Section 12, the State Government or with the approval of the Board, the District Committee may make regulations requiring any person or 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.

#### **Section 14 - Agency for execution of scheme**

<sup>11</sup>[ When the schemes come into force the District Committee may,--

- (i) appoint an officer of the State Government or an Officer of any body corporate subordinate to the State Government to be the Executive Officer to execute it; or
- (ii) with the previous approval of the State Government entrust the execution of the scheme in accordance with the provisions of this Act to a firm, company or any other body corporate registered, established or constituted, as the case may be, under any law for the time being in force at the cost of such firm, company or body corporate shall be deemed to be an Executive Officer appointed under clause (i) for the purposes of this Act.]

#### **Section 15 - Power to enforce scheme**

(1) Every owner of land included in the scheme shall pay the cost or part of the cost, as the case may be, of the works which under the scheme are carried out by the District Committee in his land at the cost or part of the cost of the owner.

(2) If any owner of the land included in the scheme desires to carry out himself under technical guidance provided free by the District Committee, any works which under the scheme are to be carried out in his land by the District Committee at the cost or part of the cost of the owner he shall give notice in writing to that effect to the District Committee, or the Executive Officer within twenty-one days of the final publication of the scheme under Section 12.

(3) On receipt of such notice, the Executive Officer shall inform the owner of the works which are to be carried out in his land and fix a date before which the owner shall carry out the works.

(4) If such owner fails to carry out any such work to the satisfaction of the Executive Officer before the date fixed, or at any time expresses in writing to the Executive Officer his inability to do so, the Executive Officer may himself get the work carried out and the expenses incurred by the Executive Officer for the purpose shall be recovered from the owner.

(5) Where the owner of any land included in the scheme is the Government, the Department of Government which has the control or management of such land, or the Executive Officer, if

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<sup>11</sup> Substituted by M.P. Act No. 1 of 1977 (w.e.f. 4-1-1977).

so directed in this behalf by the District Committee or the State Government, as the case may be, shall carry out the work which the Government as owner of the land is liable to carry out under the scheme.

### **Section 15A - Executive Officer to forward proposal for consolidation of holdings to Consolidation Officer**

<sup>12</sup>[If in consequence of any work carried out under a scheme, the Executive Officer is of the opinion that it is necessary to change the boundaries of holdings or to redistribute all or any of the lands in the area included in the Scheme for securing greater convenience in cultivation, the Executive Officer shall forward the proposal together with all relevant field maps, documents and other data to the Consolidation Officer for purpose of initiating action in accordance with the provisions of CHAPTER VI-A.

*Explanation.--*

In this Section "holding" shall have the meaning assigned to that expression in Section 27-A].

### **Section 16 - Liability of persons other than owner benefited by the scheme**

(1) If in consequence of any work carried out under the scheme in any land--

- (i) any person holding the subsidiary interest in such land under the owner thereof; or
- (ii) any person holding interest in any other land is or is likely to be benefited by that work, such person shall pay such amount as contribution as the District Committee may determine to the owner of the land, if the work is carried out by him or to the State Government, if the work is carried out by the Executive Officer:

Provided that before any person is required to pay any such contribution, he shall be given a reasonable opportunity of making his representation, if any, in regard to the matter:

Provided further that the Board may waive the payment of such contribution in whole or in part in respect of any work carried out by it in (and belonging to the Government.

(2) The amount shall be paid within such time as may be specified by the District Committee. If default is made in the payment of such contribution within the time specified by the District Committee, the Collector or any Officer authorised by him in this behalf shall recover from the defaulter and pay the same to the owner of the land in such manner, as may be prescribed.

### **Section 17 - Power of Board to carry out works in scheme**

Where by the reason of the nature or magnitude of any work to be carried out under the scheme which has come into force under Section 12, the Board is satisfied that such work is not likely to be carried out satisfactorily by the owners of land included in the scheme then, notwithstanding anything contained in this Act, the Board may, by notification direct that such work shall be carried out by the District Committee and that the cost of such work shall be recovered in whole or in part from the owners of the lands included in the scheme in such

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<sup>12</sup> Inserted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974).

proportion as the District Committee may fix, having regard to the area or assessment or both, of the lands included in the scheme.

## **CHAPTER IVA**

### **REQUISITIONING OF LAND FOR EXECUTION OF SCHEME**

Where by the reason of the nature or magnitude of any work to be carried out under the scheme which has come into force under Section 12, the Board is satisfied that such work is not likely to be carried out satisfactorily by the owners of land included in the scheme then, notwithstanding anything contained in this Act, the Board may, by notification direct that such work shall be carried out by the District Committee and that the cost of such work shall be recovered in whole or in part from the owners of the lands included in the scheme in such proportion as the District Committee may fix, having regard to the area or assessment or both, of the lands included in the scheme.

#### **Section 17A - Requisitioning of land for execution of scheme**

##### **<sup>13</sup>[CHAPTER IV-A**

### **REQUISITIONING OF LAND FOR EXECUTION OF SCHEME**

- (1) If the District Committee is satisfied that for the purpose of executing any scheme it is necessary that temporary possession of any land should be taken, it may by order, in writing, direct the Executive Officer to take temporary possession of such land on such date and for such period not exceeding one crop season as may be specified in that order.
- (2) The order shall be made in such form, and brought to the notice of the owner or owners of land in such manner and within such period preceding the date specified in the order for taking temporary possession, as may be prescribed.
- (3) On the date specified in the order, the Executive Officer or any Officer authorised by the Executive Officer with prior approval of the District Committee shall enter upon and take possession of the land.

#### **Section 17B - Claim of arrears of rent not to be enforced against Board etc.**

No claim of the owner to any arrears of rent accrued or due in respect of the land for the period prior to the date of taking possession shall thereafter be enforced by any Court whether in execution of a decree or otherwise, against the State Government or the Board or the District Committee or against any person holding the land under the District Committee or against the land during the period such land is in the possession of the District Committee:

Provided that in computing the period of limitation for a suit, or any application for the execution of decree the time during which the enforcement of such claims is barred under this Section, shall be excluded.

#### **Section 17C - Release from requisition**

- (1) When the execution of the scheme, is, in the opinion of the District Committee, complete and in any case before the expiry of the period of requisition specified in the order under sub-section (1) of Section 17-A, the Executive Officer shall after land shaping and its

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<sup>13</sup> Chapter IV-A, Sections 17-A to 17-G inserted by M.P. Act No. 30 of 1975 (w.e.f. 7-9-1975).

development restore the possession of land, as far as possible in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force to the owner who on the date of taking possession, was in lawful possession of the land or was entitled for such possession or if he is dead, to his successor-in-interest.

(2) On the date of handing over of possession, the possession of land shall be deemed to have been delivered by the District Committee to the person entitled to such possession under sub-section (1).

(3) The delivery of possession of the land to the person concerned shall be final and full discharge of the District Committee from all liability in respect of such delivery, but shall not prejudice any right in respect of the land to which any other person may be entitled by due process of law to enforce against the person to whom possession of land has been so delivered.

#### **Section 17D - Fixation of rate for payment of amount**

(1) For every area under a scheme wherein the District Committee proposes to requisition land under Section 17-A, there shall be constituted a Rate Fixation Committee consisting of—

- (i) the Commissioner fo the revenue division in which concerned area is situated ----- Chairman
- (ii) the Collector of the concerned district ----- Member
- (iii) the Joint Director of Agriculture within Whose jurisdiction the concerned area is situated ---- Member
- (iv) Member or Members of Legislative Assembly returned from the concerned area in the State Legislative Assembly-----Members
- (v) Two Cultivators owing land in the concerned area nominated by the Collector----- Members

(2) The Rate Fixation Committee shall fix the rate for any crop season per hectare at which amount shall be payable for requisitioning of land under sub-section (1) of Section 17-A having due regard to--

- (a) estimated annual income from the lands for the previous year;
- (b) estimated annual expenditure on the lands for the previous year;
- (c) estimated expenditure on account of land revenue, cess and other taxes on the lands for the previous year;
- (d) profit of agriculture on the lands for the previous year;
- (e) such other matters as may be prescribed.

(3) The Commissioner shall preside over the meetings of the Rate Fixation Committee and if the Commissioner be not present, the Collector shall preside over the meeting.

(4) The members nominated under clause (v) of sub-section (1) shall hold office for a period of one year from the date of their nomination.

(5) In the transaction of its business, the Rate Fixation Committee shall follow such procedure as it may lay down by a resolution passed by a majority of two-thirds of its members;

### **Section 17E - Determination and payment of amount**

There shall be payable by the Executive Officer immediately on the expiration of the period of requisition specified in the order under sub-section (1) of Section 17-A, an amount calculated at the rate fixed under Section 17-D, in the following manner,--

- (a) where on the date of taking possession, the land was in actual occupation of a Bhumiswami, the whole amount so calculated shall be payable to the Bhumiswami; and
- (b) where on the date of taking possession, the land was in actual possession of an occupancy tenant or a tenant, out of the amount so calculated so much amount as is equal to the maximum rent payable to the Bhumiswami by the occupancy tenant, or by tenant, if he were an occupancy tenant for such land in accordance with Section 186 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) shall be payable to the Bhumiswami and the balance shall be payable to the occupancy tenant or the tenant, as the case may be.

### **Section 17F - Bar of jurisdiction of Civil Court**

The rate fixed by the Rate Fixation Committee under Section 17-D shall be final and binding on the owner of land and no Civil Court shall have jurisdiction to deal with any question with respect to fixation of rate under Section 17-D or amount payable under Section 17-E.

### **Section 17G - Interpretation**

In this chapter, unless the context otherwise requires, the expression "owner" means Bhumiswami of land and includes an occupancy tenant and ordinary tenant, if any of such land, within the meaning of Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).]

## **CHAPTER V**

### **MAINTENANCE, REPAIRS AND USE OF WORKS CARRIED OUT UNDER THE SCHEME**

In this chapter, unless the context otherwise requires, the expression "owner" means Bhumiswami of land and includes an occupancy tenant and ordinary tenant, if any of such land, within the meaning of Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).]

### **Section 18 - Executive Officer to prepare recovery statements and entries to be made in record of rights, etc.**

(1) The Executive Officer shall within thirty days after the close of each financial year, prepare in respect of any scheme where under part of the work has been carried out during such year, an interim statement specifying therein--

- (i) the part of the work carried out;
- (ii) the cost of such part as calculated on the basis of the works cost, as recorded in the works register maintained by the Executive Officer;
- (iii) the interim amount to be recovered from the owners in respect of works 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 owner;
  - (vi) if in the case of any survey numbers or sub-divisions of survey number, 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 persons from whom such amount is recoverable;
  - (viii) such other particulars as may be prescribed.
- (2) After the whole of the work under the scheme is carried out, the Executive 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;
  - (iv) in relation to such balance the 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 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 subdivision 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 subdivisions;
  - (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) When a final statement is prepared under this Section, the Executive Officer shall send a duly authenticated copy thereof to the Collector who shall cause any rights and liabilities shown therein to be entered in the record of rights or where there is no record of rights, in such village record and in such manner as may be prescribed and it shall thereupon form part of such record of rights or such village record.

### **Section 19 - Recovery of cost**

The cost directed to be recoverable under Section 18 together with such interest as the State Government may determine, shall be recoverable by the Collector or any officer authorised by him from the persons concerned in such number of annual instalments and in such manner as may be prescribed.

### **Section 19A - Effect of transfer of rights and liabilities of State Government to Sahakari Bhumi Vikas Bank**

<sup>14</sup>[Where rights and liabilities of the State Government in relation to the recovery of costs or part costs of the works carried out under any scheme for any owner of land included in such a scheme stand transferred to a development bank under Section 13-A of the Madhya Pradesh Sahakari Bhumi Vikas Bank Adhiniyam, 1966 (No. 28 of 1966), 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 owner of lands in accordance with the provisions of the said Section 13-A, and the rights and liabilities transferred to the bank shall be entered in the final statement referred to in sub-section (2) of Section 18.]

### **Section 19B - Transfer of rights and liabilities of the schemes sanctioned and effect thereof**

<sup>15</sup>[(1) Where any works included in the land improvement scheme, which has come into force under this Act, are carried out at the cost of the State Government and such cost is to be recovered from the owner of the land, included in the scheme as shown in statement prepared under clause (a) of sub-section (2) of Section 18, then notwithstanding anything contained in this Act, all the rights and liabilities of the State Government for the recovery of the costs or part cost from the owner of the land shall stand transferred to the Bank, as defined in the Madhya Pradesh Krishi Udharpavartan and Prakirn Upbandh (Bank) Adhiniyam, 1972 (No. 32 of 1973) (hereinafter referred to as the Financing Bank), which has agreed to such transfer in relation to such owner of the land and subject to such terms and conditions as may be agreed upon between the State Government and such Bank and for arriving at such agreement every owner of land shall produce before the concerned Bank all such documents and other evidence relating to his land included in such scheme as the concerned Financing Bank may require.

(2) On such transfer of rights and liabilities of the State Government, the Financing Bank concerned shall pay to the State Government, an amount equal to the extent of liability accepted by it under such agreement, and the State Government shall inform the owner of the land concerned of such transfer, and thereupon the rules and procedure of the concerned Financing Bank regarding advancing of loans, including the provision of mortgage of property, and recovery thereof shall apply in relation to the amount of cost to be recovered from each owner of land, as they apply in relation to advancing of loans and recovery thereof, including interest, as if such owner was a borrower of such Bank. The transfer of the rights and liabilities and payments made in accordance therewith shall discharge the owner of land his liability to make payment to the State Government under this Act, but to the extent only of his liability accepted by the concerned Financing Bank.

(3) Where rights and liabilities of the State Government in relation to the recovery of costs or part cost of the works carried out under any scheme from any owner of land included in such scheme stand transferred to a concerned Financing Bank under sub-section (1) then, notwithstanding anything contained in this Act, every such owner of land shall pay the

<sup>14</sup> Inserted by M.P. Act No. 14 of 1972 (w.e.f. 4-5-1972).

<sup>15</sup> Inserted by M.P. Act No. 13 of 1975 (w.e.f. 5-6-1975).

amount recoverable from him under this Act to the concerned Financing Bank and the amount of such costs or part cost, shall be paid by and recovered from such owner of land in accordance with the provisions of sub-Section (2) and the rights and liabilities transferred to the Bank shall be entered in the final statement referred to in sub-section (2) of Section 18.]

### **Section 20 - Obligation of persons to maintain and repair works**

- (1) Every person shown in the statement prepared under Section 18 liable to maintain and repair any work shall to the satisfaction to the Soil Conservation Officer and within such time as that officer may fix, maintain and repair the work and his own land and in other lands in respect of which he is shown as liable in the statement.
- (2) If any person fails to maintain or repair the work within the time prescribed by the Soil Conservation Officer under sub-section (1), the said officer shall himself get the work executed or repaired and recover the cost thereof from such persons.
- (3) If the Soil Conservation Officer is of the opinion that an emergency has arisen and that immediate repair of any work, referred to in sub-section (1) is necessary in general interest, he shall carry out such repairs and the cost of such repairs shall be paid by persons whose liability has been shown in the statement.
- (4) The Soil Conservation Officer, shall as soon as practicable, make report to the District Committee regarding such repairs.
- (5) Any dispute as to the amount of expenses shall be decided by the Collector and his decision shall be final.

## **CHAPTER VI**

### **RECLAMATION OF WASTE LAND**

- (1) Every person shown in the statement prepared under Section 18 liable to maintain and repair any work shall to the satisfaction to the Soil Conservation Officer and within such time as that officer may fix, maintain and repair the work and his own land and in other lands in respect of which he is shown as liable in the statement.
- (2) If any person fails to maintain or repair the work within the time prescribed by the Soil Conservation Officer under sub-section (1), the said officer shall himself get the work executed or repaired and recover the cost thereof from such persons.
- (3) If the Soil Conservation Officer is of the opinion that an emergency has arisen and that immediate repair of any work, referred to in sub-section (1) is necessary in general interest, he shall carry out such repairs and the cost of such repairs shall be paid by persons whose liability has been shown in the statement.
- (4) The Soil Conservation Officer, shall as soon as practicable, make report to the District Committee regarding such repairs.
- (5) Any dispute as to the amount of expenses shall be decided by the Collector and his decision shall be final.

### **Section 21 - Order of taking possession of waste land-**

- (1) If the Board is satisfied that for the purpose of executing any scheme of reclamation of waste land sanctioned under this Act it is necessary that temporary possession of any waste

land should be taken, it may by order in writing direct the District Committee to take temporary possession of such land on such date as may be specified in that order.

(2) The order shall be made in such form, and brought to the notice of the owner or owners of the land, in such manner, as may be prescribed.

(3) On the date specified in the order, the officer authorised by the District Committee shall enter upon and take possession of the land.

### **Section 22 - Arrangement for reclamation-**

When the land has been taken possession of, the officer appointed by the District Committee for the purpose may arrange for its reclamation--

- (a) by retaining it under his management for such period as he thinks fit; or
- (b) by setting it for such period and on such terms as may be fixed by the District Committee with the person or persons who on the date of taking possession of the land were in lawful possession of the land or were entitled to such possession or, if any such person is dead, with his successor-in-interest; or
- (c) by combination of the methods aforesaid :

Provided that the total period for which the land is retained or settled under this Section shall not exceed ten years.

### **Section 23 - Claim for arrears of rent not to be enforced against Board etc.-**

No claim of the owner to any arrears of rent accrued or due in respect of the land for the period prior to the date of taking possession shall thereafter be enforced by any Court whether in execution of a decree or otherwise, against the State Government or the Board or the District Committee or against any person holding the land under the District Committee or against the land during the period such land is in the possession of the District Committee under sub-section (3) of Section 21:

Provided that in computing the period of limitation for a suit, or an application for the execution of decree, the time during which the enforcement of such claims is barred under this Section shall be excluded.

### **Section 24 - Termination of possession on completion of reclamation-**

(1) When the reclamation of the land is in the opinion of the Collector, complete and in any case before the expiry of the period of ten years from the date of taking possession, the Collector shall after making an enquiry in the prescribed manner, by order in writing--

- (a) declare that possession of the land shall be restored on such date as may be specified in the order, to the owner who on the date of taking possession was in lawful possession of the land or was entitled to such possession, or if he is dead, to his successors-in-interest;
- (b) determine the person to whom possession is to be so restored;
- (c) where such person is a tenant, determine the rent payable on account of the use or occupation of the land; and
- (d) where the land or any part thereof has been afforested, regulate the cutting of trees in such land according to a working plan.

(2) On the date specified in the said order, possession of the land shall be deemed to have been delivered by the District Committee to the person determined under clause (b) of sub-section (1).

(3) The delivery of possession of the land to the person determined under clause (b) of sub-section (1) shall be a final and full discharge of the District Committee from all liability in respect of such delivery, but shall not prejudice any right in respect of the land to which any other person may be entitled, by due process of law, to enforce against the person to whom possession of the land has been so delivered.

### **Section 25 - Compensation for period of possession-**

(1) As soon as may be, after the date of taking possession of the land, the Collector shall make an enquiry in the prescribed manner and determine--

(a) in respect of any land which on the said date was in the occupation of a tenant--

(i) the annual rent payable by him; and

(ii) the average net annual income, if any, after deducting the rent, derived by him during the three years immediately preceding the said date;

(b) in respect of any other land, the average net annual income, if any, after deducting land revenue, cesses and rates, if any payable derived by the owners during the three years immediately preceding the said date.

(2) There shall be payable by the Collector as compensation on each anniversary of the date of taking possession until the date referred to in sub-section (2) of Section 24--

(a) in respect of such land as is referred to in clause (a) of sub-section (1), the amount determined under sub-clause (i) thereof to the landlord and the amount determined under sub-clause (ii) to the tenant; and

(b) in respect of any other land, the amount determined under clause (b) of sub-section (1) to the owner.

(3) For the purpose of this Section "landlord" means the person under whom the tenant holds land and to whom the tenant is, or but for special contract would be liable to pay rent for that land and any reference to an owner, landlord or tenant shall be deemed to include reference to the predecessors and successors in interest of the owner, landlord or tenant.

### **Section 26 – Accounts-**

The Collector shall maintain in such form and in accordance with such rules, as may be prescribed an account of all receipts and payments by the Collector in respect of the land, and the owner of the land or any other person having an interest therein, may, on payment of a fee of 50 paise inspect the account.

### **Section 27 - Recovery of net expenditure-**

(1) The net expenditure incurred on the reclamation of the land under the provisions of this Chapter or such part of that expenditure as the District Committee may, by general or special order, direct together with interest calculated at the prescribed rate and in the prescribed manner, shall be recovered as arrear of land revenue from the person to whom possession of the land is delivered by the District Committee under sub-section (2) of Section 24.

(2) The amount to be recovered under sub-section (1) from any person shall be decided by the District Committee.

<sup>16</sup>[CHAPTER VI-A  
**CONSOLIDATION OF HOLDINGS**

**Section 27A - Definition of "holding" and powers of Consolidation Officer:-**

For the purposes of this Chapter--

- (a) "holding" includes parcel of land held by a Government lessee under one lease or set of conditions;
- (b) Consolidation Officer shall have the powers conferred upon a Tahsildar under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).

**Section 27B - Initiation of proceedings for consolidation of holdings-**

On receipt of the proposal under Section 15-A for consolidation of holdings included in a scheme, the Consolidation Officer shall proceed to deal with the same in accordance with the procedure laid down by or under this Act.

**Section 27C- Preparation of scheme for consolidation of holdings-**

- (1) The Consolidation Officer shall prepare a scheme for the consolidation of holding in the manner laid down by rules made under Section 27-M.
- (2) If the Consolidation Officer is of opinion that the redistribution of land in accordance with scheme of consolidation of holdings will have the result of allotting to any owner, of holding or land of a less market or productive value than, that of his original holding or land, the scheme may provide for the payment of compensation to such owner by such person or persons as the Consolidation Officer may direct.
- (3) When the scheme of consolidation is complete, the Consolidation Officer, after considering and as far as possible removing the objections, if any, made to the scheme, shall submit it for confirmation to the District Committee.
- (4) When the scheme of consolidation is complete and if all the owners affected by such scheme, agree to enter into possession of the holdings allotted to them thereunder the Consolidation Officer may allow them to enter into such possession from a date to be mentioned in the scheme.

*Explanation --*

For the purpose of this Section owner shall include the State Government in respect of unoccupied land.

**Section 27D - Confirmation of Scheme**

The District Committee may confirm the scheme with or without modification after considering the objection or objections, if any, to the scheme of consolidation and the recommendation of the Consolidation Officer. The decision of the District Committee subject

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<sup>16</sup> Chapter VI, Ss. 27-A to 27-M inserted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974)

to any order that may be passed in appeal by the Commissioner under Section 28 shall be final.

#### **Section 27E - Procedure on confirmation**

- (1) Upon confirmation of the scheme of consolidation, the Consolidation Officer shall, if necessary demarcate the boundaries of the holdings and shall proceed to announce the decisions finally made and cause to be prepared in accordance with the scheme, a new field map, record-of-rights, other records as prescribed under Section 114 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).
- (2) The new records prepared under sub-section (1) shall be deemed to have been prepared under Chapter IX of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).

#### **Section 27F - Right of owners to possession of holdings**

The owners affected by the scheme of consolidation, if they have not entered into possession under sub-section (4) of Section 27-C, shall be entitled to possession of the holdings allotted to them under the scheme, from the commencement of the agricultural year next following confirmation; and the Consolidation Officer shall, if necessary, put them by warrant in possession of the holdings to which they are entitled:

Provided that if all the owners they may, after confirmation, be put into possession of their holdings by the Consolidation Officer from any earlier date.

#### **Section 27G - Transfer of rights of owners in holdings**

- (1) Notwithstanding anything contained in the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959), the rights of owners in their holding shall for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and no person shall be entitled to object to or interfere with any transfer made for the said purpose.
- (2) The Consolidation Officer may also transfer by exchange or otherwise any land belonging to the State Government where such transfer is necessary for the purpose of giving effect to any scheme of consolidation.

#### **Section 27H - No instrument necessary to affect transfer**

Notwithstanding anything contained in any law for the time being in force--

- (a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings; and
- (b) no such instrument, if executed, shall require registration.

#### **Section 27I - Suspension of partition proceedings during currency of consolidation proceedings**

No proceedings for partition of the holdings which will affect the scheme of consolidation shall be commenced and all such proceedings pending shall remain in abeyance during the continuation of the consolidation proceedings.

#### **Section 27J - Transfer of property during proceedings**

No owner shall have power, during the continuance of the consolidation proceedings, to transfer or otherwise deal with any part of his original holding or land so as to affect the rights of any other owner thereto under the scheme of consolidation.

### **Section 27K - Rights of owners after consolidation as before**

An owner shall have the same rights in the holdings or land allotted to him in pursuance of a scheme of consolidation as he had in his original holding.

### **Section 27L - Encumbrances of owners**

(1) If the holding of any owner brought under the scheme of consolidation is validity burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and shall attach to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer, subject to any rules that may be made under Section 27-M may have appointed in preparing the scheme; and thereupon, the lessee, mortgagee, or other encumbrances as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrances has been transferred.

(2) Notwithstanding anything contained in sub-section (1) or any other enactment for the time being in force the Consolidation Officer shall, if necessary, put any lessee or any mortgagee or other encumbrances entitled to possession by warrant, into possession of the holding or part of a holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

### **Section 27L - Power to make rules**

(1) The State Government may make rules for the purpose of carrying into effect the provision of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules--

- (a) providing for the appointment and constitution of an Advisory Committee or Panchayat to assist the Consolidation Officer in the examination or preparation of the scheme;
- (b) for determining the compensation to be paid in cases falling under sub-section (2) of Section 27-C;
- (c) for determining the market or productive value of the different holdings and lands brought under any scheme of consolidation;
- (d) for the guidance of the Consolidation Officer in respect of the transfer of encumbrances and leases under Section 27-L; and
- (e) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Chapter.

(3) All rules made under this Section shall be subject to the provisions of sub-sections (3) and (4) of Section 36.

## **MISCELLANEOUS**

- (1) The State Government may make rules for the purpose of carrying into effect the provision of this Chapter.
- (2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules--
  - (a) Providing for the appointment and constitution of an Advisory Committee or Panchayat to assist the Consolidation Officer in the examination or preparation of the scheme;
  - (b) for determining the compensation to be paid in cases falling under sub-section (2) of Section 27-C;
  - (c) for determining the market or productive value of the different holdings and lands brought under any scheme of consolidation;
  - (d) for the guidance of the Consolidation Officer in respect of the transfer of encumbrances and leases under Section 27-L; and
  - (e) Generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Chapter.
- (3) All rules made under this Section shall be subject to the provisions of sub-sections (3) and (4) of Section 36.

### **Section 28 - Appeals**

- (1) Any person aggrieved by any order passed under Sections 21, 24,<sup>17</sup>[25, sub-section (1) of Section 27 or Section 27-D] may before the expiry of sixty days from the date of the order, appeal to the Commissioner, in such manner, as may be prescribed:  
Provided that the Commissioner may entertain an appeal after the expiry of such period if he is satisfied that the appellant was prevented by sufficient cause from filing it in time.
- (2) The Commissioner may, after giving the person or persons concerned an opportunity of being heard, confirm, vary or reverse the order and pass such order in relation thereto, as he may deem fit.
- (3) The order of the Commissioner on such appeal and where no appeal is preferred, the order which has not been appealed against, shall be final and shall not be called in question in any Court.

### **Section 29 - Penalties**

- (1) If any person contravenes any of the provisions of the scheme which has come into force under Section 12 or does any act which causes damage to any of the works carried out under the scheme or fails to fulfill any liability imposed upon him under Section 20, he shall be punishable with imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both.
- (2) If any person contravenes any rule or regulation made under this Act, or any order or direction made or given under such rule or regulation or resists or obstructs any person in the

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<sup>17</sup> Substituted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974)

exercise or performance of any power, function or duty conferred or imposed upon him by or under this Act, he shall be punishable with fine which may extend to five hundred rupees.

### **Section 30 - Amount to be recovered**

All amounts due to the State Government, the Board or the District Committee under this Act shall be recoverable as an arrear of land revenue.

### **Section 31 - Procedure and power of enquiries**

Any officer or authority empowered to make an enquiry under this Act, shall for the purposes of such enquiry be deemed to be a Revenue Court under Section 31 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959) and shall, for the purpose of such enquiry, have the same powers as any Revenue Officers acting as a Revenue Court has under the said Code.

### **Section 32 - Right of entry**

For the purpose of surveying, preparing, sanctioning or executing any scheme, repairing or maintaining any works under any scheme any person authorised by the Board, District Committee<sup>18</sup>[the Collector, the Soil Conservation Officer or the Consolidation Officer] 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 purposes.

### **Section 33 - Registration of documents or map in connection with scheme not required**

(1) Notwithstanding in the Indian Registration Act, 1908 (XVI of 1908) shall be deemed to require the registration of any document or map prepared, made or sanctioned in pursuance of this Act in connection with any 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 and maps relating to such scheme shall be accessible to the public in the manner prescribed.

### **Section 34 - Delegation of power, etc.**

The State Government and subject to the control so State Government, the Board or the District Committee, or the Collector or the Soil Conservation Officer may delegate to any officer or authority subordinate to it or to him any of the powers, functions and duties conferred and imposed on it or on him by of under this Act.

### **Section 35 - Power to prepare scheme in famine and scarcity area**

(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 Section 7 in any area in

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<sup>18</sup> Substituted by M.P. Act No. 26 of 1974 (w.e.f. 15-6-1974).

which the State Government declares that a state of famine or scarcity prevail or in which, in the opinion of the State Government, a state of famine or scarcity is likely to prevail.

(2) On such directions, the District Committee shall prepare in accordance with such instructions as the State Government may issue, a draft scheme containing the particulars specified in Section 8 and submit it to the State Government for its approval.

(3) After the scheme is submitted to the State Government for approval under sub-section (2), the provisions of this Act and the rules made thereunder shall, so far as may be, apply in respect of such scheme.

### **Section 36 - Power to make rules**

(1) The State Government may by notification, 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 provide for the following matters, namely:

- (a) all matters allowed or required by this Act to be prescribed;
- (b) the manner in which the right or liabilities shown in the statements prepared under Section 18 shall be entered in the record-of-rights of village record;
- (c) the number of annual installments payable under Section 19;
- (d) the manner of giving notices under this Act.

(3) The power to make rules conferred by this Section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(4) All rules made under this Act shall be laid on the Table of the Legislative Assembly.

### **Section 37 - Expenditure incurred in implementation of the Act to be charged on Consolidated Fund of State**

The expenditure incurred in pursuance of anything done under this Act shall be charged on the Consolidated Fund of the State.

### **Section 38 - Protection of action taken under this Act**

No suit, prosecution or other proceeding shall lie against any person for anything in good faith done in pursuance of this Act or any rule made thereunder.

### **Section 39 - Power to revoke scheme**

If upon an application made by the District Committee or the Board, the State Government is satisfied that it is necessary to do so, the State Government at any time may, by notification, revoke any scheme after it has come into force and upon such revocation the provisions of this Act shall cease to apply to such schemes. Such notification shall be published by affixing a copy thereof on the Notice Board of the office of the Collector, Tahsildar, Janapada and Gram Panchayat and also by exhibiting it at conspicuous places in the village or the towns, where the lands included in such schemes are situate. Notwithstanding the revocation of the scheme, the recovery of instalment, interest or any other amount accruing against a person shall not be effected.

**Section 40 - Power to remove difficulty**

If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing the doubt or difficulty.

**Section 41 - Repeal**

The Madhya Pradesh Bhumisudhar Yojana Adhyadesha, 1966 (No. 17 of 1966) is hereby repealed.

**14. M.P. Krishi Bhumi Vikas Kar Nirasan  
Adhiniyam, 1969**

# **M.P. Krishi Bhumi Vikas Kar Nirasan Adhiniyam, 1969**

(Act No. 6 of 1969)

## **CONTENTS**

### **Section**

1.      Short title.
2.      Repeal.

[Received the assent of the Governor on the 24th July, 1969; assent first published in the Madhya Pradesh Gazette (Extraordinary) dated the 28th July, 1969].

## **An Act to repeal the Madhya Pradesh Krishi Bhoomi Vikas Kar Nirasan Adhyadesha, 1969**

Be it enacted by the Madhya Pradesh Legislature in the Twentieth Year of the Republic of India, as follows:

1.      **Short title**, This Act, may be called the Madhya Pradesh Krishi Bhoomi Vikas Kar Nirasan Adhiniyam, 1969.
2.      **Repeal.** - The Madhya Pradesh Krishi Bhoomi Vikas Kar Nirasan Adhyadesha, 1969 (II of 1969), is hereby repealed.

## **15. The Madhya Pradesh Bhoojan Yagna (Nirsan) Adhiniyam, 1992**

# The Madhya Pradesh Bhoojan Yagna (Nirsan) Adhiniyam, 1992

[Act No. 21 of 1992]

[21st October, 1992]

## **PREAMBLE**

An Act to repeal the Madhya Pradesh Bhoojan Yagna Adhiniyam, 1968

Be it enacted by the Madhya Pradesh Legislature in the Forty-third Year of the Republic of India as follows:

### **Section 1 - Short title and commencement**

- (1) This Act may be called The Madhya Pradesh Bhoojan Yagna (Nirsan) Adhiniyam, 1992<sup>1</sup>.
- (2) It shall come into force on such date<sup>1</sup> as the State Government may, by notification appoint.

### **Section 2 - Definitions**

In this Act unless the context otherwise requires,--

- (a) "Appointed day" means the date of commencement of this Act, under sub-section (2) of Section 1;
- (b) "Board" means the Bhoojan Yagna Board constituted under Section 3 of the Madhya Pradesh Bhoojan Yagna Adhiniyam, 1968 (No. 28 of 1968).

### **Section 3 - Repeal and Savings**

- (1) On the appointed day the Madhya Pradesh Bhoojan Yagna Adhiniyam, 1968 (No. 28 of 1968) shall stand dissolved.
- (2) All assets and liabilities of the Bhoojan Yagna Board on the appointed day shall stand vested in the State Government and the State Government shall have all powers necessary to take possession of, recover and deal with such asset and discharge such liabilities:

Provided that the land which vested in the State Government under this sub-section shall only be distributed to landless poor persons who are able and willing to cultivate the land personally.

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<sup>1</sup> Received the assent of the Governor on the 21st October, 1992; Assent first published in the Madhya Pradesh Gazette (Ext.) dated the 31st October, 1992.

- (3) The person holding the land on lease or in Bhumiswami right on the appointed day from the Board shall be subject to all the conditions laid down in the lease deed and shall not transfer the land without the permission of the Collector.
- (4) Any proceeding pending immediately before the appointed day to which the Board was a party shall be continued as if the State Government was party thereto in lieu of the Board.

**16. Madhya Pradesh Padat Bhumi Ka  
Krishikaran Adhiniyam, 1996**

# Madhya Pradesh Padat Bhumi Ka Krishikaran Adhiniyam, 1996

[Act No. 23 of 1966]

[29th September, 1966]

## **PREAMBLE**

An Act to make provision for bringing fallow lands under cultivation in the State of Madhya Pradesh.

Be it enacted by Madhya Pradesh Legislature in the Seventeenth Year of the Republic of India as follows:--

### **Section 1 - Short title and extent-**

- (1) This Act may be called the Madhya Pradesh Padat Bhumi Ka Krishikaran Adhiniyam, 1966<sup>1</sup>.
- (2) It extends to the whole of State of Madhya Pradesh.

### **Section 2 – Definitions-**

In this Act, unless the context otherwise require,--

- (a) "cultivate" means to till and raise a crop thereon in a husband manlike manner' and the expression "cultivated", "cultivation" and "uncultivated" shall be construed accordingly;
- (b) "fallow land" with respect to any particular year means land lying uncultivated in that year but which was cultivated at some time within six years immediately preceding that year; but does not include land recorded as unculturable or a tank or embankment or a nalah or a grove or land used as a threshing floor;
- (c) "holder" means a Bhumiswami or an occupancy tenant of land within the State and includes--
  - (i) a Government lessee;
  - (ii) a village servant within the meaning of Section 183 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959);
  - (iii) a lessee of a Bhumiswami specified to sub-section (2) of Section 168 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959);

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<sup>1</sup> Received the assent of the Governor on 29-9-1966; assent first published in the "Madhya Pradesh Gazette", (Extraordinary), dated 3-10-1966

and the expressions "to hold land" or "holding land" shall be construed accordingly;

(d) "occupied land" means land held by a holder but does not include land diverted to, or used for, non-agricultural purposes or land recorded as unculturable or a tank or embankment or a grove or land used as a threshing floor;

(e) "Tahsildar" includes any Officer authorised by the State Government to exercise the powers conferred on the Tahsildar under this Act;

(f) the words and expressions used in this Act and not defined herein but defined in the Madhya Pradesh Land Revenue Code, 1959 (22 of 1959), shall have the meanings assigned to them in that Code.

### **Section 3 - Cultivations of land-**

- (1) Every holder shall cultivate in each year so much area of the occupied land as was under cultivation in the year immediately preceding that year.
- (2) Subject to the provisions contained in sub-section (3), every holder of occupied land shall be liable to cultivate personally in each year such area of the fallow land recorded in his name in the land records papers of the year immediately preceding as is specified in the table below :--

TABLE

Area of fallow land held (1)	Area of fallow land liable to be cultivated (2)
1. Upto five acres.	Entire area.
2. More than five acres but not more than ten acres.	Five acres.
3. More than ten acres.	Half of the fallow land.

- (3) In determining the area of fallow land held by a holder the following deductions shall be made, namely,--
- (a) area equal to one-eighth of the occupied land for the ordinary grazing requirements of the holder;
- (b) area infested with Kans or other weeds which cannot be eradicated by ordinary ploughing with bullocks;

(c) area which is left uncultivated according to the usual agricultural practice or the area which contains poor soil requiring recuperation or rest;

(d) area which is not otherwise fit for being brought under cultivation.

(4) In making calculation for the purpose of this section, any fraction of less than half an acre shall be ignored.

(5) Any holder who contravenes the provisions of sub-section (1) or sub-section (2) shall, without prejudice to any other action that may be taken against him under any other provision of this Act, be liable on the order of the Tahsildar to a penalty not exceeding Rs. 25 per acre of the area required to be cultivated or brought under cultivation under sub-section (1) or sub-section (2), unless the holder obtains a certificate of exemption under Section 4 or proves that he exercised due diligence to prevent such contravention. The penalty for the second or subsequent default shall be imposed at a rate not less than Rs. 50 and not exceeding Rs. 200 per acre :

Provided that,--

(i) no proceedings under this sub-section shall commence except from the 15th of July; and

(ii) no order shall be passed unless reasonable opportunity for being heard is given to the holder.

#### **Section 4 - Grant of Certificate of exemption-**

(1) A holder may,--

(i) by the 30th of May in the Year 1966; and

(ii) by the 1st January of each subsequent year;

apply in writing for exemption from the provisions of sub-sections (1) and (2) of Section 3 on any of the following grounds, namely :--

(a) that he has been using any area of his occupied land for raising a fodder crop and intends to raise a fodder crop thereon in that particular; or

(b) the area which he intends to leave uncultivated in any particular year is required--

(i) to be left uncultivated according to the usual agricultural practice; or

(ii) for the purpose of grazing of cattle of the village;

(c) that he is a person subject to physical or mental disability due to old age or otherwise; or

(d) that he is a person detained or imprisoned under any process of law, or

(e) that he is a person in the service of Armed Forces of the Union.

(2) An application for exemption under sub-section (1) shall be made to the Tahsildar within whose jurisdiction the respect of which the exemption is claimed, is situate.

(3) On receipt of such application, the Tahsildar, after making such enquiry as he deems fit and after giving an opportunity of being heard to the holder, and before the 30th of June in year 1966 and 31st March of each subsequent year, may either refuse to grant a certificate of exemption or grant such certificate on such terms and conditions in respect of the whole or part of the area required to be cultivated under Section 3 as he considers appropriate.

#### **Section 5 - Compulsory grant of lease of uncultivated land-**

(1) If in any year, any holder being liable to cultivate land under Section 3 contravenes the provisions of the said section and if any penalty under sub-section (5) thereof is imposed upon him, the Tahsildar may call upon him to show cause why the land in respect of which such contravention took place should not be leased out.

(2) If, after giving an opportunity to the person concerned to show cause and adduce evidence, if any, in that behalf the Tahsildar is satisfied that such person does not intend to cultivate,--

(i) occupied land which it is obligatory on him to cultivate under sub-section (1) of Section 3, even though he is capable of bringing under cultivation the whole or any part of such land; or

(ii) fallow land which he has become liable to cultivate under sub-section (2) of Section 3;

the Tahsildar shall pass an order declaring that the whole of such land or the part thereof, as the case may be, shall be leased out by the Tahsildar.

(3) Every lessee under sub-section (5) shall be liable to pay lease money to the Tahsildar who shall, after deducting the expenses for collection of lease money, which shall not exceed twenty-five per cent of the lease money payable cause the money to be paid to the holder of the land.

#### **Section 6 - Penalty for not cultivating land leased out under Section 5-**

If any person to whom a lease of any land is granted under sub-section (2) of Section 5 fails to cultivate the land leased out to him he shall be liable on the orders of the Tahsildar, to pay a penalty not exceeding Rupees fifty per acre of the land leased out to him:

Provided that no order under this section shall be passed unless a reasonable opportunity of being heard is given to the lessee.

**Section 7 - Bar of application of Act in respect of lands donated in Bhoojan Yagna Nothing in this Act shall apply in respect of,--**

- (a) any land vested in a Bhoojan Yagna Board under the provisions of a Bhoojan Yagna Law for the time being in force;
- (b) any land donated for the purposes of the Bhoojan Yagna (whether prior to or after the commencement of the Bhoojan Yagna Law) during the period from the date of donation to the date of termination of the proceedings for the vesting of such land in accordance with the provisions of the Bhoojan Yagna Law :

Provided that the rights of a lease to whom any such land has been let out in pursuance of the provisions of Section 5 shall not be affected by anything contained in this section.

*Explanation.--*In this section,--

- (a) "Bhoojan Yagna" means the movement initiated by Shri Acharya Vinobha Bhave for the acquisition of lands through voluntary gifts in favour of the Bhoojan Yagna Board consisted under the Bhoojan Yagna Law; and
- (b) "Bhoojan Yagna Law" means a law for the time being in force for the constitution of a Bhoojan Yagna Board, the donation of land to the said Board, the distribution of lands received in donation and to provide for matters ancillary thereto.

**Section 8 - Lessee to give possession of land to holder on expiry of lease period-**

(1) Notwithstanding anything contained in any enactment for the time being in force, a lessee, who does not hand over possession of the land leased out to him under Section 5 to the holder who was in possession of the land before the lease was enacted or in case of his death to his legal heir, after the expiry of the period of such lease, shall be deemed to be a trespasser and shall be liable to ejectment in accordance with the provision of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959).

(2) On the dispossession of a trespasser under sub-section (1) the holder, or if he is dead, his legal heir, shall, under the orders of the Tahsildar, be placed in possession of the land and shall be called upon to cultivate it from the agricultural year next following.

(3) If the holder or his legal heir, as the case may be, refuses or fails to cultivate the land as required under sub- section (2) or on receiving back the possession of the land

from the lessee after the expiry of the period of lease fails to cultivate it from the agricultural year next following, the land shall be deemed to have been abandoned under Section 176 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959).

#### **Section 9 - Bar of proceedings-**

(1) No suit, prosecution or other legal proceeding shall lie against a Tahsildar or any other person acting under the orders of the Tahsildar in respect of anything which is in good faith done or intended to be done under this Act or any rules made or any orders issued thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder or any orders issued in pursuance of the provisions thereof.

#### **Section 10 - Bar of jurisdiction-**

No order made or action taken in exercise of any power conferred by or under this Act shall be called into question in any Civil or Criminal Court.

#### **Section 11 – Revision-**

The Collector may,--

(i) on his motion at any time; or  
 (ii) on the application made by the person aggrieved by any order passed under this Act within fifteen days of the date of such order;

for the purpose of satisfying himself as to the legality or propriety of any order passed by or as to the regularity of the proceedings of any Tahsildar, call for and examine the record of any case pending before, or disposed of by, such Tahsildar and may pass such order in reference thereto, as he may think fit:

Provided that he shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard :

Provided further that in computing the period of fifteen days, time requisite for obtaining a copy of the order shall be excluded.

#### **Section 12 - Power to make rules-**

- (1) The State Government may make rules for carrying out the purposes of this Act.
- (2) All rules made under this Act shall be laid on the table of the Legislative Assembly.

#### **Section 13 – Repeal-**

The Madhya Pradesh Padat Bhumi Ka Krishikaran Adhyadesh, 1966 (No. 5 of 1966) is hereby repealed.

**17. The Madhya Pradesh Municipal Refuse  
(Conversion into Manure) Act, Samvat  
2007**

# The Madhya Pradesh Municipal Refuse (Conversion into Manure) Act, Samvat 2007

[Madhya Pradesh Act No. 57 of 1950]

[17th May, 1950]

## **PREAMBLE**

An Act to provide for the conversion of refuse into manure within the limits of any [municipal corporation or municipality] in [Madhya Pradesh].

Whereas it is expedient to provide for the conversion of refuse into manure within the limits of any [municipal corporation or municipality] in [Madhya Pradesh], it is hereby enacted as follows:

### **Section 1 - Short title, and extent and commencement-**

(1) This Act may be called The <sup>1</sup>[Madhya Pradesh] Municipal Refuse (Conversion into Manure) Act, Samvat 2007<sup>2</sup>.

(2) It shall extend to the whole of [Madhya Pradesh].

(3) It shall apply to all municipal corporations and municipalities in Madhya Pradesh to which it has been applied immediately before the commencement of the Madhya Pradesh Second Extension of Laws Act, 1961 (40 of 1961), and shall apply on the commencement of the said Act to the municipalities to which any enactment repealed by Section 6 of the said Act, was applicable and may be applied to any other municipal corporation or municipalities, on such dates as the State Government may, by notification, appoint and different dates may be appointed for different corporations or municipalities.]

### **Section 2 – Definitions-**

In this Act, unless there is anything repugnant in the subject or context:

<sup>3</sup>[(a) "Municipality" means a municipality constituted under a Municipal Law.

(1-a) "Municipal Corporation" means a municipal corporation constituted under a Municipal Law.

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<sup>1</sup> Substituted by Madhya Pradesh Act No. 40 of 1961

<sup>2</sup> Received the assent of H.H. the Raj-Pramukh on 17-5-1950

<sup>3</sup> Substituted by Madhya Pradesh Act No. 40 of 1961.

(1-b) "Municipal Law" means a law for the time being in force for the organisation and administration of municipal corporations or municipalities or notified areas in the State, as the case may be.]

(b) "Refuse" includes sweepings, night-soil, sewage, sludge and other waste material;  
 (c) <sup>4</sup>[xxx]

### **Section 3 - Municipality to convert refuse into compost manure-**

Notwithstanding anything contained in any Municipal Law or any other law for the time being in force, every municipality to which this Act applies, shall, if so required by an order in writing of the Government or any officer authorised in this behalf by the Government, take steps to convert, in accordance with such directions as the Government may from time to time issue, all refuse into compost manure.

### **Section 4 - Disposal of manure-**

Every such <sup>5</sup>[municipal corporation or municipality] shall deal with or dispose of the compost manure referred to in Section 3 in such manner as the Government may, from time to time, direct.

### **Section 5 - Power to enforce an order under Section 3-**

(1) Where, in the opinion of the Government, a municipal corporation or municipality has failed to comply with an order under Section 3, the Government may appoint a person to give effect to such order and may direct that the reasonable expense of giving effect to the order together with a reasonable remuneration payable to such person shall forthwith be paid by the <sup>6</sup>[municipal corporation or municipality].

(2) If any such expense and remuneration are not so paid, the Government may make an order, directing the deduction of such sums from grants-in-aid payable to such municipality by the Government or by directing any person, who for the time being has custody of any moneys on behalf of municipality as its officer; treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

### **Section 6 - Repeal**

<sup>4</sup> Omitted by Madhya Pradesh Act No. 40 of 1961.

<sup>5</sup> Substituted by Madhya Pradesh Act No. 40 of 1961.

<sup>6</sup> Substituted by Madhya Pradesh Act No. 40 of 1961.

As soon as this Act comes into force all Acts, rules, regulations relating to municipal refuse, in force in any part of Madhya Bharat <sup>7</sup>[Region] which may be repugnant or inconsistent with the provisions of this Act shall, to the extent of such repugnancy or inconsistency, stand repealed:

Provided that all actions taken and orders passed under them shall be deemed to have been taken or passed under this Act.

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<sup>7</sup> Inserted by Madhya Pradesh A.L.O. 1956.

**18. Madhya Pradesh Village Refuse  
(Conversion into Manure) Act, Samvat,  
2008**

# Madhya Pradesh Village Refuse (Conversion into Manure) Act, Samvat, 2008<sup>1</sup>

[Act No. 8 of 1951]

[24th May, 1951]

## **PREAMBLE**

An Act to provide for the conversion of village refuse into manure in <sup>2</sup>[Madhya Pradesh].

Be it enacted as follows:—

### **Section 1 - Title, extent and commencement-**

(1) This Act may be called the <sup>3</sup>[Madhya Pradesh] Village Refuse (Conversion into Manure) Act, Samvat, 2008.

<sup>1</sup>[(2) It extends to the whole of Madhya Pradesh.

(3) It shall apply to all such villages in Madhya Pradesh to which it had been applied immediately before the commencement of the Madhya Pradesh Extension of Laws Act, 1958 (23 of 1958), and may be applied to any other village on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different villages.

### **Section 2 – Definitions-**

In this Act, unless there is anything repugnant in the subject or context,—

- (1) “Refuse” includes farm-yard rubbish, cattle dung, sweepings and other waste material;
- (2) “Government” means the Madhya Pradesh;
- (3) “Village” means a village as defined and recorded in the Land Records papers;
- (4) “Prescribed” means prescribed by rules made under this Act.

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<sup>1</sup> Received the assent of H.H. the Rajpramukh on 24th May, 1951.

<sup>2</sup> Substituted by M.P. Act No. 23 of 1958.

<sup>3</sup> Substituted by M.P. Act No. 23 of 1958.

**Section 3 - Composting or pitting the refuse-**

Notwithstanding anything contained in any law for the time being in force, every head of the family, residing in a village to which this Act applies, shall if so required by an order in writing of the Government or an officer authorised in this behalf by the Government take steps,—

- (1) to dig a pit or pits for collecting the refuse from his cattle-yard and house on such land and in such manner as may be prescribed in this behalf;
- (2) to collect the refuse from his cattle-yard and house in the pit or pits prepared for this purpose; or
- (3) to convert, in accordance with such directions as the Government may from time to time issue, refuse into compost manure.

**Section 4 - Power to enforce an order under Section 3-**

Where, in the opinion of any officer authorised in this behalf by the Government, any person or head of the family has failed to comply with an order under Section 3, the officer so authorised may cause any of the works specified in the same section to be executed and recover a sum not exceeding the cost thereof from that person. The officer may also take steps to take possession of the refuse from his cattle-yard and house from time to time for this purpose.

**Section 5 – Revision-**

The Collector may, on his own motion or on an application of the party aggrieved, call for the records of any proceedings or orders under Section 4 and may cancel or modify the orders so passed. The Collector may delegate his powers under this section to any of his subordinate officers.

**Section 6 - Finality of the order-**

Subject to an order made under Section 5, the order passed by an officer under Section 4 shall be final.

**Section 7 - Recovery of costs as arrears of land revenue-**

All sums and costs recoverable under Section 4 shall be recovered as arrears of land revenue.

**Section 8 - Power to make rules-**

Government may, by notification in the Government Gazette, make rules to carry out the purposes of this Act.

**Section 9 – Repeal-**

As soon as this Act comes into force “The Madhya Bharat Village Refuse (Conversion into Manure) Ordinance, Samvat, 2007” shall stand repealed:

Provided that all actions taken and orders given under the said Ordinance shall be deemed to have been taken or given, as the case may be, under this Act.

**19. The Madhya Pradesh Land Revenue  
Code, 1959**

# The Madhya Pradesh Land Revenue Code,

## 1959

### [Act No. 20 of 1959]

#### **PREAMBLE**

An Act to consolidate and amend the law relating to land revenue, the powers of Revenue Officers, rights and liabilities of holders of land from the State Government, agricultural tenures and other matters relating to land and the liabilities incidental thereto in Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the Tenth Year of the Republic of India as follows :--

#### CHAPTER I

#### PRELIMINARY

##### Section 1 - Short title, extent and commencement-

(1) This Act may be called the Madhya Pradesh Land Revenue Code, 1959<sup>1</sup>.

<sup>2</sup>[(2) It extends to the whole of Madhya Pradesh but nothing contained in this Code except the provisions relating to liability of land for payment of land revenue, the assessment of land revenue with reference to the use of land, realisation of land revenue and all provisions ancillary thereto shall apply to such areas as may, from time to time, be constituted as reserved or protected forest under the Indian Forest Act, 1927 (XVI of 1927):

Provided that the aforesaid provisions of the Code shall apply with reference to the use of land in such areas for one or more of the purposes specified in Section 59.]

(3) This Code shall come into force on such date<sup>3</sup> as the State Government may, by notification, appoint.

##### Section 2 – Definitions-

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<sup>1</sup> Received the assent of the President on 15-9-1959, published in the M.P. Gazette, (Extraordinary), dated 21 -9-1959.

<sup>2</sup> Substituted by M.P. Act No. 25 of 1987 (w.e.f. 28-5-1987).

<sup>3</sup> Came into force from 2nd October, 1959 vide Notification No. 11135- VII-N, dated 21-9-1959, published in M.P. Rajpatra, dated 21-9-1959.

- (1) In this Code, unless there is anything repugnant to the subject or context,--
- (a) "abadi" means the area reserved from time to time in a village in a non-urban area for the residence of the inhabitants thereof or for purposes ancillary thereto, and any other local equivalent of this expression such as "village site" or "gaonsthan" shall also be construed accordingly;
  - (b) "agriculture" includes--
    - (i) the raising of annual or periodical crops including betel leaves (Pan) and watermelons (singhara) and garden produce;
    - (ii) horticulture;
    - (iii) the planting and upkeep of orchards; and
    - (iv) the reserving of land for fodder, grazing or thatching grass;  - <sup>4</sup>[(v) the use of land for poultry, fisheries or animal husbandry in an area situated more than five kilometres away from the periphery of urban areas;]
  - (c) "agricultural year" means the year commencing on the first day of July or such other date as the State Government may, by notification, appoint;
  - (d) "Board" means the Board of Revenue constituted under Section 3;
  - (e) "bonafide agriculturist" means a person who cultivates land personally or who may reasonably be expected to cultivate personally;
  - (f) "co-operative society" means a society registered as such under any law relating to Co-operative Societies in force for the time being in any region of the State;
  - (g) "Government forest" means a forest constituted as a reserve forest or protected forest in accordance with the provisions of the Indian Forest Act, 1927 (XVI of 1927);
  - (h) "Government lessee" means a person holding land from the State Government under Section 181;
  - (i) "holding" means--
    - (i) a parcel of land separately assessed to land revenue and held under one tenure; and
    - (ii) in reference to land held by a tenant a parcel of land held from a bhumiswami under one lease or set of conditions;  - (j) "improvement" means with reference to a holding, any work which adds materially to the value of the holding which is suitable thereto and consistent with the purpose for which it is held and which, if not executed on the holding, is either executed

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<sup>4</sup> Inserted by M.P. Act No. 22 of 2003 (w.e.f. 21-4-2003).

directly for its benefit or is after execution, made directly beneficial to it; and, subject to the foregoing provisions, includes--

- (i) the construction of tanks, wells, water channels, embankments and other works for storage, supply or distribution of water for agricultural purposes;
- (ii) the construction of works for the drainage of land or for the protection of land from floods, or from erosion or other damage from water;
- (iii) the planting of trees and the reclaiming, clearing, enclosing, levelling or terracing of land;
- (iv) the erection of buildings on or in the vicinity of the holding, elsewhere than in the abadi or urban area, required for the convenient or profitable use or occupation of the holding; and
- (v) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto;

but does not includes--

- (a) temporary wells and such water channels, embankments, levelling, enclosures or other works or petty alterations in or repairs to such works, as are commonly made by cultivators of the locality in the ordinary course of agriculture; or

- (b) any work which substantially diminishes the value of any land, wherever situated, in the occupation of any other person, whether as bhumiswami or occupancy tenant;

*Explanation.--A work which benefits several holdings may be deemed to be an improvement with respect to each of such holdings;*

- (k) "land" means a portion of the earth's surface whether or not under water; and, where land is referred to in this Code, it shall be deemed to include all things attached to or permanently fastened to any thing attached to such land;

- (l) "landless person" means a person who is bonafide agriculturist and who whether individually or jointly with other members of his family hold no lands or land less than the area which may be prescribed in this behalf;

*Explanation.--For purposes of this clause the family of a person shall be deemed to consist of his spouse, issue and parents.*

- (m) "land records" means records maintained under the provisions of this Code;

- (n) "legal practitioner" means any person entitled to practice in any of the Courts in Madhya Pradesh under the Legal Practitioners Act, 1879 (XVIII of 1879),<sup>5</sup> or under any other law for the time being in force;
- (o) "mango grove" means mango trees planted in such numbers that they preclude or when full grown are likely to preclude the land on which they stand or any major portion thereof from being used primarily for any purpose other than planting of trees;
- <sup>6</sup>[(oa) Market Value" means the value of land assessed according to guidelines issued by the Collector under the Madhya Pradesh Bajar Mulya Margdarshak Siddhanton ka Banaya Jana Tatha Unka Punrikshan Niyam, 2000 made under the Indian Stamp Act, 1899 (No. 2 of 1899)];.
- (p) "orchard" means fruit trees planted in such numbers than they preclude or when full grown are likely to preclude the land on which they stand or any major portion thereof from being used primarily for any purpose other than planting of trees;
- (q) "plot number" means a portion of land in urban area formed into or recognised as a plot number under Section 93, in respect of which the area and the land revenue payable are separately entered in the prescribed records under an indicative number and includes any portion of land entered in the previous records under an indicative number known as khasra or survey number;
- (r) "recognised agent" in reference to a party to a proceeding under the Code means--
  - (i) a person authorised under a power of attorney by such party to make appearance and applications and to do other acts on his behalf in such proceedings; and
  - (ii) a person authorised in writing by such party to make appearance on his behalf in such proceedings;
- (s) "region" means the Mahakoshal region, the Madhya Bharat region, the Bhopal region, the Vindhya Pradesh region and the Sironj region, or any of these, as the case may be;
- (t) "rents" means whatever is paid or is payable in money or in kind--
  - (i) by an occupancy tenant to his bhumiswami according to the provisions of Section 188 or by a lessee to his bhumiswami on account of the use or occupation of land held by him from such bhumiswami; or

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<sup>5</sup> See now Advocates Act, 1961 (No. 25 of 1961).

<sup>6</sup> Ins by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

- (ii) by a Government lessee to the Government on account of the use or occupation of land leased out to him by the Government;
- (u) "Revenue Officer" in any provision of this Code means such Revenue Officer as the State Government may, by notification, direct to discharge the functions of a Revenue Officer under that provision;
- (v) "revenue year" means the year commencing on such date as the State Government may, in the case of any special local area, by notification, appoint;
- (w) "sub-division of a survey number" means a portion of a survey number in respect of which the area and the land revenue payable are separately entered in the land records under an indicative number subordinate to that of the survey numbers of which it is a portion;
- (x) "survey number" means a portion of land in non-urban area formed into, or recognised as a survey number at the last preceding revenue survey, or subsequently recognised as such by the Collector, in respect of which the area and land revenue payable are separately entered under an indicative number in the land records; and includes, any portion of land entered in the land records under an indicative number known as the khasra number;
- (y) "tenant" means a person holding land from a bhumiswami as an occupancy tenant under Chapter XIV;
- (z) "tenure-holder" means a person who holds land from the State Government and who is or is deemed to be bhumiswami under the provisions of this Code;
- (z-1) "timber trees" means trees of the following species, namely :--
- (i) Tectona grandis (sagwan);
- (ii) Pterocarpus Marsupium (bija);
- (iii) Dalbergia latifolia (shisham);
- (iv) Shorea robusta (sal);
- (v) tinsa;
- (vi) Terminalia tomentosa (ain or saj);
- (vii) Santalumalbam (Chandan);
- <sup>7</sup>[(viii) Adina Cordifolia (Haldu);
- (ix) Mitragyna Parviflora (Mundi);

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<sup>7</sup> Inserted by M.P. Act No. 19 of 2001 (w.e.f. 27-9-2001).

- (x) Terminalia Arjuna (Arjun);
  - (xi) Diaspyrus melaxylon (Tendu);
  - (xii) Gmelina arborea (Khamhar).]
- (z-2) "to cultivate personally" means to cultivate on one's own account--
- (i) by one's own labour; or
  - (ii) by the labour of any member of one's family; or
  - (iii) by servants on wages payable in cash or kind but not in crop share; or
  - (iv) by hired labour under one's personal supervision or the personal supervision of any member of one's family;
- (z-3) "unoccupied land" means the land in a village other than the abadi or service land, or the land held by a bhumiswami, a tenant or a Government lessee;
- (z-4) "urban area" means the area for the time being included within the limits of any municipal corporation or any municipality or notified area constituted under any law for the time being in force relating to municipalities or any village or group of villages which may be specified by the State Government as urban area; and the expression "non-urban area" shall be construed accordingly;
- (z-5) "village" means any tract of land which, before the coming into force of this Code, was recognised as or was declared as a village under the provisions of any law for the time being in force and any other tract of land which is hereafter recognised as a village at any revenue survey or which the State Government may, by notification, declare to be a village.
- (2) Any reference made in this Code to the date of coming into force of this Code shall be construed as a reference to the date appointed by notification under sub-section (3) of Section 1.

## CHAPTER II

### BOARD OF REVENUE

#### **Section 3 - Constitution of Board of Revenue-**

- (1) There shall be a Board of Revenue for Madhya Pradesh consisting of a President and two or more other members as the State may, from time to time, think fit to appoint.

(2) The Board of Revenue as constituted and functioning for the several regions of this State immediately before the coming into force of this Code, hereinafter in this chapter referred to as the existing Board, shall with effect from the date of coming into force of this Code, be deemed to be the Board of Revenue for Madhya Pradesh constituted under this section.

(3) The President and members of the existing Board shall be the first President and members respectively of the Board of Revenue for Madhya Pradesh.

#### Section 4 - Principal seat and other places of sittings of Board of Revenue-

(1) The principal seat of the Board shall be at such place as the State Government may, by notified order, appoint.

(2) Notwithstanding anything contained in sub-section (1), the President and members of the Board may also sit at such other place or places as the President of the Board may with the approval of the State Government, appoint.

#### Section 5 - Conditions of service of members of Board-

(1) When any member is, by reason of absence or otherwise, unable to perform the duties of his office, the State Government may, by notification, appoint any person to be, for the time being, a member of the Board.

(2) Except as expressly provided by this Code, the terms and conditions of service of the President and members of the Board shall be such as may be prescribed and the terms and conditions laid down by the State Government for the President and members of the existing Board shall continue in force until modified or superseded under this section.

(3) A person shall not be qualified for appointment as a member of the Board unless he--

(a) is eligible for appointment as a Judge of the High Court; or

(b) has been a Revenue Officer, and has held, for at least five years, an office not lower in rank than that of a Collector.

#### Section 6 - Salaries and allowances-

There shall be paid to the members of the Board such salaries and allowances as the State Government may determine and those salaries and allowances shall be charged on the consolidated fund of the State.

#### Section 7 - Jurisdiction of Board-

(1) The Board shall exercise the powers and discharge the functions conferred upon it by or under this Code and such functions of the State Government as may be specified by notification by the State Government in that behalf and such other functions as have been conferred or may be conferred by or under any Central or State Act on the Chief Revenue Authority or the Chief Controlling Revenue Authority.

(2) The State Government may, subject to such conditions as it may deem fit to impose, by notification, confer upon, or entrust to the Board or any member of the Board additional powers or functions assigned to the State Government by or under any enactment for the time being in force.

#### **Section 8 - Powers of Superintendence of Board-**

The Board shall, in respect of all matters subject to its appellate or revisional jurisdiction, have superintendence over all authorities in so far as such authorities deal with such matters and may call for returns.

#### **Section 9 - Exercise of jurisdiction by single members and benches-**

The Board may make rules for the exercise of powers and functions of the Board by benches constituted of one or more members thereof, and all decisions given by such benches in exercise of such powers or functions shall be deemed to be the decisions of the Board.

#### **Section 10 - Cases pending at commencement of Code-**

All appeals, applications for revision and other proceedings pending before the existing Board immediately before the coming into force of this Code shall be heard and decided by the Board.

### **CHAPTER III**

#### **REVENUE OFFICERS, THEIR CLASSES AND POWERS**

All appeals, applications for revision and other proceedings pending before the existing Board immediately before the coming into force of this Code shall be heard and decided by the Board.

#### **Section 11 - Revenue Officers-**

There shall be the following classes of the Revenue Officers, namely :--

Commissioners (including Additional Commissioners);

Settlement Commissioner (including Additional Settlement Commissioners);

Collectors (including Additional Collectors);

Settlement Officers;

Sub-Divisional Officers;

Assistant Collectors;

<sup>8</sup>[Joint Collectors (including Deputy Collectors)];

<sup>9</sup>[Deputy Settlement Officers;]

Assistant Settlement Officers;

Tahsildars (including Additional Tahsildars);

Superintendents of Land Records;

Naib Tahsildars;

Assistant Superintendents of Lands Records.

#### Section 12 - Control over Revenue Officers-

(1) All Revenue Officers shall be subordinate to the State Government.

(2) All Revenue Officers in a Division shall be subordinate to the Commissioner.

(3) Unless the State Government otherwise directs all Revenue Officers in a district shall be subordinate to the Collector.

#### Section 13 - Power to alter, create or abolish divisions, districts, sub-divisions and tahsils-

(1) The State Government may create divisions comprising of such districts as it may deem fit and may abolish or alter the limits of such divisions.

(2) The State Government may alter the limits of any district or tahsil and may create new, or abolish existing districts or tahsils, and may divide any district into sub-divisions and may alter the limits of or abolish, any subdivision :

Provided that the State Government before passing any orders under this section on any proposal to alter the limits of any division or district or tahsil or to create new or abolish existing divisions, districts or tahsils, shall publish in the prescribed form such proposals for inviting objections and shall take into consideration any objections to such proposal.

(3) Subject to the orders of the State Government under sub-section (2), every tahsil shall be deemed to be a sub-division of a district.

#### Section 14 - Power to appoint Commissioners of divisions-

<sup>8</sup> Substituted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

<sup>9</sup> Inserted by M.P. Act No. 15 of 1980 (w.e.f. 24-10-1980).

(1) The State Government shall appoint in each division a Commissioner who shall exercise therein the powers and discharge the duties conferred and imposed on a Commissioner by or under this Code or by or under any other enactment for the time being in force.

(2) The State Government may, subject to such condition as it may deem fit to impose, by notification, confer upon the Commissioner any of the powers or functions assigned to the State Government by or under any enactment for the time being in force.

#### **Section 15 - Power to appoint Additional Commissioner-**

(1) The State Government may appoint an Additional Commissioner in a division or in two or more divisions.

(2) An Additional Commissioner shall exercise such powers and discharge such duties conferred and imposed on a Commissioner by or under this Code or by under any other enactment for the time being in force in such cases or class of cases as the State Government may, by a general order, notify or as the Commissioner of the division may, subject to any general or special restrictions imposed by the State Government, by an order in writing direct.

(3) This Code and every other enactment for the time being in force and any rule made under this Code or any such other enactment shall, except where expressly directed otherwise, apply to the Additional Commissioner when exercising any powers or discharging any duties under sub-section (2) as if he were the Commissioner of the division.

#### **Section 16 - Power to appoint Collector-**

The State Government shall appoint in each district a Collector who shall exercise therein the powers and discharge the duties conferred and imposed on a Collector by or under this Code or any other enactment for the time being in force.

#### **Section 17 - Power to appoint Additional Collectors-**

(1) The State Government may appoint one or more Additional Collector in a district.

(2) An Additional Collector shall exercise such powers and discharge such duties conferred and imposed on a Collector by or under this Code or by or under any other enactment for the time being in force, in such cases or class of cases as the State Government may, by a general order, notify or as the Collector of the district may,

subject to any general or special restrictions imposed by the State Government, by an order in writing direct.

(3) This Code and every other enactment for the time being in force and any rule made under this Code or any such other enactment shall, except where expressly directed otherwise, apply to the Additional Collector, when exercising any powers or discharging any duties under sub-section (2), as if he were the Collector of the district.

**Section 18 - Appointment and powers of Assistant Collectors, Joint Collectors and Deputy Collectors-**

<sup>10</sup>[The State Government may appoint for each district as many persons as it thinks fit to be--

- (i) Assistant Collectors of the first and second grades;
- (ii) Joint Collectors; and
- (iii) Deputy Collectors,

who shall exercise such powers as the State Government may, by notification, direct]

**Section 19 - Appointment of Tahsildars, Additional Tahsildars and Naib Tahsildars-**

(1) The State Government may appoint in each tahsil a Tahsildar and one or more Naib-Tahsildars who shall exercise therein the powers and perform the duties conferred or imposed on them by or under this Code or under any other enactment for the time being in force.

(2) The State Government may appoint one or more Additional Tahsildars in a tahsil. An Additional Tahsildar shall exercise such power and discharge such duties conferred or imposed on a Tahsildar by or under this Code or by or under any other enactment for the time being in force as the Collector of the district may by an order in writing direct.

**Section 20- Appointment of Superintendents of Land Records and Assistant Superintendents of Land Records-**

(1) The State Government may appoint to each district as many persons as it thinks fit, to be Superintendents of Land Records and Assistant Superintendents of Land Records.

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<sup>10</sup> Substituted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

(2) The Superintendents and Assistant Superintendents of Land Records shall exercise the powers and perform the duties conferred and imposed on them by or under this Code or any other enactment for the time being in force.

**Section 21 - Other Officers-**

(1) The State Government may appoint such other officers and invest them with such power as may be necessary to give effect to the provisions of this Code.

(2) Such officers shall discharge such duties and be subordinate to such authorities as the State Government may direct.

**Section 22 - Sub-Divisional Officers-**

<sup>11</sup> [(1) The Collector may place one or more Assistant Collectors or <sup>12</sup>[Joint Collector or Deputy Collector] in-charge of a sub-division of a district or in-charge of two or more sub-divisions of a district.]

(2) Such Assistant Collector or <sup>13</sup>[Joint Collector or Deputy Collector] shall be called a Sub-Divisional Officer and shall exercise such powers of a Collector as the State Government may, by notification, direct.

**Section 23 - Subordination of Revenue Officers-**

Unless the Collector otherwise directs, every Revenue Officer in a sub-division shall be subordinate to the Sub-Divisional Officer and a Naib-Tahsildar in a tahsil shall be subordinate to the Tahsildar.

**Section 24 - Conferral by State Government of powers of Revenue Officers on Officials and other persons-**

(1) The State Government may confer on any person the powers conferred by or under this Code on any Revenue Officer.

(2) The State Government may confer on any Assistant Collector, Tahsildar or Naib-Tahsildar the powers conferred by this Code on a Revenue Officer of a higher grade.

**Section 25 - Powers exercisable on transfer-**

If any Revenue Officer, who has been invested with any powers under this Code in any tahsil or district, is transferred to an equal or higher office of the same nature in any other tahsil or district, he shall, unless the State Government otherwise directs, exercise the same powers under this Code in such other tahsil or district.

<sup>11</sup> Substituted by M.P. Act No. 53 of 1984 (w.e.f. 12-12-1983).

<sup>12</sup> Substituted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

<sup>13</sup> Substituted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

**Section 26 - Collector in case of temporary vacancy-**

If the Collector dies or is disabled from performing his duties, the officer who is temporarily placed in charge of the current duties of the Collector shall be held to be the Collector under this Code until the State Government appoints a successor to the Collector so dying or disabled and such successor takes charge of his appointment.

**CHAPTER IV**  
**PROCEDURE OF REVENUE OFFICERS AND REVENUE COURTS**

**Section 27 - Place of holding enquiries-**

Except for reasons to be recorded in writing, no Revenue Officer shall enquire into, or hear, any case at any place outside the local limits of his jurisdiction :

Provided that a Sub-Divisional Officer may enquire into, or hear, any case at any place within the district to which he is appointed.

**Section 28 - Power to enter upon and survey land-**

All Revenue Officers, Revenue Inspectors, measurers and patwaris and when under their observation and control, their servants and workmen when so directed, may enter upon and survey land and demarcate boundaries and do other acts connected with their duties under this Code or any other enactment for the time being in force and in so doing shall cause no more damage than may be required for the due performance of their duties :

Provided that no person shall enter into any building or upon any enclosed Court or garden attached to a dwelling house, unless with the consent of the occupier thereof, without giving such occupier at least twenty-four hours' notice, and in making such entry due regard shall be paid to the social and religious sentiments of the occupier.

**Section 29 - Power to transfer cases-**

(1) Whenever it appears to the Board that an order under this section is expedient for the ends of justice, it may direct that any particular case be transferred from one Revenue Officer to another Revenue Officer of an equal or superior rank in the same district or any other district.

(2) The Commissioner, on an application made to him in this behalf may, if he is of opinion that it is expedient for the ends of justice, order that any particular case be

transferred from a Revenue Officer to another Revenue Officer of an equal or superior rank in the same district or any other district in the same division.

**Section 30 - Power to transfer cases to and from subordinates-**

(1)<sup>14</sup> [A Collector, a Sub-Divisional Officer], may make over any case or class of cases arising under the provisions of this Code or any other enactment for the time being in force, for decision from his own file to any Revenue Officer subordinate to him competent to decide such case or class of cases, or may withdraw any case or class of cases from any such Revenue Officer and may deal with such case or class of cases himself or refer the same for disposal to any other Revenue Officer subordinate to him competent to decide such case or class of cases.

(2) A Commissioner, a Collector, a Sub-Divisional Officer, or a Tahsildar may make over for inquiry and report any case or class of cases arising under the provisions of this Code or any other enactment for the time being in force from his own file to any Revenue Officer subordinate to him.

**Section 31 - Conferral of Status of Courts on Board and Revenue Officers-**

The Board or a Revenue Officer, while exercising power under this Code or any other enactment for the time being in force to enquire into or to decide any question arising for determination between the State Government and any person or between parties to any proceedings, shall be a Revenue Court.

**Section 32 - Inherent power of Revenue Courts-**

Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Revenue Court to make such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Court.

**Section 33 - Powers of Revenue Officers to require attendance of persons and production of documents and to receive evidence-**

(1) Subject to the provisions of Sections 132 and 133 of the Code of Civil Procedure, 1908 (V of 1908) and to rules made under Section 41, every Revenue Officer acting as a Revenue Court shall have power to take evidence, to summon any person whose attendance he considers necessary either to be examined as a party or to give evidence

<sup>14</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "A Collector, a Sub-Divisional Officer, or a Tahsildar"

as a witness or to produce any document for the purposes of any inquiry or case arising under this Code or any other enactment for the time being in force.

(2) No person shall be ordered to attend in person, unless he resides--

(a) within the limits of the tahsil if the Revenue Officer acting as a Revenue Officer is a Naib-Tahsildar and in the case of any other Revenue Officer, within the local limits of his jurisdiction; or

(b) without such limits but at a place less than fifty, or where there is a railway communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where he is summoned to attend, less than two hundred miles distant from such place.

(3) Any person present may be required by any such Revenue Officer to give evidence or to produce any document then and there in his possession or power.

(4) Every such Revenue Officer shall have power to issue a commission to examine any person who is exempted from attending Court or who cannot be ordered to attend in person or is unable to attend on account of sickness or infirmity.

#### **Section 34 - Compelling attendance of witness-**

If any person on whom a summons to attend as witness or to produce any document has been served fails to comply with the summons, the officer by whom the summons has been issued under Section 33 may--

- (a) issue a bailable warrant of arrest;
- (b) order him to furnish security for appearance; or
- (c) impose upon him a fine not exceeding<sup>15</sup> ["one thousand"].

#### **Section 35 - Hearing in absence of party-**

(1) If on the date fixed for hearing a case or proceeding, a Revenue Officer finds that a summons or notice was not served on any party due to the failure of the opposite party to pay the requisite process fees for such service, the case or proceeding may be dismissed in default of payment of such process fees.

(2) If any party to a case or proceeding before a Revenue Officer does not appear on the date fixed for hearing after due service of a notice or summons on him the case

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<sup>15</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "fifty".

may be heard and determined in his absence or may be dismissed in default, as the case may be.

(3) The party against whom any order is passed under sub-section (1) or (2) may<sup>16</sup>["apply along with his affidavit" ] within thirty days from the date of such order or knowledge of the order in case the notice or summons was not duly served to have it set aside on the ground that he was prevented by any sufficient cause from paying the requisite process fees for service of a summons or notice on the opposite party or from appearing at the hearing and the Revenue Officer may, after notice to the opposite party which was present on the date on which such order was passed and after making such inquiry as he considers necessary, set aside the order passed.

(4) Where an application filed under sub-section (3) is rejected, the party aggrieved may file an appeal to the authority to whom an appeal lies from an original order passed by such officer.

(5) Except as provided in sub-section (4) or except where a case or proceeding before any Revenue Officer has been decided on merits, no appeal shall lie from an order passed under this section.

#### **Section 36 - Adjournment of hearing-**

(1) A Revenue Officer may, from time to time, for reasons to be recorded and on such terms as to costs, adjourn the hearing of a case or proceeding before him;

<sup>17</sup>[Provided that each party may be granted not more than three adjournments during the entire hearing of the case and each such adjournment should be granted only with cost].

(2) The date and place of an adjourned hearing of a case or proceeding shall be intimated at the time of the adjournment to such of the parties and witnesses as are present.

#### **Section 37 - Power to award costs-**

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<sup>16</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "apply".

<sup>17</sup> Ins.. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] .

A Revenue Officer may award costs incurred in any case or proceeding arising under this Code or any other enactment for the time being in force in such manner and to such extent, as he thinks fit :

Provided that the fees of a legal practitioner shall not be allowed as costs in any such case or proceeding, unless such officer considers otherwise for reasons to be recorded by him in writing.

**Section 38 - Manner of executing order to deliver possession of immovable property-**  
Where any person against whom an order to deliver possession of immovable property has been passed under this Code such order shall be executed in the following manner, namely :--

(a) by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land; and

(b) if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same; and

(c) if the officer removing any such person is resisted or obstructed by any person, the Revenue Officer shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance or obstruction still continues, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, take or cause to be taken, such steps and use, or cause to be used, such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the order.

**Section 39 - Persons by whom appearances and applications may be made before and to Revenue Officers-**

Save as otherwise provided in any other enactment for the time being in force, all appearances before, applications to and acts to be done before any Revenue Officer under this Code or any other enactment for the time being in force may be made or done by the parties themselves or by their recognised agents or by any legal practitioner :

Provided that subject to the provisions of Sections 132 and 133 of the Code of Civil Procedure, 1908 (V of 1908), any such appearance shall, if the Revenue Officer so directs, be made by the party in person :

Provided further that appearance alone may be made by a recognised agent falling under item (ii) of clause (r) of sub-section (1) of Section 2.

**Section 40 - Effect of rules in Schedule I-**

The rules in Schedule I shall have effect as if enacted in the body of this Code until annulled or altered in accordance with the provisions of this Chapter.

**Section 41 - Power of Board to make rules-**

(1) The Board may, from time to time, make rules consistent with the provisions of this Code regulating the practice and procedure of the Board and the procedure to be allowed by other Revenue Courts and may by such rules annul, alter or add to all or any of the rules in Schedule I.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for all or any of the following matters, namely:--

- (a) the service of summons, notices and other processes by post or in any other manner either generally or in any specified areas, and the proof of such service;
- (b) the regulation of power of Revenue Officers to summon parties and witnesses and the grant of expenses to witnesses;
- (c) the regulation of recognised agents with regard to appearances, applications and acts done by them in proceedings under this Code;
- (d) procedure to be observed in effecting attachment of movable and immovable properties;
- (e) procedure for publishing, conducting, setting aside and confirming sales and all ancillary matters connected with such proceedings;
- (f) the maintenance and custody, while under attachment, of livestock and other movable property, the fees payable for such maintenance and custody, the sale of such live-stock and property and the proceeds of such sale;
- (g) consolidation of appeals and other proceedings;
- (h) all forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of Revenue Courts;
- (i) the time within which, in the absence of any express provision, appeals or applications for revision may be filed;
- (j) the cost of and incidental to any proceedings;

(k) examination of witnesses on commission and payment of expenses incidental to such examination;

(l) licensing of petition-writers and the regulation of their conduct.

(3) Such rules shall be subject to the condition of previous publication and approval of the State Government, and after they are so made and approved they shall be published in the Gazette, and shall, from the date of publication or from such other date as may be specified, have the same force and effect as if they were contained in Schedule I.

**Section 42 - Orders of Revenue Officer when reversible by reason of error or irregularity-**

No order passed by a Revenue Officer shall be reversed or altered in appeal or revision on account of any error, omission or irregularity in the summons, notice, proclamation, warrant or order or other proceedings before or during enquiry or other proceedings under this Code, unless such error, omission, or irregularity has in fact occasioned a failure of justice.

*Explanation.--*In determining whether any error, omission or irregularity in any proceedings under this Code has occasioned a failure of justice regard shall be had to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

**Section 43 - Code of Civil Procedure to apply when no express provision made in this Code-**

Unless otherwise expressly provided in this Code, the procedure laid down in the Code of Civil Procedure, 1908 (V of 1908) shall, so far as may be, be followed in all proceedings under this Code.

## CHAPTER V

### APPEAL, REVISION AND REVIEW

**Section 44 - Appeal and appellate authorities-**

(1) Save where it has been otherwise provided, an appeal shall lie from every original order under this Code or the rules made thereunder--

- (a) if such order is passed by any Revenue Officer subordinate to the Sub-Divisional Officer, whether or not the officer passing the order is invested with the powers of the Collector--to the Sub-Divisional Officer;
- (b) if such order is passed by the Sub-Divisional Officer, whether or not invested with the powers of the Collector--to the Collector;
- (c) if such order is passed by any Revenue Officer subordinate to the Settlement Officer--to the Settlement Officer;
- (d) if such order is passed by any Revenue Officer in respect of whom a direction has been issued under sub-section (3) of Section 12 or sub-section (2) of Section 21--to such Revenue Officer as the State Government may direct;
- (e) if such order is passed by a Collector whether exercising the powers of Collector or Settlement Officer, during the currency of the term of settlement--to the Commissioner;
- (f) if such order is passed by a Settlement Officer, whether exercising the powers of Settlement Officer or the powers of a Collector in connection with any settlement operation unless otherwise expressly provided--to the Settlement Commissioner;
- (g) if such order is passed by the Commissioner or the Settlement Commissioner--to the Board.

<sup>18</sup>[(2) Save as otherwise provided a second appeal shall lie against every order passed in first appeal under this Code or the rules made thereunder--

- (i) by the Sub-Divisional Officer or the Collector to the Commissioner;
  - (ii) by the Settlement Officer to the Settlement Commissioner;
  - (iii) by the Commissioner to the Board--
- (a) if the original order has in the first appeal been varied or reversed otherwise than in a matter of cost; or
  - (b) on any of the following grounds and no other, namely :--
- (i) that the order is contrary to law or usage having the force of law; or
  - (ii) that the order has failed to determine some material issue of law or usage having force of law; or

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<sup>18</sup> Substituted by M.P. Act No. 10 of 1974.

(iii) that there has been a substantial error or defect in the procedure as prescribed by this Code, which may have produced error or defect in the decision of the case upon merits.]

(3) An order passed in review varying or reversing any order shall be appealable in like manner as the original order.

#### **Section 45 - Transfer of certain pending proceedings to Settlement Commissioner-**

All proceedings arising from the Madhya Bharat region and pending before the Director of Land Records in appeal, revision or review immediately before the coming into force of this Code, shall stand transferred to the Settlement Commissioner and every such proceeding shall be heard and decided by the Settlement Commissioner as if it had been entertained by him under the provisions of this Code.

#### **Section 46 - No appeal against certain orders-**

<sup>19</sup>[No appeal shall lie under this Code from an order--

- (a) admitting an appeal or application for review on the grounds specified in Section 5 of <sup>20</sup> [the Limitation Act, 1963 (36 of 1963)];or
- (b) rejecting an application for review; or
- (c) granting or rejecting an application for stay; or
- (d) of an interim nature; or
- (e) relating to appointment under sub-section (2) of Section 104 or sub-section (1) of Section 106.]

#### **Section 47 - Limitation of appeals-**

No appeal shall lie--

- (a) to the Sub-Divisional Officer or Collector or Settlement Officer or Settlement Commissioner, after the expiration of <sup>21</sup>[thirty days] from the date of the order to which objection is made; or
- (b) to the Commissioner after the expiration of <sup>22</sup>[forty-five days] from such date; or

<sup>19</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>20</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "the Indian Limitation Act, 1908 (IX of 1908)".

<sup>21</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words " forty-five days".

<sup>22</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words " sixty days".

(c) to the Board, after the expiration of <sup>23</sup>[sixty days] from such date :

<sup>24</sup>[Provided that where the order, against which the appeal is being preferred, made before the coming into force of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011, in such case appeal shall be entertained within the time limit provided in the Code prior to this said Amendment Act].

Provided further that where a party, other than a party against whom the order has been passed ex-parte, had no previous notice of the date on which the order is passed, limitation under this section shall be computed from the date of the communication of such order.

#### Section 48 - Copy of order objected to accompany petition-

Every petition for appeal, review or revision shall be accompanied by a certified copy of the order to which objection is made unless the production of such copy is dispensed with.

#### Section 49 - Power of appellate authority-

(1) The appellate authority may either admit the appeal or, after calling for the record and giving the appellant an opportunity to be heard, may summarily reject it :

Provided that the appellate authority shall not be bound to call for the record where the appeal is time-barred or does not lie.

(2) If the appeal is admitted date shall be fixed for hearing and notice shall be served on the respondent.

<sup>25</sup>[(3) After hearing the parties, the appellate authority may confirm, vary or reverse the order appealed against, or may take such additional evidence as it may consider necessary for passing its order :

Provided that the appellate authority shall not remand the case for disposal by any Revenue Officer subordinate to it :

Provided further that all such cases which have been remanded to the sub-ordinate Revenue Officers by the Appellate or Revisional Authorities before the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011 shall be heard and decided by such Revenue Officer].

<sup>23</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words " ninety days".

<sup>24</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011].

<sup>25</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>26</sup>[Section 50 – Revision.-

(1) The Board may, at any time on its motion or on the application made by any party or the Collector or the Settlement Officer may, at any time on his motion, call for the record of any case which has been decided or proceeding in which an order has been passed by any Revenue Officer subordinate to it or him and in which no appeal lies thereto, and if it appears that such subordinate Revenue Officer.--

(a) has exercised a jurisdiction not vested in him by this Code, or  
 (b) has failed to exercise a jurisdiction so vested, or  
 (c) has acted in the exercise of his jurisdiction illegally or with material irregularity, the Board or the Collector or the Settlement Officer may make such order in the case as it or him thinks fit :

Provided that the Board or the Collector or the Settlement Officer shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of the proceeding, except where,--

(a) the order, if it had been made in favour of the party applying for revision to the Board, would have finally disposed of the proceedings, or  
 (b) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

(2) The Board or Collector or the Settlement Officer shall not, under this section vary or reverse any order against which an appeal lies either to the Board or to any Revenue Officer subordinate thereto.

(3) A revision shall not operate as a stay of proceeding before the Revenue Officer except where such proceeding is stayed by the Board or the Collector or the Settlement Officer, as the case may be.

(4) No application for revision shall be entertained.--

(a) against an order appealable under this Code;  
 (b) against an order to the Settlement Commissioner under section 210;  
 (c) unless presented within sixty days to the Board :

Provided that where the order, against which the application for revision is being presented, made before the coming into force of the Madhya Pradesh Land Revenue

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<sup>26</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

Code (Amendment) Act, 2011, in such case revision shall be entertained within ninety days from the date of order.

(5) No order shall be varied or reversed in revision unless notice has been served on the parties interested and opportunity given to them of being heard.

(6) Notwithstanding anything contained in sub-section (1),--

(i) where proceedings in respect of any case have been commenced by the Board under sub-section (1), no action shall be taken by the Collector or the Settlement Officer in respect thereof;

(ii) where proceeding in respect of any such case have been commenced by the Collector or the Settlement Officer under sub-section (1), the Board may either refrain from taking any action under this section in respect of such case until the final disposal of such proceedings by the Collector or the Settlement Officer, as the case may be, or may withdraw such proceedings and pass such order as it may deem fit.

*Explanation.--For the purpose of this section all Revenue Officers shall be deemed to be subordinate to the Board]..*

#### Section 51 - Review of orders-

(1) The Board and every Revenue Officer may, either on its/his own motion or on the application of any party interested review any order passed by itself/himself or by any of its/his predecessors in office and pass such order in reference thereto as it/he thinks fit :

Provided that--

<sup>27</sup>[(i) if the Commissioner, Settlement Commissioner, Collector or Settlement Officer thinks it necessary to review any order which he has not himself passed, he shall first obtain the sanction of the Board, and if an officer subordinate to a Collector or Settlement Officer proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction in writing of the authority to whom he is immediately subordinate;]

<sup>28</sup>[(i-a) no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order;]

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<sup>27</sup> Inserted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>28</sup> Renumbered by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

(ii) no order from which an appeal has been made, or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending be reviewed;

(iii) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings, and no application for the review of such order shall be entertained unless it is made within <sup>29</sup>[sixty days] from the passing of the order;

<sup>30</sup>[Provided that where the order, against which the application for review is being presented, made before the coming into force of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011, in such case review shall be entertained within ninety days from the date of order].

(2) No order shall be reviewed except on the grounds provided for in the Code of Civil Procedure, 1908 (V of 1908).

(3) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue Officer who has left the district or who has ceased to exercise powers as a Revenue Officer and to whom there is no successor in the district.

(4) An order which has been dealt with in appeal or on revision shall-not be reviewed by any Revenue Officer subordinate to the appellate or revisional authority.

#### Section 52 - Stay of execution of orders-

(1) A Revenue Officer who has passed any order or his successor in office may, at any time before the expiry of the period prescribed for appeal or revision, direct the execution of such order to be stayed for such time as may be requisite for filing an appeal or revision and obtaining a stay order from the appellate or revisional authority.

(2) The appellate or revisional authority may, at any time direct the execution of the order appealed from or against which a revision is made to be stayed for such time as it may think fit.

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<sup>29</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “ninety days”.

<sup>30</sup>Ins. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>31</sup>[Provided that the execution of order shall not be stayed for more than three months at a time or until the date of next hearing, whichever is earlier]:

(3) The authority exercising the powers conferred by Section 50 or Section 51 may direct the execution of the order under revision or review to be stayed for such time as it may think fit:

<sup>32</sup>[Provided that the execution of order shall not be stayed for more than three months at a time or until the date of next hearing, whichever is earlier.].

(4) The Revenue Officer or the authority directing the execution of an order to be stayed may impose such conditions or order such security to be furnished as he or it thinks fit.

(5) No order directing the stay of execution of any order shall be passed except in accordance with the provisions of this section.

#### **Section 53 - Application of Limitation Act-**

Subject to any express provision contained in this Code the provision of the Indian

<sup>33</sup>[Limitation Act, 1963 (36 of 1963)], shall apply to all appeals and applications for

<sup>34</sup>[review and revision] under this Code.

#### **Section 54 - Pending revisions-**

[Notwithstanding anything contained in this chapter, all proceedings pending in revision before any Revenue Officer immediately before the coming into force of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011 shall be heard and decided by such Revenue Officer as if this amendment Act had not been passed.]<sup>35</sup>.

#### **Section 54 – A**

<sup>36</sup>[x x x]

#### **Section 55 - Application of Chapter-**

For avoidance of doubt, it is hereby declared that save as otherwise expressly provided in this Code, the provisions of this Chapter shall apply to--

<sup>31</sup> Ins. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] .

<sup>32</sup> Ins. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] .

<sup>33</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "Indian Limitation Act, 1908 (IX of 1908)".

<sup>34</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words " review".

<sup>35</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>36</sup> Omitted by M.P. Act No. 32 of 1997 (w.e.f. 22-8-1997).

- (a) all orders passed by any Revenue Officer before the date of coming into force of this Code and against which no appeal or revision proceedings are pending before such date; and
- (b) all proceedings before Revenue Officers, notwithstanding that they were instituted or commenced or arose out of proceedings instituted or commenced before the coming into force of this Code.

**Section 56 - Construction of order-**

<sup>37</sup>[In this Chapter, unless the context otherwise requires, expression "order" means the formal expression of the decision given by the Board or a Revenue Officer in respect of any matter in exercise of its /his powers under this Code or any other enactment for the time being in force, as the case may be.]

## CHAPTER VI

### LAND AND LAND REVENUE

**Section 57 - State ownership in all lands-**

(1) All lands belong to the State Government and it is hereby declared that all such lands, including standing and flowing water, mines, quarries, minerals and forests reserved or not, and all rights in the sub-soil of any land are the property of the State Government :

<sup>38</sup>[Provided that nothing in this section shall, save as otherwise provided in this Code, be deemed to affect any rights of any person subsisting at the coming into force of this Code in any such property.]

(2) Where a dispute arises between the State Government and any person in respect of any right under sub-section (1) such dispute shall be decided by the <sup>39</sup>[State Government]

(3)<sup>40</sup> [xxx]

(4)<sup>41</sup>[xxx] Omitted.

**Section 58 - Liability of land to payment of land revenue-**

<sup>37</sup> Substituted by M.P. Act No. 10 of 1974 (w.e.f. 8-5-1974).

<sup>38</sup> Substituted by M.P. Act No. 8 of 1979 (w.e.f. 2-10-1959).

<sup>39</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “ Sub-divisional Officer”.

<sup>40</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>41</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

(1) All land, to whatever purpose applied and wherever situate, is liable to the payment of revenue to the State Government, except such land as has been wholly exempted from such liability by special grant of or contract with the State Government or under the provisions of any law or rule for the time being in force :

<sup>42</sup>[Provided that the abadi land, subject to the provisions of Section 245, and the land which is situated in non-urban areas and used for agricultural purposes and not exempted from such liability, is liable to payment of revenue to the Gram Sabha.]

(2) Such revenue is called "land revenue"; and that term includes all moneys payable to the State Government for land, notwithstanding that such moneys may be described as premium, rent lease money, quit-rent or in any other manner, in any enactment, rule, contract or deed.

#### Section 58-A - Certain land to be exempted from payment of land revenue-

<sup>43</sup>[Notwithstanding anything contained in this Code, no land revenue shall be payable in respect of an uneconomic holding used exclusively for the purpose of agriculture.

*Explanation I.--*For the purpose of this section,--

<sup>44</sup>[(a) 'uneconomic holding' shall mean a holding the extent of which is not more than 5 acres;]

(b) 'holding' shall mean the entire land held by a person in the State, notwithstanding the fact that any portion thereof is separately assessed to land revenue; and

(c) 'land revenue' shall not include moneys payable to the State Government for land by way of premium, rent or lease moneys in respect of land leased out for a period of less than five years or quit-rent.

*Explanation II.--*For the purpose of clause (b) of Explanation I "entire land held by a person in the State" shall mean--

(a) the entire land held by a person in the State individually and shall include--

(i) where land is held by such person jointly with one or more persons, so much portion of the land as falls to his share; and

(ii) land held by such person as Bhoojan holder under the Madhya Pradesh Bhoojan Yagna Act, 1968 (28 of 1968); and

<sup>42</sup> Inserted by M.P. Act No. 19 of 2001 (w.e.f. 27-9-2001).

<sup>43</sup> Substituted by M.P. Act No. 5 of 1969 (w.e.f. 13-6-1969).

<sup>44</sup> Substituted by M.P. Act No. 23 of 1972 (w.e.f. 1-7-1972).

(b) where land is held by a person jointly with one or more persons, the single holding so jointly held.]

<sup>45</sup>[Section-58-B. Half of the assessed land revenue shall be payable for holding used exclusively for the purpose of a project of micro and small enterprise.-

(1) Notwithstanding anything contained in this Code, only half of the assessed land revenue shall be payable in respect of a holding upto two hectares used exclusively for the purpose of a project of micro and small enterprise.

(2) For the purpose of sub-section (1), the Collector shall, after affording reasonable opportunity of being heard to the persons interested and after making such enquiry as he may deem necessary, decide that the concerning holding is of project of micro and small enterprise.

Explanation.--For the purpose of this Section, the micro enterprise and small enterprise shall have the same meaning as assigned to them in sub-clause (i) and (ii) of clause (a) of sub-section (1) of Section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (No. 27 of 2006)].

Section 59 - Variation of land revenue according to purpose for which land is used-

(1) The assessment of land revenue on any land <sup>46</sup>[shall be made] with reference to the use of land--

<sup>47</sup>[(a) for the purpose of agriculture of such farm house which is situated on holding of one acre or more;

(b) as sites for dwelling houses;

(c) for educational purpose;

(d) for industrial purpose;

(e) for commercial purpose

(f) for the purpose of mining under a mining lease within the meaning of the Mines and Minerals (Regulation and Development) Act, 1957 (No. 67 of 1959);

(g) for purpose other than those specified in items (a) to (f) above].

Provided that the assessment of land revenue on any land situated in the areas which are constituted as reserved or protected forests under the Indian Forest Act, 1927 (16

<sup>45</sup> Ins. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>46</sup> Substituted by M.P. Act No. 7 of 2000 (w.e.f. 15-3-2000).

<sup>47</sup> Subs. The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

of 1927), with reference to use of land for any of the purposes aforesaid shall not be proceeded with or any procedure relating to the assessment to be followed under the relevant provisions of the Code shall not be commenced except on a certificate permitting the use of land issued by an officer of the Forest Department duly authorised by the State Government in this behalf.]

<sup>48</sup>[*Explanation.*--For the purpose of clause (a) "Farm House" means such building or construction which is any improvement as defined in clause (j) of sub-section (1) of Section 2, the plinth area of which shall not exceed one hundred square metre and the built up area shall not exceed one hundred fifty square metre.]

(2) Where land assessed for use for any one purpose is diverted to any other purpose, the land revenue payable upon such land shall, notwithstanding that the term for which the assessment may have been fixed has not expired, be liable to be altered and assessed in accordance with the purpose to which it has been diverted.

<sup>49</sup>[(2-a) The alteration or assessment referred to in sub-section (2) shall be carried out by the Sub-Divisional Officer.]

(3) Where the land held free from the payment of land revenue on condition of being used for any purpose is diverted to any other purpose it shall become liable to the payment of land revenue and assessed in accordance with the purpose to which it has been diverted.

(4) The assessment made under sub-sections (2) and (3) shall be in accordance with the rules made by State Government in this behalf and such rules shall be in accordance with the principles contained in Chapter VII or VIII, as the case may be.

(5) Where land for use for any one purpose is diverted to any other purpose, and land revenue is assessed thereon under the provisions of this section, the <sup>50</sup>[Sub-Divisional Officer] shall also have power to impose a premium on the diversion in accordance with rules made under this Code :

Provided that no premium shall be imposed for the diversion of any land for charitable purposes.

(6) Notwithstanding any usage or grant or anything contained in any law, the right of all persons holding land, which immediately before the coming into force of the

<sup>48</sup> Substituted by M.P. Act No. 25 of 1987 (w.e.f. 28-5-1987).

<sup>49</sup> Substituted by M.P. Act No. 7 of 2000 (w.e.f. 15-3-2000).

<sup>50</sup> Inserted by M.P. Act No. 25 of 1987 (w.e.f. 28-5-1987).

Madhya Pradesh Land Revenue Code, 1954 (II of 1955), was held in malik makbuza right, to exemption from payment of premium on diversion of such land is hereby abolished; but every such person shall, on diversion of such land, be entitled in lieu of such right to a rebate equal to the land revenue for one year payable for such land from the amount of premium determined under sub-section (5).

**Section 59-A - Assessment when to take effect-**

<sup>51</sup>[The alteration or assessment made under the provision of Section 59 shall take effect from the date on which the diversion was made.

**Section 59-B - Reassessment on diversion of land prior to coming into force of the Code-**

Where prior to the coming into force of this Code land in any area assessed for any one purpose was subsequently diverted for use to any other purpose, the land revenue payable upon such land shall, notwithstanding that the term for which the assessment may have been fixed has not expired, be liable to be altered and assessed--

- (1) in accordance with the purpose to which it has been diverted with effect from--
  - (a) the date on which such diversion was made if in the area concerned there was in force any enactment repealed under Section 261 which contained provision for alteration or reassessment on such diversion;
  - (b) the date of coming into force of this Code in any other case; and
- (2) in case of (a) above in accordance with the provisions of such repealed Act, and in the case of (b) above in accordance with the provisions of this Code.

**Section 60 - Assessment by whom to be fixed-**

On all lands on which the assessment has not been made the assessment of land revenue shall be made by the Collector in accordance with rules made under this Code.

## CHAPTER VII

### REVENUE SURVEY AND SETTLEMENT IN NON-URBAN AREAS

#### A-Application of Chapter and Officers to conduct Revenue Survey and/or Settlement

##### **Section 61 - Application of this Chapter to lands in non-urban areas-**

The Provisions of this Chapter shall apply in respect of lands in non-urban areas.

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<sup>51</sup> Inserted by M.P. Act No. 15 of 1975 (w.e.f. 2-10-1959).

**Section 62 - Appointment of Settlement Commissioner-**

The State Government may appoint a Settlement Commissioner who shall, subject to the control of the State Government, control the operation of the revenue survey and/or settlement.

**Section 63 - Appointment of Additional Settlement Commissioners and their powers and duties-**

(1) The State Government may appoint one or more Additional Settlement Commissioners.

(2) An Additional Settlement Commissioner shall exercise such powers and discharge such duties, conferred and imposed on a Settlement Commissioner by this Code or by any other enactment for the time being in force or by any rule made under this Code or any such other enactment, in such cases or classes of cases, as the State Government or Settlement Commissioner may direct and while exercising such powers and discharging such duties, the Additional Settlement Commissioner shall be deemed to have been appointed as a Settlement Commissioner for the purposes of this Code or any other enactment or any rule made under this Code or such other enactment.

**Section 64 - Appointment of Settlement, Deputy Settlement and Assistant Settlement Officers-**

(1) The State Government may appoint an officer hereinafter called the Settlement Officer to be in charge of a revenue survey and/or settlement and as many Deputy Settlement Officers and Assistant Settlement Officers as it thinks fit.

(2) All Settlement, Deputy Settlement and Assistant Settlement Officers shall be subordinate to the Settlement Commissioner and all Deputy Settlement and Assistant Settlement Officers in a local area shall be subordinate to the Settlement Officers.

**Section 65 - Powers of Settlement, Deputy Settlement and Assistant Settlement Officers-**

(1) The State Government may invest any Settlement Officer or Deputy Settlement Officer or Assistant Settlement Officer with all or any of the powers of a Collector under this Code, to be exercised by him in such cases or classes of cases as the State Government may direct.

(2) The State Government may invest any Deputy Settlement Officer or Assistant Settlement Officer with all or any of the powers of a Settlement Officer under this Code or any other enactment for the time being in force.

**Section 66 - Definition of Revenue Survey-**

The operations carried out in accordance with the provisions of this part, that is to say--

- (1) all or any of the operations pertaining to the division of land into survey numbers and grouping them into villages, recognition of existing survey numbers, reconstitution thereof or forming new survey numbers and operations incidental thereto;
- (2) soil classification;
- (3) preparation or, as the case may be, revision or correction of field map;
- (4) preparation of record of rights, in order to bring the land records upto-date in any local, over area; are called a revenue survey.

**Section 67 - Notification of proposed revenue survey-**

- (1) Whenever the State Government decides that a revenue survey should be made of any local area, it shall publish a notification to that effect, and such local area shall be held to be under such survey from the date of such notification until the issue of a notification declaring the operation to be closed.
- (2) Such notification may extend to all lands generally in the local area or to such lands only as the State Government may direct.

**Section 68 - Formation of survey numbers and villages-**

Subject to rules made under this Code, the Settlement Officer, may--

- (a) take measurements of the land to which the revenue survey extends and construct such number of survey marks thereon as may be necessary;
- (b) divide such lands into survey numbers and group the survey numbers into villages; and
- (c) recognize existing survey numbers, reconstitute survey numbers or form new survey numbers :

Provided that except as hereinafter provided, no survey numbers, comprising land used for agricultural purposes shall henceforth be made of less extent than a minimum to be prescribed for the various classes of land :

Provided further that the limit prescribed under the aforesaid proviso shall not apply in the case of survey numbers, already existing immediately before the date of the notification under sub-section (1) of Section 67.

**Section 69 - Separate demarcation of land diverted or specially assigned-**

Notwithstanding the provisions of Section 68 when any portion of agricultural land is diverted under the provisions of Section 172 to any non-agricultural purpose, or when any portion of land is specially assigned under Section 237, or when any assessment is altered on any portion of land under sub-section (2) of Section 59, the Settlement Officer may make such portion into a separate survey number or sub-division of a survey number.

**Section 70 - Power to re-number or sub-divide survey numbers-**

(1) The Settlement Officer may either re-number or sub-divide survey numbers into as many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason.

(2) The division of survey numbers into sub-divisions and the apportionment of the assessment of the survey number amongst the sub-divisions shall be carried out in accordance with rules made under this Code and such rules may provide limits either of area or of land revenue or both, below which no sub-division shall be recognised : Provided that the total amount of assessment of any survey number shall not be enhanced during the term of a settlement unless such assessment is liable to alteration under the provisions of this Code.

(3) Where a holding consists of several khasra numbers the Settlement Officer shall assess the land revenue payable for each khasra number and record them as separate survey numbers.

(4) Whenever the survey numbers are re-numbered, the Settlement Officer shall correct the entries in all records prepared or maintained under Chapter IX.

**Section 71 - Entry of survey numbers and sub-divisions in records-**

The area and assessment of survey numbers and sub-divisions of survey numbers shall be entered in such records as may be prescribed.

**Section 72 - Determination of abadi of village-**

The Settlement Officer shall, in the case of every inhabited village, ascertain and determine, with due regard to rights in lands, the area to be reserved for the residence

of the inhabitants or for purposes ancillary thereto, and such area shall be deemed to be the abadi of the village.

**Section 73 - Power of Settlement Officer to divide or unite villages or exclude area therefrom-**

The Settlement Officer may divide a village to constitute two or more villages or may amalgamate two or more villages and constitute one village or may alter the limits of a village by including therein any area of a village in the vicinity thereof or by excluding any area comprised therein, in accordance with the rules made under this Code.

**Section 74 - Grouping of villages-**

The villages of each district or tahsil or part of a district or tahsil comprised in the area under revenue survey shall be formed into groups, and in forming such group regard shall be had to physical features, agricultural and economic conditions and trade facilities and communications.

**Section 75 - Definition of Settlement-**

The result of the operations carried out in accordance with this part in continuation of revenue survey in order to determine or revise the land revenue payable on lands in any local area are called "settlement" and the period during which the revised land revenue shall be in force is called the term of Settlement.

**Section 76 - Notification of proposed settlement-**

On issue of a notification declaring the operations of revenue survey to be closed under sub-section (1) of Section 67, the State Government, if it decides that Settlement operations should be undertaken in the local area in which revenue survey is closed, shall publish a notification to that effect and such area shall be held to be under Settlement from the date of such notification until the announcement of Settlement under Section 82 in respect of a land in the local area is complete :

Provided that if the notification is issued after expiration of a period of five years from the date of issue of notification declaring, the operations of revenue survey to be closed under sub-section (1) of Section 67, record of rights shall be prepared under Section 108 before the Settlement operations are undertaken in accordance with the provisions contained in this part.

**Section 77 - Fixation of assessment rates-**

(1) On completing the necessary inquiries, as may be prescribed, the Settlement Officer shall forward to the State Government his proposals for assessment rates for different classes of land in such form and along with such other particulars as may be prescribed.

(2) The State Government may approve the assessment rates with such modifications as it may deem fit.

<sup>52</sup>[Section 78 [xxx] Ommitted.

#### **Section 79 - Fixation of fair assessment-**

The Settlement Officer shall fix the assessment on each holding in accordance with the assessment rates approved under Section 77 and the provisions of the Section 81 and such assessment shall be the fair assessment of such holding.

#### **Section 80 - All lands liable to assessment-**

The Settlement Officer shall have the power to make fair assessment on all lands what-so-ever to which the Settlement extends, whether such lands are liable to the payment of land revenue or not.

#### **Section 81 - Principles of assessment-**

(1) The fair assessment of all lands shall be calculated in accordance with the principles and restrictions set forth in the section.

(2) No regard shall be had to any claim to hold land on privileged terms.

(3) Regard shall be had in the case of agricultural land to the profits of agriculture, to the consideration paid for leases' to the sale prices of land and to the principal moneys on mortgages, and in the case of non-agricultural land, to the value of the land for the purpose for which it is held.

<sup>53</sup>[(4) The assessment on land used for non-agricultural purpose shall be fixed in accordance with the rules made under section 59];

(5) Where an improvement has been effected at any time in any holding held for the purpose of agriculture by or at the expense of the holder thereof, the fair assessment of such holding shall be fixed as if the improvement had not been made.

<sup>54</sup>[(6) [xxx]

<sup>52</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>53</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

**Section 82 - Announcement of Settlement-**

- (1) When the assessment of any land has been fixed in accordance with Section 79, notice thereof shall be given in accordance with rules made under this Code, and such notice shall be called the announcement of the settlement.
- (2) The assessment of any land, as announced under this section, shall be the land revenue payable annually on such land during the term of the settlement unless it is modified in accordance with the provisions of this Code, or any other law.

**Section 83 - Introduction of Settlement-**

The term of a settlement shall commence from the beginning of the revenue year next following the date of announcement or from the expiry of the previous term of settlement, whichever is later.

**Section 84 - Remission of enhancement of bhumiswami who relinquishes-**

During the first year of the term of settlement any bhumiswami, who is dissatisfied with the new assessment shall, on relinquishing his rights in his holding in the manner prescribed by Section 173 may, one month before the commencement of the agricultural year, receive a remission of any increase imposed thereby :

Provided that the relinquishment of only part of a holding or of a holding, which, or any part of which, is subject to an encumbrance or a charge shall not be permitted.

**Section 85 - Term of settlement-**

- (1) The term of settlement shall be fixed by the State Government and shall not be less than thirty years :

Provided that if, at any time during the currency of the settlement, the State Government finds that having regard to changes in general conditions subsequent to the settlement, it is desirable that the assessment should be reduced, it may reduce such assessment for such period as it may deem fit.

- (2) Notwithstanding anything contained in sub-section (1) in any area where there is ample scope for extension of cultivation or for agricultural development or where the pitch of rents is unduly low or where there has been a rapid development of resources owing to the construction of roads, railways or canals since the last settlement, the State Government may, for reasons to be recorded, fix a term which may be less than thirty years but which shall in no case be less than twenty years.

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<sup>54</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

(3) Notwithstanding that the term of settlement fixed under sub-section (1) or sub-section (2) for any local area has expired, the term shall be deemed to have been extended till the commencement of the term of the subsequent settlement in that area.

**Section 86 - Power of Collector to complete unfinished proceedings-**

Where the settlement operations are closed all applications and proceedings then pending before the Settlement Officer shall be transferred to the Collector who shall have the powers of a Settlement Officer for their disposal

**Section 87 - Inquiry into profits of agriculture and value of land-**

(1) With effect from the coming in force of this Code the State Government may take steps to institute and may cause to be constantly maintained, in accordance with rules made under this Code, an inquiry into the profits of agriculture and into the value of land used for agricultural and non-agricultural purposes.

(2) For the purpose of determining the profits of agriculture, the following elements shall be taken into account in estimating the cost of cultivation, namely :--

- (a) the depreciation of stock and buildings;
- (b) the money equivalent to the cultivator's and his family's labour and supervision;
- (c) all other expenses usually incurred in cultivation on the land which is under inquiry; and
- (d) interest on the cost of buildings and stock and on expenditure for seed and manure, and on cost of agricultural operations paid for in cash.

(3) The Settlement Officer shall take in consideration the information collected in the course of this inquiry, when framing his proposals for assessment rates.

**Section 88 - Power to transfer, duty of maintaining maps and records to Settlement Officer-**

When a local area is under revenue survey, the duty of maintaining the maps and records may, under the orders of the State Government, be transferred from Collector to the Settlement Officer, who shall thereupon exercise all the powers conferred on the Collector in any of the provisions in Chapters IX and XVIII.

**Section 89 - Power of Sub-Divisional Officer to correct errors-**

The Sub-Divisional Officer may, at any time after the closure of the revenue surveys and during the term of settlement, correct any error in the area or assessment of any survey number of holding due to mistake of survey or arithmetical miscalculation :

Provided that no arrears of land revenue shall become payable by reason of such correction.

**Section 90 - Power of Collector during term of Settlement etc.-**

After the closure of the revenue survey and during the term of a settlement, the Collector, shall, when so directed by the State Government, exercise the powers of a Settlement Officer under Sections 68, 69, 70, 72 and 73.

**Section 91 - Power to grant power of Settlement Officer during term of Settlement-**

The State Government may, after the closure of the revenue survey and during the term of settlement, invest any Revenue Officer with all or any of the power of the Settlement Officer under this Chapter, within such area and subject to such restrictions and for such period as it may think fit.

**Section 91A - Power to make rules-**

The State Government may make rules for regulating generally the conduct of a revenue survey or settlement under this Chapter.

## CHAPTER VIII

### ASSESSMENT AND RE-ASSESSMENT OF LAND IN URBAN AREAS

**Section 92 - Provisions of Chapter to apply to land in urban areas-**

(1) The provisions of this Chapter shall apply to land held in urban area, whether for agricultural or non-agricultural purposes.--

(1) by a bhumiswami;

(2) by a Government lessee under a lease granting a right of renewal; and

(3) by a holder of service land.

(2) Whenever the land revenue or rent assessed on a plot number falls due for revision the Collector shall assess the plot in accordance with the provisions of this Chapter.

*Explanation.--*For the purposes of this section, the land revenue or rent payable for a plot shall be deemed due for revision--

(i) if the plot is held on a lease when the lease becomes due for renewal; and

(ii) in the case of a plot held by a bhumiswami on the expiry of the original term of settlement.

**Section 93 - Powers of Collector to divide lands into plot numbers-**

Subject to rules made under this Code, the Collector may--

- (a) divide the lands in an urban area into plot numbers; and
- (b) recognize existing survey numbers as plot numbers, reconstitute plot numbers or form new plot numbers.

**Section 94 - Powers of Collector to re-number or sub-divide plot numbers-**

(1) The Collector may either re-number or sub-divide plot numbers into as many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason.

(2) The division of plot numbers into sub-divisions and the apportionment of the assessment of the plot number amongst the sub-divisions shall be carried out in accordance with rules made under this Code and such rules may provide limits either of area or of land revenue or rent, as the case may be, or both in any local area, below which no sub-division shall be recognised :

Provided that the total amount of assessment of any plot number shall not be enhanced during the term of settlement unless such assessment is liable to alteration under the provisions of this Code.

**Section 95 - Area and assessment of plot numbers and sub-divisions to be entered in records-**

The area and assessment of plot number and sub-divisions of plot numbers shall be entered in such records as may be prescribed.

**Section 96 - Area in town formed into blocks for assessment.-**

For the purposes of assessment, the area in a town shall be formed into blocks and in forming such blocks regard shall be had to use of land for industrial, commercial, residential or such other special purposes as may be prescribed.

<sup>55</sup>[Section 97 -[xxx]

**Section 98 - Fair assessment.-**

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<sup>55</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>56</sup>[The fair assessment of lands used for agricultural purpose shall be calculated and fixed in accordance with the principles and restrictions set forth in Section 81 and lands used for non-agricultural purpose shall be fixed in accordance with the rules made under section 59].

<sup>57</sup>[Section 99 – [xxx].

<sup>58</sup>[Section 100 - Fixation of fair assessment at the time of revision.-

In the case of lands which are being assessed for a purpose with reference to which they were assessed immediately before the revision, the assessment so arrived at exceeds, in the case of agricultural land one and a half times the land revenue or rent and in the case of other lands six times the land revenue or rent payable immediately before the revision the assessment shall be fixed at one and a half times such land revenue or rent in the case of agricultural land and at six times such land revenue or rent in the case of other lands :

Provided that where an improvement has been effected at any time in any holding held for the purpose of agriculture by or at the expense of the holder thereof, the assessment of such holding shall be fixed as if the improvement had not been made].

#### Section 101 - Term of settlement-

The assessment fixed under Section 10 shall remain in force for a period of thirty years or for such longer period as may elapse before re-assessment after that period and such period shall be deemed to be the term of settlement for all purposes.

#### Section 102 - Assessment fixed shall be land revenue or rent-

The assessment fixed under Section 100 shall be the land revenue or rent payable annually on such plot number unless it is modified in accordance with the provisions of this Code or any other law.

#### Section 103 - Land revenue or rent fixed under previous settlement or leases to continue-

The land revenue or rent fixed for any land in an urban area under a settlement or a lease from Government with rights of renewal made before the coming into force of this Code shall, notwithstanding the expiry of the term of such settlement or lease,

<sup>56</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] .

<sup>57</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011].

<sup>58</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] .

continue in force until the assessment on such land is fixed in accordance with the provisions of this Chapter.

## CHAPTER IX

### LAND RECORDS

**Section 104 - Formation of patwaris' circles and appointment of patwaris thereto-**

- (1) The Collector shall from time to time arrange the villages of the tahsil in patwari circle and may, at any time, alter the limits of any existing circle and may create new circles or abolish existing ones.
- (2) <sup>59</sup>[The Collector] shall appoint one or more patwaris to each patwari circle for the maintenance and correction of land records and for such other duties as the State Government may prescribe.
- (3) Notwithstanding any usage or anything contained in any treaty, grant, or other instrument, no person shall have any right or claim to continue or to be appointed as a patwari on the ground of right to succeed to such office by inheritance.

**Section 105 - Formation of Revenue Inspectors' circles-**

The Collector shall arrange the patwari circles in the tahsil into. Revenue Inspectors' circles and may, at any time, alter the limits of any existing circle and may create new circles or abolish existing circles.

**Section 106 - Appointment of Revenue Inspectors, etc.-**

- (1) The Collector may appoint to each district as many persons as he thinks fit to be revenue inspectors, town surveyors, assistant town surveyors and measurers to supervise the preparation and maintenance of land records and to perform such other duties as may be prescribed.
- (2) The town surveyor and assistant town surveyor shall be deemed to be a patwari for the purposes of Sections 28, 109, 110, 112, 118 and 120 in respect of the areas under their charge.

**Section 107 - Field map-**

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<sup>59</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

- (1) There shall be prepared a map showing the boundaries of survey numbers or plot numbers and waste lands called the field map for every village except when otherwise directed by the State Government.
- (2) There may be prepared for the abadi of each village a map showing the area occupied by private holders and the area not so occupied and such other particulars as may be prescribed.
- (3) If the State Government considers that in the case of any village it is necessary to show separately in the map prepared under sub-section (2) the plots occupied by private holders, it may direct the Collector to get the map so prepared or revised.
- (4) If any Gram Panchayat passes a resolution that a map of the village abadi should be prepared showing separately the plots occupied by private holders and is willing to contribute to the cost of survey operations in such proportion as may be prescribed, the State Government may undertake the preparation of such map.

<sup>60</sup>[(5) Such map shall be prepared or revised, as the case may be, by the Settlement Officer at <sup>61</sup>[revenue survey] and by the Collector at all other times and in all other circumstances.]

#### Section 108 - Record of rights-

- <sup>62</sup>[(1)] A record-of-rights shall in accordance with rules made in this behalf be prepared and maintained for every village and such record shall include following particulars :--
- (a) the names of all bhumiswamis together with survey numbers or plot numbers held by them and their area, irrigated or unirrigated;
  - (b) the names of all occupancy tenants and Government lessees together with survey numbers or plot numbers held by them and their area, irrigated or unirrigated;
  - (c) the nature and extent of the respective interests of such persons and the conditions or liabilities, if any, attaching thereto;
  - (d) the rent or land revenue, if any, payable by such persons; and
  - (e) such other particulars as may be prescribed.

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<sup>60</sup> Substituted by M.P. Act No. 15 of 1980 (w.e.f. 24-10-1980).

<sup>61</sup> Substituted by M.P. Act No. 16 of 1985 (w.e.f. 12-6-1985).

<sup>62</sup> Re-numbered by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>63</sup>[(2) The record-of-rights mentioned in sub-section (1) shall be prepared during a <sup>64</sup>[revenue survey] or whenever the State Government may, by notification, so direct.]

**Section 109 - Acquisition of rights to be reported-**

(1) Any person lawfully acquiring any right or interest in land <sup>65</sup>[x x x] shall report orally or in writing his acquisition of such right to the patwari within six months from the date of such acquisition, and the patwari shall at once give a written acknowledgement for such report to the person making it in the prescribed form :

Provided that when the person acquiring the right is a minor or is otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwari.

<sup>66</sup>[*Explanation I.*--The right mentioned above does not include an easement or a charge, not amounting to a mortgage, of the kind specified in Section 100 of the Transfer of Property Act, 1882 (IV of 1882).]

*Explanation II.*--A person, in whose favour a mortgage is redeemed or paid off or a lease is determined, acquires a right within the meaning of this section.

*Explanation III.*--For the purpose of this chapter, the term "patwari" includes any person appointed to perform the duties of a Patwari under this chapter.

*Explanation IV.*--Intimation in writing required to be given to the patwari under this section may be given either through a messenger or handed over in person or may be sent by registered post.

(2) Any such person as is referred to in sub-section (1) may also report in writing his acquisition of such rights to the Tahsildar within six months from the date of such acquisition.

**Section 110 - Mutation of acquisition of right in Field Book and other relevant land records-**

<sup>67</sup>[(1) The Patwari shall enter into a register prescribed for the purpose every acquisition of right reported to him under Section 109 or which comes to his notice from intimation from Gram Panchayat or any other source.

<sup>63</sup> Inserted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>64</sup> Substituted by M.P. Act No. 16 of 1985 (w.e.f. 12-6-1985).

<sup>65</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>66</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

(2) The Patwari shall intimate all the reports regarding acquisition of right received by him under sub-section (1) to the Tahsildar within thirty days of the receipt thereof by him.

(3) On receipt of the intimation from patwari under sub-section (2), the Tahsildar shall have it published in the village in the prescribed manner and shall also give written intimation thereof to all persons appearing to him to be interested in the mutation and also to such other persons and authorities as may be prescribed.

(4) The Tahsildar shall after affording reasonable opportunity of being heard to the persons interested and after making such further enquiry, as he may deem necessary, make necessary entry in the Field Book and other relevant lands records.]

#### **Section 111 - Jurisdiction of Civil Courts-**

The Civil Courts shall have jurisdiction to decide any dispute to which the State Government is not a party relating to any right which is recorded in the record-of-rights.

#### **Section 112 - Intimation of transfers by Registering Officers-**

<sup>68</sup>[ When any document purporting to create, assign or extinguish any title to or any charge on land used for agricultural purposes, or in respect of which a field book has been prepared, is registered under the Indian Registration Act, 1908 (XVI of 1908), the Registering Officer shall send intimation to the Tahsildar having jurisdiction over the area in which the land is situate in such form and at such times as may be prescribed by rules under this Code.]

#### **Section 113 - Correction of clerical errors-**

The <sup>69</sup>[Sub-Divisional Officer] may at any time, correct or cause to be corrected any clerical errors and any errors which the parties interested admit to have been made in the record-of-rights.

#### **Section 114 - Land records-**

<sup>70</sup>[ In addition to the map and Bhoo Adhikar Pustikas, there shall be prepared for each village a khasra or field book and such other land records as may be prescribed.

#### **Section 114A - Bhoo Adhikar Avam Rin Pustika-**

<sup>67</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>68</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>69</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>70</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

(1) It shall be obligatory upon every bhumiswami, whose name is entered into the khasra or field book prepared under Section 114, to maintain a Bhoo Adhikar Avam Rin Pustika in respect of his all holdings in a village which shall be provided to him on payment of such fee as may be prescribed.

(2) The Bhoo Adhikar Avam Rin Pustika shall be in two parts, namely Part I consisting of rights over holding and encumbrances on the holding and Part II consisting of rights over holding, recovery of land revenue in respect of the holding and the encumbrances on the holding and shall contain--

(i) such of the entries of khasra or field book pertaining to a holding of a bhumiswami as may be prescribed;

(ii) particulars in respect of recovery of land revenue, Government loan and non-Government loan in respect of such holding;

(iii) such other particulars as may be prescribed.

(3) In case of any difference between the entries contained in the khasra or field book and the Bhoo Adhikar Avam Rin Pustika, the Tahsildar may, either on his own motion or on an application made to him in that behalf and after making such enquiry as he may deem fit, decide the same and the decision of the Tahsildar shall be final.

**Section 115 - Correction of wrong entry in khasra and any other land records by superior officers-**

<sup>71</sup>[ If any Tahsildar finds that a wrong or incorrect entry has been made in the land records prepared under Section 114 by an officer subordinate to him, he shall direct necessary changes to be made therein in red ink after making such enquiry from the person concerned as he may deem fit after due written notice.]

**Section 116 - Disputes regarding entry in khasra or in any other land records-**

<sup>72</sup>[ (1) If any person is aggrieved by an entry made in the land records prepared under Section 114 in respect of matters other than those referred to in Section 108, he shall apply to the Tahsildar for its correction within one year of the date of such entry.

(2) The Tahsildar shall, after making such enquiry as he may deem fit, pass necessary orders in the matter.]

**Section 117 - Presumption as to entries in land records-**

<sup>71</sup> Inserted by M.P. Act No. 15 of 1971 (w.e.f. 7-5-1971).

<sup>72</sup> Inserted by ibid.

All entries made under this Chapter in the land records shall be presumed to be correct until the contrary is proved.

**Section 118 - Obligation to furnish information as to title-**

(1) Any person, whose rights, interest or liabilities are required to be or have been, entered in any record or register under this Chapter, shall be bound on the requisition in writing of any Revenue Officer, Revenue Inspector or Patwari engaged in compiling or revising the record or register to furnish or produce for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power.

(2) The Revenue Officer, Revenue Inspector or Patwari to whom any information is furnished, or before whom any document is produced under sub-section (1) shall at once give a written acknowledgement thereof to the person furnishing or producing the same and shall endorse on any such document a note under his signature stating the fact of its production and the date the receipt of.

**Section 119 - Penalty for neglect to furnish information-**

(1) Any person neglecting to make the report required by Section 109, or furnish the information or produce the documents required by Section 118, within the specified period shall be liable, at the discretion of the <sup>73</sup>[Tahsildar], to a penalty not exceeding <sup>74</sup>[one thousand ], which shall be recoverable as an arrear of land revenue.

(2) Any report regarding the acquisition of any right <sup>75</sup>[under Section 109] received by the patwari after the specified period shall be dealt with in accordance with the provisions of Section 110.

<sup>76</sup>[Proviso.....Omitted.]

**Section 120 - Requisition of assistance in preparation of maps and record of rights-**

Subject to rules made under this Code, any Revenue Officer, Revenue Inspector, Measurer or Patwari may, for the purpose of preparing or revising any map or plan required for or in connection with any record or register under this Chapter, call upon

<sup>73</sup> Substituted by M.P. Act No. 24 of 1961.

<sup>74</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "twenty-five".

<sup>75</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>76</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

any holder of land and any holder of plot in abadi to point out the boundaries of his land or plot.

**Section 121 - Power to make rules for land records-**

The State Government may make rules for regulating the preparation, maintenance and revision of land records required for the purposes of this Code.

**Section 122 - Exemption from provisions of this Chapter-**

The State Government may, by notification, direct that this Chapter or any provisions thereof shall not apply to any specified local area or to any lands or any class of villages or lands.

**Section 123 - Record-of-rights at commencement of Code-**

(1) Until record of rights for the villages in the Madhya Bharat, Bhopal, Vindhya Pradesh and Sironj regions is prepared in accordance with the provisions of Section 108 the jamabandi or khatauni of every such village for the agricultural year as the State Government may notify shall, so far as it contains the particulars specified in Section 108, be deemed to be the record-of-rights, for that village.

(2) The jamabandi or khatauni referred to in sub-section (1) shall be published in the village in such manner as may be directed by the Collector.

<sup>77</sup>[(3) Objections may be filed to any entry in jamabandi or khatauni which shall be disposed of by the Tahsildar in such manner as may be prescribed.]

(4) The jamabandi of the villages in the Mahakoshal region for the agricultural year <sup>78</sup>[1954-55] shall continue to be deemed to be record-of-rights of such village until a record-of-rights is prepared in accordance with the provisions of Section 108.

## CHAPTER X

### **BOUNDARIES AND BOUNDARY MARKS, SURVEY MARKS**

**Section 124 - Construction of boundary marks of villages and survey numbers or plot numbers-**

(1) Boundaries of all villages shall be fixed and demarcated by permanent boundary marks.

<sup>77</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>78</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 2-10-1959).

(2) The State Government may, in respect of any village by notification, order that the boundaries of all survey numbers or plot numbers shall also be fixed and demarcated by boundary marks.

(3) Such boundary marks shall, subject to the provisions hereinafter contained, be of such specification and shall be constructed and maintained in such manner as may be prescribed.

(4) Where the rules prescribed boundary marks of a specification different from that prevailing in any village, the new specification shall not be enforced in such village except upon application to a<sup>79</sup>[Tahsildar] made by not less than half of the number of holders of land in the village. When such application is made, the<sup>80</sup>[Tahsildar] shall have new boundary marks constructed throughout the village and shall distribute the cost thereof proportionately among the holders of land in the village in accordance with rules made under this Code. The share of each holder shall be recoverable as an arrear of land revenue.

(5) Every holder of land shall be responsible for the maintenance and repair of the permanent boundary and survey marks erected thereon.

#### **Section 125 - Disputes regarding boundaries between villages, survey numbers and plot numbers-**

All disputes regarding boundaries of villages, survey numbers and plot numbers where such boundaries have been fixed under the provisions of Section 124, shall be decided by the<sup>81</sup>[Tahsildar] after local inquiry at which all persons interested shall have an opportunity of appearing and producing evidence.

#### **Section 126 - Ejectment of persons wrongfully in possession-**

(1) When a boundary has been fixed under the provisions of Section 124, the Tahsildar may summarily eject any person who is wrongfully in possession of any land which has been found not to appertain to his holding or to the holding of any person through or under whom he claims.

(2) Where any person has been ejected from any land under the provisions of sub-section (1), he may, within the period of one year from the date of the ejectment, institute a civil suit to establish his title thereto :

<sup>79</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>80</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>81</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

Provided that the Tahsildar, or any Revenue Officer as such, shall not be made a party to such suit.

(3) The Tahsildar may at any time make an order for re-distribution of land revenue which, in his opinion, should be made as a result of the decree in a civil suit instituted under sub-section (2) and such re-distribution shall take effect from the beginning of the revenue year following the date of the order.

**Section 127 - Demarcation and maintenance of boundary lines-**

(1) Every holder of the land adjoining a village road, village waste or land reserved for communal purposes, shall at his own cost and in the manner prescribed--

(a) demarcate the boundary between his land and village road, village waste or land reserved for communal purposes adjoining it by boundary marks; and

(b) repair and renew such boundary marks for time-to-time.

(2) If the holder fails to demarcate the boundary or to repair or renew the boundary marks as required by sub-section (1), the Tahsildar may, after such notice as he deems fit, cause the boundary to be demarcated or the boundary marks to be repaired or renewed and may recover the cost incurred as an arrear of land revenue.

(3) In the event of any dispute regarding the demarcation of the boundary or the maintenance of the boundary marks in proper state of repair, the matter shall be decided by the Collector whose decision shall be final.

*Explanation.--Village road for the purpose of this section means a road which, bears an indicative survey number or plot number.*

**Section 128 - Enforcement of repair of boundary or survey marks-**

(1) After the end of November in each year the patel of the village shall give written notice to every holder on whose land the boundary or survey marks are defective calling upon him to put them into proper repair before the first day of March following.

(2) After the first day of March in any year, the Tahsildar or any other Revenue Officer empowered to act may cause any defective boundary or survey marks to be properly repaired and shall recover the cost of such repair from the holder or holders responsible for the maintenance of such boundary or survey marks, together with a

penalty which may extend to <sup>82</sup>[one thousand rupees] for every boundary marks so repaired. Such cost and penalty shall be recoverable as an arrear of land revenue.

**Section 129 - Demarcation of boundaries of survey number or sub-division or plot number-**

(1) The Tahsildar or any other Revenue Officer empowered to act may, on the application of a party interested, demarcate the boundaries of a survey number or of a sub-division or of a plot number and construct boundary marks thereon.

(2) The State Government may make rules for regulating the procedure to be followed by the Tahsildar or any other Revenue Officer empowered to act in demarcating the boundaries of survey number or of a sub-division or of a plot number prescribing the nature of the boundary marks to be used, and authorising the levy of fees from the holders of land in a demarcated survey number or sub-division or plot number.

**Section 130 - Penalty for destruction, injury or removal of boundary or survey marks**  
If any person wilfully destroys or injures, or without lawful authority removes, a boundary or survey mark lawfully constructed, he may be ordered by the Tahsildar or any other Revenue Officer empowered to act to pay such fine, not exceeding <sup>83</sup>[one thousand] for each mark so destroyed, injured or removed, as may, in the opinion of the Tahsildar or any other Revenue Officer empowered to act be necessary to defray the expense of restoring the same and of rewarding the informant, if any.

**Section 131 - Rights of way and other private easements-**

(1) In the event of a dispute arising as to the route by which a cultivator shall have access to his fields or to the waste or pasture lands of the village, otherwise than by the recognised roads, paths or common land, including those road and paths recorded in the village Wajib-ul-arz prepared under Section 242 or as to the source from or course by which he may avail himself of water, a Tahsildar may, after local enquiry, decide the matter with reference to the previous custom in each case and with due regard to the conveniences of all the parties concerned.

(2) No order passed under this section shall debar any person from establishing such rights of easement as he may claim by a civil suit.

<sup>82</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “ one rupee”.

<sup>83</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “ fifty”.

**Section 132 - Penalty for obstruction of way, etc.-**

<sup>84</sup>[ Any person who encroaches upon, or causes any obstruction to the use of a recognised road, path or common land of a village including those roads and paths recorded in the village Wajib-ul-arz or who disobeys the decision of a Tahsildar passed under Section 131, shall be liable, under the written order of a Tahsildar stating the facts and circumstances of the case, to a penalty which may extend to <sup>85</sup>[ten thousand rupees.]

**Section 133 - Removal of obstruction.-**

<sup>86</sup>[If a Tahsildar finds that any obstacle impedes the free use of a recognised road, path or common land of a village or impedes the road or water course or source of water which has been the subject of a decision under section 131, he may order the person responsible for such obstacle to remove it and if such person fails to comply with the order, may cause the obstacle to be removed and may recover from such person the cost of removal thereof and such person shall be liable, under the written order of a Tahsildar stating the facts and circumstances of the case, to a penalty which may extend to ten thousand rupees].

**Section 134 - Execution of bond for abstaining from repetition of certain acts-**

Any person who encroaches upon or causes any obstruction under Section 131, 132 or 133 may be required by the Tahsildar to execute a personal bond for such sum not exceeding five hundred rupees, as he may deem fit, for abstaining from repetition of such act.

**Section 135 - Acquisition of land for road, paths, etc.-**

(1) If, on the application of the villagers or otherwise, the Collector is, after enquiry satisfied that it is expedient to acquire any land for the purpose of providing a road not exceeding ten feet in width cart track or path for the use of the village community in such village he may call upon the residents of the village to deposit the amount of compensation, payable in respect of such land under sub-section (3) within a specified period. On such deposit being made the Collector may, by order published in the

<sup>84</sup> Substituted by M.P. Act No. 15 of 1980 (w.e.f. 24-10-1980).

<sup>85</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “one thousand”.

<sup>86</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] .

prescribed manner, acquire such land and upon the making of such order, such land shall vest absolutely in the State Government.

(2) Any person claiming any interest in any such land may within period of one year from the date of vesting under sub-section (1) make an application to the Collector for compensation in respect of his interest.

(3) The compensation payable in respect of such land shall be fifteen times the land revenue assessed or assessable thereon.

**Section 136 - Power to exempt from operation of this Chapter-**

The State Government may, by notification, declare that any of or all of the provisions of this Chapter shall not apply in any village or class of villages.

**CHAPTER XI**  
**REALISATION OF LAND REVENUE**

**Section 137 - Land revenue first charge on land-**

The land revenue assessed on any land shall be first charge on that land and on the rents and profits thereof.

**Section 138 - Responsibility for payment of land revenue-**

(1) The following person shall be primarily liable for the payment of the land revenue assessed on a holding--

- (a) in a bhumiswami's holding the bhumiswami;
- (b) in a holding consisting of land leased by the State Government the lessee thereof.

(2) When there are more than one bhumiswami or lessee in a holding, all such bhumiswamis or lessees, as the case may be, shall be jointly and severally liable to the payment of the land revenue on such holding.

**Section 139 - Land revenue recoverable from any person, in possession-**

In case of default by any person who is primarily liable under Section 138, the land revenue, including arrears, shall be recoverable from any person in possession of the land :

Provided that such person shall be entitled to credit for the amount recovered from him in account with the person who is primarily liable.

**Section 140 - Dates on which land revenue falls due and is payable-**

(1) The land revenue payable on account of a revenue year shall fall due on the first day of that year.

(2) The State Government may make rules providing for the payment of land revenue in instalments and on dates (hereinafter referred to as prescribed dates) subsequent to the first day of the revenue year, and such rules may prescribe the persons to whom and the places where at such instalments shall be paid.

(3) The payment of land revenue to the person prescribed under sub-section (2) may be made in cash or may, at the cost of the remitter, be remitted by money order.

(4) Any period elapsing between the first day of the revenue year and any date fixed for the payment of land revenue by such rules shall be deemed to be a period of grace, and shall not affect the provisions of sub-section (1).

**Section 141 - Definitions of "arrear" and "defaulter"-**

Any land revenue due and not paid on or before the prescribed date becomes therefrom an arrear, and the persons responsible for it, whether under the provisions of Section 138 or Section 139 become defaulters.

**Section 142 - Patel, Patwari, Gram Sabha or Gram Panchayat bound to give receipt-**

(1) Where a Patel, Patwari, Gram Sabha or Gram Panchayat receives a payment from any person on account of land revenue or on account of any sum of money recoverable as an arrear of land revenue he/it shall grant a receipt for such sum in the prescribed form.

(2) If any Patel, Patwari, Gram Sabha or Gram Panchayat fails to give a receipt as required by sub-section (1) such Patel, Patwari or in the case of Gram Sabha or Gram Panchayat the persons responsible for passing such receipt on behalf of such Gram Sabha or Gram Panchayat as the case may be, shall, on application of the payer, be liable by an order of the Tahsildar to pay a penalty not exceeding double the amount paid.

**Section 143 - Penalty for default of payment of land revenue-**

If any instalment of land revenue or any part thereof is not paid within [ten]<sup>87</sup> month after the prescribed date the Sub-Divisional Officer may in the case of a wilful defaulter, impose penalty not exceeding ten per cent of the amount not so paid :

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<sup>87</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "ten".

Provided that no such penalty shall be imposed for the non-payment of any instalment, the payment of which has been suspended by the order of Government, in respect of the period during which the payment remained suspended.

**Section 144 - Remission or suspension of land revenue on failure of crops-**

(1) The State Government may grant remission or suspension of land revenue in years in which crops have failed in any area or in which crops could not be grown in any area in consequence of any order made under any law by a competent authority, and such remission or suspension shall be determined in accordance with rules made under this Code.

(2) No appeal or revision shall lie against any order passed by a Revenue Officer under such rules and no suit shall lie in a Civil Court to contest any such order.

**Section 145 - Certified account to be evidence as to arrear and defaulter-**

(1) A statement of account, certified by the Collector or by the Tahsildar shall, for the purpose of this Chapter, be presumed to be correct statement of the arrears payable to Government or its amount, and of the person who is the defaulter, until the contrary is proved.

(2) No notice to defaulter shall be necessary before drawing up the statement referred to in sub-section (1).

**Section 146 - Notice of demand-**

A Tahsildar or Naib-Tahsildar may cause a notice of demand to be served on any defaulter before the issue of any process under Section 147 for the recovery of an arrear.

**Section 147 - Process for recovery of arrear-**

<sup>88</sup>[An arrear of land revenue payable to Government or Gram Sabha] may be recovered by a Tahsildar by any one or more of the following processes :--

- (a) by attachment and sale of movable property;
- (b) by attachment and sale of the holding on which arrear is due and where such holding consist of more than one survey number or plot number by sale of one or more of such survey numbers, or plot numbers as may be considered necessary to recover the arrears :

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<sup>88</sup> Substituted by M.P. Act No. 19 of 2001 (w.e.f. 26-9-2001), for the words "An arrear of land revenue payable to Government".

<sup>89</sup>[Provided that no holding shall be sold for the recovery of any dues of a co-operative society without first exhausting the procedure prescribed in Section 154-A.]

<sup>90</sup>[(bb) by attachment of holding on which arrear is due and letting the same under Section 154-A;

(bbb) by attachment of any other holding belonging to the defaulter which is used for the purposes of agriculture and letting the same under Section 154-A;]

(c) by attachment and sale of any other immovable property belonging to the defaulter :--

Provided that the process specified in clauses (a) and (c) shall not permit the attachment and sale of the following, namely :--

(i) the necessary wearing apparel, cooking vessels, beds and bedding of the defaulter, his wife and children, and such personal ornaments, as, in accordance with the religious usage, cannot be parted with by any woman;

(ii) tools of artisans and, if the defaulter is an agriculturist, his implements of husbandry, except an implement driven by mechanical power and such cattle and seed as may, in the opinion of the Tahsildar, be necessary to enable him to earn his livelihood as such;

(iii) articles set aside exclusively for the use of religious endowments; (iv) house and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for the enjoyment) belonging to an agriculturist and occupied by him :

<sup>3</sup>[Provided further that the process specified in clause (b) shall not permit attachment and sale of holding where the defaulter holds,--

(i) six hectares or less than six hectares of land in the Scheduled Area; or

(ii) four hectares or less than four hectares of land in other areas. Explanation.--

For the purpose of this proviso, "Scheduled Area" means any area declared to be Scheduled Area within the State of Madhya Pradesh under paragraph 6 of the Fifth Schedule to the Constitution of India.]

#### **Section 148 - Costs recoverable as part of arrear-**

<sup>89</sup> Inserted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

<sup>90</sup> Inserted by M.P. Act No. 1 of 1971.

The cost of serving a notice of demand under Section 146 or of issuing and enforcing any process in Section 147 shall be recoverable as part of the arrear in respect of which the notice was served or the process was issued.

**Section 149 - Enforcement of processes in other districts-**

The processes specified in clauses (a) and (c) of Section 147 may be enforced either in the district in which the default has been made or in any other district.

**Section 150 - Payment under protest and suit for recovery-**

(1) If proceedings are taken under this Chapter against any person for the recovery of an arrear of land revenue, he may, at any time before the property is knocked down at a sale, pay the amount claimed and may, at the same time, deliver a protest signed by himself or by his authorised agent to the Revenue Officer taking such proceedings, and thereupon they shall be stayed.

(2) Any person complying with the provisions of sub-section (1) may, notwithstanding anything contained in Section 145, apply to the Sub-Divisional Officer that nothing was due or that the amount due was less than the amount for the recovery of which proceedings were taken and the Sub-Divisional Officer shall decide the objection so raised.

(3) No appeal shall lie against the order of the Sub-Divisional Officer passed under sub-section (2), but the person concerned may institute a civil suit for the recovery of the sum or part thereof paid under protest.

**Section 151 - Application of proceeds of sale-**

(1) The proceeds of every sale under this Chapter shall be applied, firstly, in satisfaction of the arrears on account of which the sale was held and of the expenses of such sale, secondly, to the payment of any arrears of cesses due by the defaulter under any law for the time being in force in the region concerned, thirdly, to the payment of any other arrears payable to the State Government by the defaulter, and fourthly to the payment of any arrears due by the defaulter to a Co-operative Society, and the surplus, if any, shall then be payable to him, or where there are more defaulters than one, to such defaulters according to their respective shares in the property sold :

Provided that the surplus shall not be paid to the defaulter or defaulters until after the expiry of two months from the date of the sale in the case of movable property from the date of the confirmation of sale in the case of immovable property.

(2) Notwithstanding anything in sub-section (1), the proceeds of sale under clause (c) of Section 147 shall be applied first to the payment of arrears of land revenue payable by the defaulter for the immovable property sold up to the date of the sale, and the surplus, if any, shall be applied in accordance with sub-section (1).

**Section 152 - Land sold for arrears to be free from encumbrances-**

(1) Unless the Sub-Divisional Officer in ordering the sale otherwise directs, purchaser of the land sold for arrears of land revenue due in respect thereof, shall acquire it free of all encumbrances imposed on it, and all grants and contracts made in respect of it, by any person other than the purchaser.

(2) Any transfer, grant or contract in respect of trees or the produce of trees which are or at any time have been the property of the bhumiswami of the land in which they stand, shall be deemed to be a grant or contract made in respect of such land within the meaning of sub-section (1).

**Section 153 - Purchaser's title-**

Where immovable property is sold under the provisions of this Chapter and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

**Section 154 - Purchaser not liable for land revenue due prior to sale-**

Notwithstanding anything in Section 138, or Section 139, the person named in the certificate of purchase shall not be liable for land revenue payable in respect of the land for any period previous to the date of the sale.

**Section 154A - Powers of the Tahsildar to let out the holding in respect of which arrear is due or any other holding of the defaulter-**

<sup>91</sup>[<sup>92</sup>](1) Where the arrear of land revenue is due in respect of a holding or where any money is recoverable in the same manner as an arrear of land revenue under Section 155, the Tahsildar may, notwithstanding anything contained in this Code, after attachment of holding under clause (b) for the recovery of dues of a Cooperative Society/or clause (bb) or clause (bbb) of Section 147 as the case may be, let out the holding on which arrear is due or any other holding belonging to the defaulter which is used for the purpose of agriculture to any person other than the defaulter for a

<sup>91</sup> Substituted by M.P. Act No. 1 of 1971.

<sup>92</sup> Substituted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

period not exceeding ten years commencing from the first day of agricultural year next following upon such terms and conditions as the Collector may fix :

Provided that the holding attached for the recovery of the dues of a Co-operative Society shall be let out for a period not exceeding ten years :]

<sup>93</sup>[Provided further that any land of a holding of a bhumiswami belonging to a member of a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165, shall not be let out to any person other than a member of such tribe.]

(2) Nothing in this section shall affect the liability of any person who may be liable under this Code for the payment of the arrears of land revenue or of any money recoverable in the same manner as an arrear of land revenue under Section 155.

(3) Upon the expiry of the period of lease the holding shall be restored to the person concerned free of any claim on the part of the State Government for the arrears in respect of such holding or free of any claim on the part of the State Government or any other authority whatsoever for the moneys recoverable in the same manner as an arrear of land revenue under Section 155 for the satisfaction whereof the same was let out under sub-section (1) :]

<sup>2</sup>[Provided that nothing in this sub-section shall apply to the holding attached and let out for the recovery of the dues of a Co-operative Society where the dues for the satisfaction were of the same was let out under sub-section (1) are not fully satisfied on the expiry of the period of lease.]

### **Section 155 - Moneys recoverable as an arrear of land revenue-**

The following moneys may be recovered, as far as may be, under the provisions of this Chapter in the same manner as an arrear of land revenue :--

(a) except such charges as are included in the land revenue under sub-section (2) of Section 58, all rents, royalties, water rates, cesses, fees, charges, premia, penalties, fines and cost payable or leviable under this Code or any other enactment for the time being in force;

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<sup>93</sup> Inserted by M.P. Act No. 1 of 1998 (w.e.f. 5-1-1998).

(b) all moneys falling due to the State Government under any grant, lease or contract which provides that they shall be recoverable in the same manner as an arrear of land revenue;

<sup>94</sup>[(bb) all moneys guaranteed by the State Government to the extent of amount guaranteed under a contract of guarantee which provides that they shall be recoverable in the same manner as an arrear of land revenue;]

(c) all sums declared by this Code, or any other enactment for the time being in force to be recoverable in the same manner as an arrear of land revenue; and

(d) any sum ordered by a liquidator appointed under any law relating to Co-operative Societies in force for the time being in any region of the State to be recovered as a contribution to the assets of a society or as the cost of liquidation :

Provided that no action shall be taken on application for recovery of a sum specified in clause (d), unless such application is accompanied by a certificate signed by the Registrar appointed under such law that the sum should be recovered as an arrear of land revenue;

<sup>95</sup>[(e) all moneys becoming payable to the Madhya Pradesh State Agro Industries Development Corporation Limited--

(i) on account of penalty, cost of agricultural implements or other materials sold by the Corporation to agriculturists for the purpose of agriculture or improvement of land or otherwise, under any agreement of sale of such implements or materials by the said Corporation;

(ii) in repayment of any loan advanced by the said Corporation or of any amount due to the said Corporation under any lease, contract, or agreement with or any other dealing of the said Corporation :

Provided that no action shall be taken on application for recovery of a sum specified in this clause, unless such application is accompanied by a certificate signed by the Managing Director of the said Corporation that the sum should be recovered as an arrear of land revenue;]

<sup>96</sup>[(f) all moneys becoming payable to the Madhya Pradesh Laghu Udyog Nigam Limited and the Madhya Pradesh Audyogik Vikas Nigam Limited--

<sup>94</sup> Inserted by M.P. Act No. 9 of 1970 (w.e.f. 3-12-1969).

<sup>95</sup> Substituted by M.P. Act No. 30 of 1973 (w.e.f. 1-6-1973).

<sup>96</sup> Inserted by M.P. Act No. 16 of 1979 (w.e.f. 21-5-1979).

(i) on account of service charge, penalty, interest, cost of machinery or other materials sold by the said Nigams to entrepreneurs for the purpose of establishing, expanding or running an industry or for any other purpose ancillary to an industry under any agreement of sale on hire purchase or otherwise of such machinery or materials by the said Nigams;

(ii) on account of rent or cost of building hired out or sold, as the case may be, by the said Nigams under any lease, contract or agreement;

(iii) in repayment of any loan advanced by the said Nigams, or of any amount due to the said Nigams under any lease, contract Or agreement with or any other dealing of the said Nigams :

Provided that no action shall be taken on application for recovery of a sum specified in this clause unless such application is accompanied by a certificate signed by the Managing Director of the said Nigam that the said sum should be recovered as an arrear of land revenue;

(g) all moneys becoming payable to the Madhya Pradesh Lift Irrigation Corporation Limited on account of--

(i) construction charges of the tube-wells;

(ii) water rates for the water supplied for the purpose of irrigation from any Lift Irrigation Schemes;

(iii) any sum due to the said Corporation under any lease, agreement or contract executed with the said Corporation : Provided that no action shall be taken on application for recovery of a sum specified in this clause unless such application is accompanied by a certificate signed by the Managing Director of the said corporation that the said sum should be recovered as an arrear of land revenue.]

#### **Section 156 - Recovery of moneys from surety-**

Every person who may have become a surety under any of the provisions of this Code or under any other enactment or any grant, lease or contract whereunder the sum secured is recoverable from the principal as an arrear of land revenue shall, on failure to pay the amount or any portion thereof which he may have become liable to pay under the terms of his security bond, be liable to be proceeded against under the provisions of this Code in the same manner as for an arrear of land revenue.

**CHAPTER XII**  
**TENURE-HOLDERS**

**Section 157 - Class of tenure-**

There shall be only one class of tenure-holders of land held from the State to be known as bhumiswami.

**Section 158 – Bhumiswami-**

<sup>97</sup>[(1)] Every person who at the time of coming into force of this Code, belongs to any of the following classes shall be called a bhumiswami and shall have all the rights and be subject to all the liabilities conferred or imposed upon a bhumiswami by or under this Code, namely :--

- (a) every person in respect of land held by him in the Mahakoshal region in bhumiswami or bhumidhari rights in accordance with the provisions of the Madhya Pradesh Land Revenue Code, 1954 (II of 1955);
- (b) every person in respect of land held by him in the Madhya Bharat region as a Pakka tenant or as a Muafidar, Inamdar or Concessional holder, as defined in the Madhya Bharat Land Revenue and Tenancy Act, Samvat, 2007 (66 of 1950);
- (c) every person in respect of land held by him in the Bhopal region as an occupant as defined in the Bhopal State Land Revenue Act, 1932 (IV of 1932);
- (d) (i) every person in respect of land held by him in the Vindhya Pradesh region as a pachapan paintalis tenant, pattedar tenant, a grove holder or as a holder of tank as defined in the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (III of 1955);  
(ii) every person in respect of land (other than land which is a grover or tank or which has been acquired or which is required for Government or public purposes) held by him in the Vindhya Pradesh region as a gair haqdar tenant and in respect of which he is entitled to a patta in accordance with the provisions of sub-section (4) of Section 57 of the Rewa State Land Revenue and Tenancy Code, 1935;  
(iii) every person in respect of land Held by him as a tenant in the Vindhya Pradesh region and in respect of which he is entitled to a patta in accordance with the provisions of sub-sections (2) and (3) of Section 151 of the Vindhya Pradesh Land

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<sup>97</sup> Re-numbered by M.P. Act No. 8 of 1979 (w.e.f. 2-10-1959).

Revenue and Tenancy Act, 1953 (III of 1955), but has omitted to obtain such patta before the coming into force of this Code,

(e) every person in respect of land held by him in Sironj region as a khatedar tenant or as a grove holder as defined in the Rajasthan Tenancy Act, 1955 (3 of 1955).

<sup>98</sup>[(2) A Ruler of an Indian State forming part of the State of Madhya Pradesh who, at the time of coming into force of this Code, was holding land or was entitled to hold land as such Ruler by virtue of the covenant or agreement entered into by him before the commencement of the Constitution, shall, as from the date of coming into force of this Code, be a bhumiswami of such land under the Code and shall be subject to all the rights and liabilities conferred and imposed upon a bhumiswami by or under this Code.

<sup>99</sup>[(3) Every person--

(i) who is holding land in bhumiswami right by virtue of a lease granted to him by the State Government or the Collector or the Allotment Officer on or before the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1992 from the date of such commencement, and

(ii) to whom land is allotted in bhumiswami right by the State Government or the Collector or the Allotment Officer after the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1992 from the date of such allotment, shall be deemed to be a bhumiswami in respect of such land and shall be subject to all the rights and liabilities conferred and imposed upon a bhumiswami by or under this Code :

Provided that no such person shall transfer such land within a period of ten years from the date of lease or allotment.

*Explanation.--*In this section, the expression "Ruler" and "Indian State" shall have the same meanings as are assigned to these expressions in clauses (22) and (15) respectively by Article 366 of the Constitution of India.]

#### **Section 159 - Land revenue payable by bhumiswamis-**

Every person becoming a bhumiswami under Section 158 shall pay as land revenue--

(a) if he was paying land revenue in respect of the lands held by him--such land revenue; or

<sup>98</sup> Inserted by M.P. Act No. 8 of 1979 (w.e.f. 2-10-1959).

<sup>99</sup> Inserted by M.P. Act No. 17 of 1992 (w.e.f. 28-10-1992).

(b) if he was paying rent in respect of the lands held by him--an amount equal to such rent.

**Section 160 - Revocation of exemption from liability for land revenue-**

(1) Every Muafi or Inam land, wherever situate, which was heretofore exempted from payment of the whole or part of the land revenue by a special grant from the Government or under the provisions of any law for the time being in force or in pursuance of any other instrument shall, notwithstanding anything contained in any such grant, law or instrument be liable from the commencement of the revenue year next following the coming into force of this Code, to the payment of full land revenue assessable thereon.

(2) Where any such Muafi or Inam land is held for the maintenance or upkeep of any public, religious or charitable institution, the State Government may, on the application of such institution, in the prescribed form <sup>100</sup>[and made within such time as may be prescribed] grant to it such annuity not exceeding the amount of the exemption from land revenue enjoyed by it, as may be considered reasonable for the proper maintenance or upkeep of such institution or for the continuance of service rendered by it.

(3) The annuity granted under sub-section (2) shall be subject to such conditions as may be prescribed and may from time to time be revised or withdrawn by the State Government.

(4) Where an application is made under sub-section (2), the recovery of land revenue from the institution concerned shall be stayed until the decision of the application.

**Section 161 - Reduction of revenue during the currency of settlement-**

(1) At any time during the currency of the settlement the Collector may, in accordance with such rules as may be made in this behalf, on the application of a bhumiswami or of his own motion reduce the revenue in respect of any land on any of the following grounds, namely :--

- (i) that the land has been wholly or partially rendered unfit for cultivation in consequence of floods or other cause beyond the control of such bhumiswami;
- (ii) that any irrigation source, whether new or old, constructed and maintained at the cost of the State has fallen into disrepair and has ceased to irrigate the whole or any

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<sup>100</sup> Notification No. 1120-VII-N-1, dated 15-2-1963, Published in M.P. Rajpatra, dated 5-7-1963.

part of his holding to which an enhanced rate of revenue has been applied on account of irrigation;

(iii) that any private irrigation source has for any cause beyond the control of bhumiswami, ceased to irrigate the whole or any part of the holding which has been assessed to enhanced land revenue on account of irrigation;

(iv) that the revenue payable by the bhumiswami in respect of the land is more than the revenue calculated at the rate fixed at the last settlement or under any other law for such land;

(v) that the area of the holding of such bhumiswami has decreased for any reason below the area on which the existing land revenue was assessed.

(2) Where any reduction is ordered under sub-section (1), such reduction shall take effect from the commencement of the revenue year next following the date of the order.

(3) If the cause for which revenue has been reduced under sub-section (1) subsequently ceases or is removed, the Collector may, after giving the bhumiswami a reasonable opportunity of being heard, make an order directing that such reduction shall cease to be in force and on such order being passed, the reduction shall stand revoked from the commencement of the revenue year next following the date of the order.

### **Section 162 - [Omitted]**

<sup>101</sup>[x x x]

### **Section 163 - Pending applications for conferral of bhumiswami rights-**

All applications by bhumidharis for conferral of bhumiswami rights pending before any Revenue Court in the Mahakoshal region immediately before the coming into force of this Code whether in appeal, revision, review or otherwise, shall be filed and the amount, if any, deposited by such bhumidharis shall be refunded to them.

### **Section 164 – Devolution-**

<sup>102</sup>[ Subject to his personal law the interest of bhumiswami shall, on his death, pass by inheritance, survivorship or bequest, as the case may be.]

### **Section 165 - Rights of transfer-**

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<sup>101</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>102</sup> Substituted by M.P. Act No. 38 of 1961 (w.e.f. 8-12-1961).

(1) Subject to the other provisions of this section and the provision of Section 168 a bhumiswami may transfer <sup>103</sup>[x x x] any interest in his land.

(2) Notwithstanding anything contained in sub-section (1)--

(a) no mortgage of any land by a bhumiswami shall hereafter be valid unless atleast five acres of irrigated or ten acres of unirrigated land is left with him free from any encumbrance or charge;

(b) subject to the provisions of clause (a), no usufructuary mortgage of any land by a bhumiswami shall hereafter be valid if it is for a period exceeding six years and unless it is a condition of themortgage that on the expiry of the period mentioned in the mortgage deed, the mortgage shall be deemed, without any payment whatsoever by the bhumiswami to have been redeemed in full and the mortgagee shall forthwith re-deliver possession of the mortgaged land to the bhumiswami;

(c) if any mortgagee in possession of the land mortgaged does not hand over possession of land after the expiry of the period of the mortgage or six years whichever expires first the mortgagee shall be liable to ejectment by the orders of the Tahsildar as trespasser and the mortgagor shall be placed in possession of the land by the Tahsildar :

<sup>104</sup>[Provided that nothing in this sub-section shall apply in the case of a mortgage of any land held by a bhumiswami for non-agricultural purpose.]

(3) Where a bhumiswami effects a mortgage other than a usufructuary mortgage of his land in pursuance of the provisions of sub-section (2), then notwithstanding anything contained in the mortgage deed, the total amount of interest accruing under the mortgage shall not exceed half the sum of the principal amount advanced by the mortgagee.

(4) Notwithstanding anything contained in sub-section (1), no bhumiswami shall have the right to transfer any land--

(a) in favour of any person who shall as a result of the transfer become entitled to land which together with the land, if any, held by himself or by his family will in the aggregate exceed such ceiling limits as may be prescribed;

(b) <sup>105</sup>[x x x]

<sup>103</sup> Omitted by M.P. Act No. 38 of 1961 (w.e.f. 8-12-1961).

<sup>104</sup> Inserted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>105</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>106</sup>[Provided that--

- (i) nothing in this sub-section shall apply--
- (a) (i) in the case of transfer in favour of an institution established for a public, religious or charitable purpose or a transfer for industrial purpose or a transfer by way of mortgage;
- (ii) in the case of transfer in favour of Co-operative Society for industrial purpose or a transfer by way of mortgage subject, however, to the condition that no mortgage for agricultural purposes shall authorise sale for recovery of an advance in contravention of clause (b) of Section 147;
- (b) in the case of a transfer of land held for non-agricultural purposes] :

Provided further that the transfer of land under sub-clause (a) of clause (i) of the preceding proviso for an industrial purpose shall be subject to the following conditions, namely :--

- (i) if such land is to be diverted to a non-agricultural purpose, the permission of the Sub-Divisional Officer under Section 172 for such diversion is obtained prior to such transfer; and
- (ii) the provisions of Section 172 shall apply to such transfer with the modification that the period of three months and <sup>107</sup>[one month] mentioned in the proviso to sub-section (1) thereof shall, for the purposes of an application for such diversion, be forty-five days and <sup>108</sup>[one month] respectively.]

*Explanation.--*For the purposes of this sub-section, a person's family shall consist of the person himself, the minor children and the spouse of such person living jointly with him and if such person is a minor then his parents living jointly with him.

(5) Notwithstanding anything to the contrary in any other enactment for the time being in force, no land of a bhumiswami shall, in execution of a decree or order of a Court, be sold to any person who as a result of such sale shall become entitled to land which together with the land, if any, held by himself or by his family will in the aggregate exceed such ceiling limits as may be prescribed:

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<sup>106</sup> Substituted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

<sup>107</sup> Substituted by M.P. Act No. 19 of 2001 (w.e.f. 26-9-2001), for "six months".

<sup>108</sup> Substituted by M.P. Act No. 19 of 2001 (w.e.f. 26-9-2001), for "ninety days".

<sup>109</sup>[Provided that nothing in this sub-section shall apply in the case of a co-operative society where any land is to be sold in execution of a decree or order passed in favour of such society after exhausting the procedure prescribed in Section 154-A.]

*Explanation.--*For the purposes of this sub-section, the expression "a person's family" shall have the same meaning as assigned to it in sub-section (4).

<sup>110</sup>[(6) Notwithstanding anything contained in sub-section (1) the right of bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe by the State Government by a notification in that behalf, for the whole or part of the area to which this Code applies shall--

(i) in such areas as are predominately inhabited by aboriginal tribes and from such date as the State Government may, by notification, specify, not be transferred nor it shall be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe in the area specified in the notification;

(ii) in areas other than those specified in the notification under clause (i), not to be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe without the permission of a Revenue Officer not below the rank of Collector, given for reasons to be recorded in writing.

*Explanation.--*For the purposes of this sub-section the expression "otherwise" shall not include lease.]

<sup>111</sup>[(6-a) Notwithstanding anything contained in sub-section (1), <sup>112</sup>[the right of a bhumiswami other than a bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6), in the land excluding the agricultural land] shall not be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to aboriginal tribe without the permission of the Collector given for reasons to be recorded in writing :

Provided that every such transfer effected <sup>113</sup>[after the 9th day of June, 1980 but before the 20th April, 1981] which is not in accordance with the provisions herein

<sup>109</sup> Substituted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

<sup>110</sup> Substituted by M.P. Act No. 61 of 1976 (w.e.f. 29-11-1976).

<sup>111</sup> Inserted by Notification No. F-16-1-81-XXV, dated 15-4-1981.

<sup>112</sup> Substituted by Notification No. 37-4-VII-N-II-84, dated 4-6-1984

<sup>113</sup> Substituted by Notification dated 17-7-1981.

contained shall, unless such transfer if ratified by the Collector in accordance with the provisions hereinafter contained, be void and shall be of no effect whatsoever, notwithstanding anything contained in this Code or any other law for the time being in force.

(6-b) Notwithstanding anything contained in the Limitation Act, 1963 (No. 36 of 1963), the Collector may on his own motion at any time or on an application made in this behalf within three years of such transaction in such form as may be prescribed, make an enquiry as he may deem fit, and may, after giving a reasonable opportunity of being heard to the persons affected by the transfer, pass an order ratifying the transfer or refusing to ratify the transfer.

(6-c) The Collector shall in passing an order under sub-section (6-a) granting or refusing to grant permission or under sub-section (6-b) ratifying or refusing to ratify the transaction shall have due regard to the following:--

- (i) whether or not the person to whom land is being transferred is a resident of the Scheduled Area;
- (ii) the purpose to which land shall be or is likely to be used after the transfer;
- (iii) whether the transfer serves, or is likely to serve or prejudice the social, cultural and economic interest of the residents of the Scheduled Area;
- (iv) whether the consideration paid is adequate;
- (v) whether the transaction is spurious or benami; and
- (vi) such other matters as may be prescribed.

The decision of the Collector granting or refusing to grant the permission under sub-section (6-a) or ratifying or refusing to ratify the transaction of transfer under sub-section (6-b), shall be final, notwithstanding anything to the contrary contained in this Code.

*Explanation.--*For the purpose of this sub-section,--

- (a) "Scheduled Area" means any area declared to be a Scheduled Area within the State of Madhya Pradesh under paragraph 6 of the Fifth Schedule to the Constitution of India;
- (b) the burden of proving that the transfer was not spurious, fictitious or benami shall lie on the person who claims such transfer to be valid.

(6-d) On refusal to grant the permission under sub-section (6-a) or ratification under sub-section (6-b), the transferee, if in possession of the land shall vacate the possession forthwith and restore the possession thereof to the original bhumiswami.

(6-e) If the bhumiswami for any reason whatsoever fails or is unable to take possession of the land of which the right of possession stands restored to him under sub-section (6-d), the Collector shall cause the possession of land to be taken and cause the land to be managed on behalf of the bhumiswami subject to such terms and conditions as may be prescribed till such time as the original bhumiswami enters upon his land :

Provided that if any resistance is offered in restoring possession, the Collector shall use or cause to be used such force as may be necessary.

<sup>114</sup>[(6-ee) The agricultural land transferred by the bhumiswami other than a bhumiswami belonging to an aboriginal tribe declared under sub-section (6) to a person not belonging to an aboriginal tribe shall not be diverted for any other purpose before the expiry of period of ten years from the date of transfer/]

(6-f) The provisions of sub-section (6-a) to <sup>115</sup>[(6-ee)] shall have effect, notwithstanding anything to the contrary contained in this Code or any other law for the time being in force.]

(7) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force--

<sup>116</sup>[(a) where the area of land comprised in a holding or if there be more than one holding the aggregate area of all holdings of a bhumiswami is in excess of five acres of irrigated or ten acres of unirrigated land, then only so much area of land in his holding or holdings shall be liable to attachment or sale in execution of any decree or order as is in excess of five acres of irrigated or ten acres of unirrigated land;]

(b) no land comprised in a holding of a bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) shall be liable to be attached or sold in execution of any decree or order;

(c) no receiver shall be appointed to manage the land of a bhumiswami under Section 51 of the Code of Civil Procedure, 1908 (V of 1908) nor shall any such land vest in

<sup>114</sup> Inserted by Notification No. 37-4-VII-N-II-84, dated 4-6-1984.

<sup>115</sup> Substituted by *ibid.*

<sup>116</sup> Substituted by M.P. Act No. 37 of 1973.

the Court or any receiver under the Provincial Insolvency Act, 1920 (V of 1920), contrary to the provisions of clause (a) or clause (b) :

Provided that nothing in this sub-section shall apply where a charge has been created on the land by a mortgage.

<sup>117</sup>[(7-a) Notwithstanding anything contained in sub-section (1), no bhumiswami specified in Section 33 of the Madhya Pradesh Bhoodan Yagna Adhiniyam, 1968 (No. 28 of 1968) shall have the right to transfer any interest in his land specified in the said section without the permission of the <sup>118</sup>[Collector].]

<sup>119</sup>[(7-b) Notwithstanding anything contained in sub-section (1), <sup>120</sup>[a person who holds land from, the State Government or a person who holds land in bhumiswami rights under sub-section (3) of Section 158] or whom right to occupy land is granted by the State Government or the Collector as a Government lessee and who subsequently becomes bhumiswami of such land, shall not transfer such land without the permission of a Revenue Officer, not below the rank of a Collector, given for reasons to be recorded in writing.]

(8) Nothing in this section shall prevent a bhumiswami from transferring any right in his land to secure payment of, or shall affect the right of the State Government to sell such right for the recovery of an advance made to him under the Land Improvement Loans Act, 1883 (XIX of 1883) or the Agriculturist Loans Act, 1884 (XII of 1884).

<sup>121</sup>[(9) Nothing in this section shall--

(i) prevent a bhumiswami from transferring any right in his land by way of mortgage to secure payment of an advance made to him by co-operative society subject to the condition that the land shall not be sold to secure recovery, without exhausting the procedure prescribed in Section 154-A; or

(ii) affect the right of any such society to secure recovery or an advance made to him, in accordance with the provisions of Section 154-A.]

<sup>122</sup>[(9-a) Nothing in this section shall prevent a bhumiswami who is a displaced person from transferring any right in his land to secure payment of an advance made

<sup>117</sup> Inserted by M.P. 15 of 1975.

<sup>118</sup> Substituted by M.P. Act No. 17 of 1992 (w.e.f. 28-10-1992).

<sup>119</sup> Inserted by M.P. Act No. 15 of 1980.

<sup>120</sup> Inserted by M.P. Act No. 38 of 1961 (w.e.f. 8-12-1961).

<sup>121</sup> Substituted by M.P. Act No. 2 of 1990 (w.e.f. 6-2-1990).

<sup>122</sup> Inserted by M.P. Act No. 38 of 1961 (w.e.f. 8-12-1961).

to him by the Dandakaranya Development Authority or shall affect the right of that Authority to sell such right for the recovery of such advance.

*Explanation.--In this sub-section "displaced person" means a person displaced from the territories now comprised in East Pakistan who is resettled in Madhya Pradesh on or after the 1st day of April, 1957, under any scheme of resettlement of displaced persons sanctioned by the Central Government or the State Government.]*

<sup>123</sup>[(9-b) Nothing in this section shall prevent a bhumiswami from transferring any right in his land to secure payment of an advance made to him by a Commercial Bank for purpose of agriculture or improvement of holding or shall affect the right of any such Bank to sell such right for the recovery of such advance.]

(10) Notwithstanding anything contained in the Indian Registration Act, 1908 (XVI of 1908), no officer empowered to register documents thereunder shall admit to registration any document which purports to contravene the provisions of this section.

(11) Nothing in this section shall--

(a) invalidate any transfer which was validly made; or

(b) validate any transfer which was invalidly made;

before the coming into force of this Code.

*Explanation.--For purposes of this section one acre of irrigated land shall be deemed to be equal to two acres of unirrigated land and vice-versa.*

#### **Section 166 - Forfeiture in cases of certain transfers-**

(1) If a transfer of land is made in contravention of the provisions of clause (a) of sub-section (4) of Section 165 so much of the land as is in excess of the prescribed ceiling limit with the transferee shall, after its selection by the transferee within the prescribed period and demarcation by a Sub-Divisional Officer in accordance with such rules as may be made in that behalf, stand forfeited to the State Government:

Provided that if the transferee fails to make the selection within the prescribed period such selection shall be made by the Sub-Divisional Officer.

<sup>124</sup>[(2) x x x]

(3) The Sub-Divisional Officer shall in the cases referred to in sub-sections (1) and (2) fix the land revenue in the prescribed manner in respect of the land left with the transferee.

<sup>123</sup> Inserted by M.P. Act No. 9 of 1970 (w.e.f. 3-12-1969).

<sup>124</sup> Omitted by M.P. Act No. 25 of 1964.

### **Section 167 - Exchange of land-**

Subject to the provisions of Section 165 bhumiswami may exchange by mutual agreement the whole or any part of their holding for purposes of consolidation of holdings or securing greater convenience in cultivation.

### **Section 168 – Leases-**

(1) <sup>125</sup>[Except in cases provided for in sub-section (2), no bhumiswami shall lease any land comprised in his holding for more than one year during any consecutive period of three years :]

<sup>126</sup>[Provided that nothing in this sub-section shall apply to the lease of any land--

- (i) made by bhumiswami who is a member of a registered Cooperative Farming Society to such Society;
- (ii) held by a bhumiswami for non-agricultural purposes.]

*Explanation.--*For the purposes of this section--

(a) "lease" means a transfer of a right to enjoy any land, made for a certain time, expressed or implied in consideration of a price paid or promised or of money or any other thing of value to be given periodically to the transferor by the transferee who accepts the transfer on such terms,

(b) any arrangement whereby a person cultivates any land of a bhumiswami with bullocks belonging to or procured by such person (lessee) and on condition of his giving a specified-share of the produce of the land to the bhumiswami shall be deemed to be a lease.

(c) the grant of a right merely to cut grass or to graze cattle or to grow 'signhara' or to propagate or collect lac, pluck or collect tendu leaves shall not be deemed to be a lease of the land.

(2) A bhumiswami who is--

- (i) a widow; or
- (ii) an unmarried woman; or
- (iii) a married woman who has been deserted by her husband; or
- (iv) a minor; or
- (v) a person subject to physical or mental disability due to old age or otherwise; or

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<sup>125</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>126</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

- (vi) a person detained or imprisoned under any process of law; or
  - (vii) a person in the service of Armed Forces of the Union; or
  - (viii) a public, charitable or religious institution; or
  - (ix) a local authority or a Co-operative Society;
- may lease the whole or any part of his holding :

Provided that where a holding is held jointly by more than one person the provisions of this sub-section shall not be applicable unless all such persons belong to any one or more of the classes aforesaid :

Provided further that any lease made in pursuance of this sub-section shall cease to be in force after one year of the determination of the disability by death or otherwise.

<sup>127</sup>[(3) x x x]

(4) Where a lease is granted in pursuance of <sup>1</sup>[sub-section (2)] the lessee shall hold the land on such terms and conditions as may be agreed upon between him and the bhumiswami and may be ejected by an order of a Sub-Divisional Officer on the application of the bhumiswami on the ground of contravention of any material term or condition of the lease or on the lease ceasing to be in force.

(5) Where on the coming into force of this Code any land is held on lease from a bhumiswami who belongs to any one or more of the classes mentioned in sub-section (2), such lease shall, on the coming into force of this Code, be deemed to be a lease granted in pursuance of sub-section (2).

#### Section 169 - Unauthorised lease etc.-

<sup>128</sup>[ If a bhumiswami--

(i) leases out for any period any land comprised in his holding in contravention of Section 168; or

(ii) by an arrangement which is not a lease under sub-section (1) of Section 168 allows any person to cultivate any land comprised in his holding otherwise than as his hired labour and under that arrangement such person is allowed to be in possession of such land for a period exceeding two years without being evicted in accordance with Section 250;

the rights of an occupancy tenant shall,--

(a) in the case of (i) above, thereupon accrue to the lessee in such land; and

<sup>127</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>128</sup> Substituted by M.P. Act No. 15 of 1980 (w.e.f. 24-10-1980).

(b) in the case of (ii) above, on the expiration of a period of two years from the date of possession, accrue to such person in that land :

Provided that nothing in this section shall apply to a land comprised in the holding of a bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 and which is leased out by him or in respect of which he has made an arrangement as aforesaid, as the case may be.]

#### Section 170 - Avoidance of transfer in contravention of Section 165-

<sup>129</sup>[(1) Where possession is transferred by a bhumiswami in pursuance of a transfer which is in contravention of sub-section (6) of Section 165 any person who, if he survived the bhumiswami without nearer heirs would inherit the holding, may,--

(i) till the 31st December, 1978, in the case of transfer of possession prior to the 1st July 1976; and

(ii) within <sup>130</sup>[twelve years] of such transfer of possession, in subsequent cases, apply to the Sub-Divisional Officer to be placed in possession subject so far as the Sub-Divisional Officer may, in accordance with the rules made in this behalf determine to his acceptance of the liabilities for arrears of land revenue or any other dues which form a charge on the holding, and the Sub-Divisional Officer shall dispose of such application in accordance with the procedure as may be prescribed.]

(2) Where any land of a bhumiswami is sold in contravention of sub-section (3) of Section 165, the Court by which such sale is ordered shall, on the application of the bhumiswami or any person who, if he survived the bhumiswami without nearer heirs would inherit the holding made within two years of such sale, set aside the sale and place the applicant in possession of the land subject to his accepting the liability for arrears of land revenue or any other dues which form a charge on the land.

#### Section 170A - Certain transfers to be set aside-

<sup>131</sup>[(1) Notwithstanding anything contained in the Limitation Act, 1963 (No. 36 of 1963), the Sub-Divisional Officer may, on his own motion or on an application made by a transferer of agricultural land belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 on or before the 31st December, 1978, enquire into a transfer effected by way of sale, or in pursuance of a

<sup>129</sup> Substituted by M.P. Act No. 61 of 1976 (w.e.f. 29-11-1976).

<sup>130</sup> Substituted by M.P. Act No. 1 of 1998 (w.e.f. 5-1-1998).

<sup>131</sup> Inserted by M.P. Act No. 61 of 1976 (w.e.f. 29-11-1976).

decree of a Court of such land to a person not belonging to such tribe or transfer effected by way of accrual of right of occupancy tenant under Section 169 or of bhumiswami under sub-section (2-A) of Section 190 at any time during the period commencing on the 2nd October, 1959 and ending on the date of commencement of the Madhya Pradesh Land Revenue Code (Third Amendment) Act, 1976 to satisfy himself as to the bona fide nature of such transfer.

(2) If the Sub-Divisional Officer on an enquiry and after giving a reasonable opportunity to the persons owning any interest in such land, is satisfied that such transfer was not bona fide, he may notwithstanding anything contained in this Code or any other enactment for the time being in force,-

<sup>132</sup>[(a) subject to the provisions of clause (b), set aside such transfer if made by a holder belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 and restore the land to the transfer; or]

<sup>133</sup>[(a) subject to the provisions of clause (b), set aside such transfer if made by a holder belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 and <sup>134</sup>[restore the land to the transferor by putting him in possession of the land forthwith]; or

(b) where such land has been diverted for non-agricultural purposes, he shall fix the price of such land which it would have fetched at the time of transfer and order the transferee to pay the difference, if any, between the price so fixed and the price actually paid to the transferer within a period of six months.]

**Section 170B - Reversion of land of members of aboriginal tribe which was transferred by fraud-**

<sup>135</sup>[(1) Every person who on the date of commencement of the Madhya Pradesh Land Revenue Code (Amendment), 1980 (hereinafter referred to as the Amendment Act of 1980) is in possession of agricultural land which belonged to a member of a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 between the period commencing on the 2nd October, 1959 and ending on the date of

<sup>132</sup> This clause of sub-section (2) of Sec. 170-A is applicable to Non-Scheduled Areas of the State.

<sup>133</sup> This clause of sub-section (2) of Section 170-A is applicable to Scheduled Areas of the State.

<sup>134</sup> Substituted by Notification F. No. 1-70-VII-N-II-83, dated 5-1-1984.

<sup>135</sup> Inserted by M.P. Act No. 15 of 1980 (w.e.f. 24-10-1980).

the commencement of Amendment Act, 1980 shall, within <sup>136</sup>[two years] of such commencement, notify to the Sub-Divisional Officer in such form and in such manner as may be prescribed, all the information as to how he has come in possession of such land.

(2) If any person fails to notify the information as required by sub-section (1) within the period specified therein it shall be presumed that such person has been in possession of the agricultural land without any lawful authority and the agricultural land shall, on the expiration of the period aforesaid revert to the person to whom it originally belonged and if that person be dead, to his legal heirs.

<sup>137</sup>[(2-A) If a Gram Sabha in the Scheduled area referred to in clause (1) of Article 244 of the Constitution finds that any person, other than a member of an aboriginal tribe, is in possession of any land of a bhumiswami belonging to an aboriginal tribe, without any lawful authority, it shall restore the possession of such land to that person to whom it originally belonged and if that person is dead to his legal heirs:

Provided that if the Gram Sabha fails to restore the possession of such land, it shall refer the matter to the Sub-Divisional Officer, who shall restore the possession of such land within three months from the date of receipt of the reference.]

(3) On receipt of the information under sub-section (1), the Sub-Divisional Officer shall make such enquiry as may be deemed necessary about all such transactions of transfer and if he finds that the member of aboriginal tribe has been defrauded of his legitimate right he shall declare the transaction null and void and pass an order revesting the agricultural land in the transferor and, if he is dead, in his legal heirs.]

<sup>138</sup>(3) On receipt of the information under sub-section (1) the Sub-Divisional Officer shall make such enquiry as may be necessary about all such transactions of transfer and if he finds that the member of aboriginal tribe has been defrauded of his legitimate right he shall declare the transaction null and void and-

(a) Where no building or structure has been erected on the agricultural land prior to such finding pass an order revesting the agricultural land in the transferer and if he be dead, in his legal heirs,

<sup>136</sup> Substituted by M.P. Act No. 19 of 1982 (w.e.f. 23-10-1981).

<sup>137</sup> Inserted by M.P. Act No. 1 of 1998 (w.e.f. 5-1-1998).

<sup>138</sup> Substituted for Scheduled Areas of the State by M.P. Notification F. No. 1-70-VII-N-II-83, dated 5-1-1984.

(b) Where any building or structure has been erected on the agricultural land prior to such finding, he shall fix the price of such land in accordance with the principles laid down for fixation of price of land in the Land Acquisition Act, 1894 (No. 1 of 1894) and order the person referred to in sub-section (1) to pay to the transferor the difference, if any, between the price so fixed and the price actually paid to the transferor :

Provided that where the building or structure has been erected after the 1st day of January, 1984, the provisions of clause (b) above shall not apply:

Provided further that fixation of price under clause (b) shall be with reference to the price on the date of registration of the case before the Sub-Divisional Officer.]

**Section 170C - Advocate not to appear in proceedings under Section 170-A or 170-B without permission-**

<sup>139</sup>[Notwithstanding anything contained in the Advocates Act, 1961 (No. 25 of 1961) no Advocate shall appear before a Revenue Officer under any proceeding under Section 170-A or 170-B without the permission of such officer:

Provided that if permission is granted to one party not belonging to a member of a tribe which has been declared to be an aboriginal tribe under subsection (6) of Section 165, similar assistance shall always be provided to the other party belonging to such tribe at the cost of and through legal aid agency.]

**Section 170D - Second appeal barred-**

<sup>140</sup>[Notwithstanding anything contained in this Code, no second appeal shall lie against the orders passed on or after the 24th October, 1983 under Section 170-A and Section 170-B.]

**Section 171 - Right to make improvements-**

A bhumiswami of land held for the purpose of agriculture is entitled to make any improvement thereon for the better cultivation of the land or its more convenient use for the purpose aforesaid.

**Section 172 - Diversion of land-**

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<sup>139</sup> Provisions of this section shall apply to Scheduled Areas of the State of Madhya Pradesh only. Vide Government of Madhya Pradesh, Revenue Department's Notification F. No. 1-70-VII-N-2-83, dated the 5-1-1984, issued by the Governor of Madhya Pradesh under sub-paragraph (1) of Paragraph 5 of the Fifth Schedule to the Constitution of India, published in Madhya Pradesh Rajpatra, dated 6-1-1984 at pp. 23-29.

<sup>140</sup> Ibid.

(1) <sup>141</sup>[If a bhumiswami of land held for any purpose in-  
 (i) urban area or within a radius of five miles from the outer limits of such area;  
 (ii) a village with a population of two thousand or above according to last census; or  
 (iii) in such other areas as the State Government may, by notification, specify;  
 wishes to divert his holding or any part thereof to any other purpose except agriculture,] he shall apply for permission to the Sub-Divisional Officer who may, subject to the provisions of this section and to rules made under this Code, refuse permission or grant it on such conditions as he may think fit :

Provided that should the Sub-Divisional Officer neglect or omit for three months after the receipt of an application under sub-section (1) to make and deliver to the applicant an order of permission or refusal in respect thereof, and the applicant has by written communication called the attention of the Sub-Divisional Officer to the omission or neglect, and such omission or neglect continues for a further period of <sup>142</sup>[one month], the Sub-Divisional Officer shall be deemed to have granted the permission without any condition :

<sup>143</sup>[Provided further that if a bhumiswami of a land, which is reserved for a purpose other than agriculture in the development plan but is used for agriculture, wishes to divert his land or any part thereof to the purpose for which it is reserved in the development plan, a written information of his intention given by bhumiswami to the Sub-Divisional Officer shall be sufficient and no permission is required for such diversion:

Provided also that if a bhumiswami of a land wishes to divert his land or any part thereof which is assessed for agriculture purpose and situated in any area other than an area covered by development plan to the purpose of industry, a written information

<sup>141</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>142</sup> Substituted by M.P. Act No. 19 of 2001 (w.e.f. 26-9-2001), for the words "six months".

<sup>143</sup> Substituted by M.P. Act No. 22 of 2003 (w.e.f. 3-5-2003). Prior to substitution it read as under: "Providing further that if a Bhumiswami of land situated in urban area which is reserved for a purpose other than agriculture in the development plan but is used for Agriculture wishes to divert his land or any part thereof to the purpose for which it is reserved in the development plan, he may apply for permission to the Sub-Divisional Officer, who shall, subject to the provisions of this section grant it on such conditions as he may think fit. If the Sub-Divisional Officer neglects or omits for two months after the receipt of an application under this proviso to make and deliver to the applicant an order of permission in respect thereof and the applicant has by written communication called the attention of the Sub-Divisional Officer to the omission or neglect, and such omission or neglect continues for a further period of one month, the Sub-Divisional Officer shall be deemed to have granted the permission without any condition."

of his intention given by bhumiswami to the Sub-Divisional Officer shall be sufficient and no permission is required for such diversion.]

<sup>144</sup>[Provided also that if a competent authority undertakes the work of regularization of the illegal colony, the land of which is not diverted, then the land, subject to the provisions of development plan, shall be deemed to have been diverted and such land shall be liable for premium and revised land revenue under Section 59.

*Explanation.-*For the purpose of this section the competent authority shall have the same meaning as assigned to it in the Madhya Pradesh Nagar Palika (Registration of Coloniser. Terms and Conditions) Rules, 1998 made under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956) and the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961).]

(2) Permission to divert may be refused by the Sub-Divisional Officer only on the ground that the diversion is likely to cause a public nuisance, or the bhumiswami is unable or unwilling to comply with the conditions that may be imposed under sub-section (3).

(3) Conditions may be imposed on diversion for the following objects and no others, namely, in order to secure the public health, safety and convenience, and in the case of land which is to be used as building sites, in order to secure in addition that the dimensions, arrangement and accessibility of the sites are adequate for the health and convenience of occupiers or are suitable to the locality.

(4) If any land has been diverted without permission by the bhumiswami or by any other person with or without the consent of the bhumiswami the Sub-Divisional Officer on receiving information thereof, may impose on the person responsible for the diversion a penalty not exceeding <sup>145</sup>[twenty per centum of the market value of such diverted land] and may proceed in accordance with the provisions of sub-section (1) as if an application for permission to divert had been made.

(5) If any land has been diverted in contravention of an order passed or of a condition imposed under any of the foregoing sub-sections, the Sub-Divisional Officer may serve a notice on the person responsible for such contravention, directing him, within a reasonable period to be stated in the notice, to use the land for its original purpose or

<sup>144</sup> Inserted by M.P. Act No. 7 of 2000 (w.e.f. 15-3-2000).

<sup>145</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “ two thousand rupees”.

to observe the condition; and such notice may require such person to remove any structure, to fill up any excavation, or to take such other steps as may be required in order that the land may be used for its original purpose, or that the condition may be satisfied. The Sub-Divisional Officer may also impose on such person a penalty not exceeding <sup>146</sup> [twenty per centum of the market value of such diverted land] for such contravention, and a further penalty not exceeding <sup>147</sup> [one thousand rupees] for each day during which such contravention is persisted in.

(6) If any person served with the notice under sub-section (5) fails within the period stated in the notice to take the steps ordered by the Sub-Divisional Officer under that sub-section, the Sub-Divisional Officer may himself take such steps of cause them to be taken; and any cost incurred in so doing shall be recoverable from such person as if it were an arrear of land revenue.

<sup>148</sup>[(6-a) If any land has been diverted in contravention of sub-section

(6-ee) of Section 165, the Sub-Divisional Officer in addition to taking action laid down in sub-sections (5) and (6), shall also impose a penalty not exceeding five thousand rupees for such contravention and a further penalty not exceeding one hundred rupees for each day during which such contravention is persisted in.]

<sup>149</sup>[(7) X X X]

<sup>150</sup>[Explanation I.]- Diversion in this section means using land assessed to one purpose under Section 59 to any other purpose mentioned therein but using land for the purpose of agriculture where it is assessed with reference to any other purpose shall not be deemed to be diversion.

<sup>151</sup>[Explanation II.-For the purposes of this section the words 'development plan' shall have the same meaning as assigned to it in the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973).]

### Section 173 – Relinquishments-

<sup>146</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "two thousand rupees".

<sup>147</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "one hundred rupees".

<sup>148</sup> Inserted by Notification No. 37-4-VII-N-II-84, dated 4-6-1984, is its application to Scheduled Areas.

<sup>149</sup> Omitted by M.P. Act No. 17 of 1996 (w.e.f. 10-10-1996).

<sup>150</sup> Re-numbered by M.P. Act No. 17 of 1996 (w.e.f. 10-10-1996).

<sup>151</sup> Inserted by M.P. Act No. 17 of 1996 (w.e.f. 10-10-1996).

Subject to rules made under this Code, a bhumiswami may relinquish his rights, that is, resign them in favour of the State Government, but subject to any rights, tenures, encumbrances or equities lawfully subsisting in favour of any person, other than the State Government or the bhumiswami, by giving notice in writing to the Tahsildar not less than thirty days before the date of commencement of the agricultural year and thereupon he shall cease to be a bhumiswami from the agricultural year next following such date of such order. In case of the relinquishment of only a part of the holding the bhumiswami shall apportion the assessment of the holding in accordance with the rules made under this Code :

Provided that the relinquishment of a holding or any part of a holding, which is subject to an encumbrance or a charge, shall not be valid.

#### **Section 174 - Disposal of relinquished sub-division-**

If any sub-division of a survey number or plot number is relinquished under Section 173, the Tahsildar shall offer the rights to occupy such sub-division at such premium as he thinks fit to the bhumiswami of the other sub-divisions of the same survey number or plot number and if there be competition among such bhumiswami he shall sell such right to the highest bidder amongst them.

#### **Section 175 - Right of way to relinquished land-**

If any person relinquishes his right to land, the way which lies through other land retained by him any, future holder of the land relinquished shall be entitled to a right of way through the land retained.

#### **Section 176 - Abandonment of holding-**

(1) If a bhumiswami ceases to cultivate his holding for two years either by himself or by some other person, does not pay land revenue and has left the village in which he usually resides, the <sup>152</sup>[Tahsildar] may, after such enquiry as he may deem necessary, take possession of the land comprising the holding and arrange for its cultivation by letting it out on behalf of the bhumiswami for a period of one agricultural year at a time.

(2) Where the bhumiswami or any other person lawfully entitled to the land claims it within a period of three years from the commencement of the agricultural year next

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<sup>152</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

following the date on which the <sup>153</sup>[Tahsildar] took possession of the land, it shall be restored to him on payment of the dues, if any, and on such terms and conditions as the <sup>154</sup>[Tahsildar] may think fit.

(3) Where no claim is preferred under sub-section (2) or if a claim is preferred and disallowed, the <sup>155</sup>[Tahsildar] shall make an order declaring the holding abandoned and the holding shall vest absolutely in the State Government, from such date as may be specified in that behalf in the order.

(4) Where a holding is declared abandoned under sub-section (3), the liability of the bhumiswami for the arrears of revenue due from him in respect thereof shall stand discharged.

#### Section 177 - Disposal of holdings-

(1) If a bhumiswami whose land has been assessed for the purpose of agriculture under Section 59, or who holds land for dwelling purposes, dies, without known heirs, the <sup>156</sup>[Tahsildar] shall take possession of his land and may lease it for a period of one year at a time.

(2) If within three years of the date on which the <sup>157</sup>[Tahsildar] takes possession of the land any claimant applies for the holding being restored to him, the <sup>158</sup>[Tahsildar] may, after such enquiry as he thinks fit, place such claimant in possession of the land or reject his claim.

(3) The order of the <sup>159</sup>[Tahsildar] passed under sub-section (2) shall not be subject to appeal or revision but any person whose claim is rejected under sub-section (2) may, within one year from the date of the communication of the order of the <sup>160</sup>[Tahsildar] file a civil suit to establish his title, and if such suit is filed, the <sup>161</sup>[Tahsildar] shall continue to lease out the land as provided in sub-section (1) till the decision of the suit.

<sup>153</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>154</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>155</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>156</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>157</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>158</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>159</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>160</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>161</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

(4) If no claimant appears within three years from the date on which the <sup>162</sup>[Tahsildar] took possession of the land or if a claimant whose claim have been rejected under sub-section (2) does not file a suit within one year as provided in sub-section (3), the <sup>163</sup>[Tahsildar] may sell the deceased bhumiswami's right in the holding by auction.

(5) Notwithstanding anything contained in any law for the time being in force a claimant who establishes his title in land which has been dealt with in accordance with the provisions of this section, shall be entitled only to the rents payable under sub-section (1) and the sale proceeds realized under sub-section (4) less all sums due on the holding on account of land revenue and the expenses of management and sale.

#### Section 178 - Partition of holding-

(1) If in any holding, which has been assessed for purpose of agriculture under Section 59, there are more than one bhumiswami any such bhumiswami may apply to a Tahsildar for a partition of his share in the holding :

<sup>164</sup>[Provided that if any question of title is raised the Tahsildar shall stay the proceeding before him for a period of three months to facilitate the institution of a civil suit for determination of the question of title.]

<sup>165</sup>[(1-A) If a civil suit is filed within the period specified in the proviso to sub-section (1), and stay order is obtained from the Civil Court, the Tahsildar shall stay his proceedings pending the decision of the Civil Court. If no civil suit is filed within the said period, he shall vacate the stay order and proceed to partition the holding in accordance with the entries in the record of rights.]

(2) The Tahsildar, may, after hearing the co-tenure holders, divide the holding and apportion the assessment of the holding in accordance with the rules made under this Code.

<sup>166</sup>[(3) x x x]

<sup>167</sup>[(4) x x x]

<sup>168</sup>[(5) x x x]

<sup>162</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>163</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>164</sup> Substituted by M.P. Act No. 18 of 1978 (w.e.f. 13-6-1978).

<sup>165</sup> Inserted by M.P. Act No. 18 of 1978 (w.e.f. 13-6-1978).

<sup>166</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>167</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>168</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

Explanation I.-For purposes of this section any co-sharer of the holding of a bhumiswami who has obtained a declaration of his title in such holding from a competent Civil Court shall be deemed to be a co-tenure holder of such holding.

<sup>169</sup>[Explanation II.-[x x x]

#### Section 178A - Partition of land in life time of bhumiswami-

<sup>170</sup>[(1) Whenever a bhumiswami wishes to partition his agricultural land amongst the legal heirs during his life time, he may apply for partition to the Tahsildar.

(2) The Tahsildar may, after hearing the legal heirs, divide the holding and apportion the assessment of holding in accordance with the rules made under this Code.]

#### Section 179 - Rights to trees in holding-

(1) Subject to the provisions of Sections 240 and 241 all trees standing in the holding of a bhumiswami shall belong to him.

(2) Nothing in sub-section (1) shall affect any right in trees in the holding of a bhumiswami in favour of any person existing on the date of the coming into force of this Code, but the bhumiswami may apply to the Tahsildar to fix the value of such right and purchase the right through the Tahsildar in such manner as may be prescribed.

#### Section 180 - Restriction on transfer of trees-

(1) The transfer by a bhumiswami of any trees standing in any land comprised in his holding except the produce of such trees shall be void unless the land itself is transferred.

(2) Trees standing in any land comprised in the holding of a bhumiswami shall not be attached or sold in execution of a decree or order of a Civil Court or under an order of a Revenue Officer or under an order made in pursuance of any provisions of any law for the time being in force unless the land itself is attached or sold.

### CHAPTER XIII

### GOVERNMENT LESSEES AND SERVICE LAND

#### Section 181 - Government lessees-

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<sup>169</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>170</sup> Inserted by M.P. Act No. 17 of 1998 (w.e.f. 19-8-1998).

(1) Every person who holds land from the State Government or to whom a right to occupy land is granted by the State Government or to Collector and who is not entitled to hold land as a bhumi-swami shall be called a Government lessee in respect of such land.

(2) Every person who at the coming into force of this Code-

(a) holds any land in the Madhya Bharat region as an ordinary tenant as defined in the Madhya Bharat Land Revenue and Tenancy Act, Samvat 2007 (66 of 1950); or

(b) holds any land in the Vindhya Pradesh region as a special tenant as defined in the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (III of 1955), or as a gair haqdar tenant any grove or tank or land which has been acquired or which is required for Government or public purposes; or

(c) holds any land from the State Government in the Sironj region as a gair khatedar tenant as defined in the Rajasthan Tenancy Act, 1955 (3 of 1955); shall be deemed to be a Government lessee in respect of such land.

<sup>171</sup>[(3) x x x]

### **Section 182 - Rights and liabilities of a Government lessee-**

(1) A Government lessee shall, subject to any express provisions in this Code, hold his land in accordance with the terms and conditions of the grant, which shall be deemed to be a grant within the meaning of the Government Grants Act, 1895 (XV of 1895).

(2) A Government lessee may be ejected from his land by order of a Revenue Officer on one or more of the following grounds, namely :-

(i) that he has failed to pay the rent for a period of three months from the date on which it became due; or

(ii) that he has used such land for purposes other than for which it was granted; or

(iii) that the term of his lease has expired; or

(iv) that he has contravened any of the terms and conditions of the grant :

Provided that no order for ejectment of a Government lessee under this sub-section shall be passed without giving him an opportunity of being heard in his defense.

### **Section 183 - Service land-**

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<sup>171</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

(1) Any person holding land on the condition of rendering service as village servant shall cease to be entitled to such land if he diverts such land to non-agricultural purposes.

(2) A transaction by which a village servant attempts to transfer his interest in his service land by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year, shall be void.

(3) If the holder of such land dies, resigns or is lawfully dismissed the land shall pass to his successor in office.

(4) The right of the holder in such land shall not be attached or sold in execution of a decree nor shall a receiver be appointed to manage such land under Section 51 of the Code of Civil Procedure, 1908 (V of 1908).

**Section 184 - Disposal of service land in Sironj Region when services no longer required**

If the Collector declares that the services rendered by a village servant in any village in the Sironj region are no longer required, such village servant shall become a bhumiswami in respect of his service land and be liable to pay land revenue accordingly.

## CHAPTER XIV

### OCCUPANCY TENANTS

#### **Section 185 - Occupancy tenants-**

(1) Every person who at the coming into force of this Code holds-

(i) in the Mahakoshal region-

(a) any land, which before the coming into force of the Madhya Pradesh Land Revenue Code, 1954 (II of 1955), was malik-makbuza and of which such person had been recorded as an absolute occupancy tenant; or

(b) any land as an occupancy tenant as defined in the Madhya Pradesh Land Revenue Code, 1954 (II of 1955); or

(c) any land as an ordinary tenant as defined in the Madhya Pradesh Land Revenue Code, 1954 (II of 1955); or

(ii) in the Madhya Bharat region-

(a) any Inam land as a tenant, or as a sub-tenant or as an ordinary tenant; or

*Explanation.*-The expression "Inam Land" shall have the same meaning as assigned to it in the Madhya Bharat Muafi and Inam Tenants and Sub-Tenants Protection Act, 1954 (32 of 1954).

- (b) any land as ryotwari sub-lessee as defined in the Madhya Bharat Ryotwari Sub-Lessees Protection Act, 1955 (29 of 1955); or
  - (c) any Jagir land as defined in the Madhya Bharat Abolition of Jagirs Act, 1951 (28 of 1951), as a sub-tenant or as a tenant of a sub-tenant; or
  - (d) any land of a proprietor as defined in the Madhya Bharat Zamindari Abolition Act, 1951 (13 of 1951), as a sub-tenant or as a tenant of a sub-tenant;
  - (iii) in the Vindhya Pradesh Region any land as a sub-tenant of a pachpan paintalis tenant, pattedar tenant, grove holder or holder of a tank as defined in the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (III of 1955); or
  - (iv) in the Bhopal region-
    - (a) any land as a sub-tenant as defined in the Bhopal State Sub-tenants Protection Act, 1952 (VII of 1953); or
    - (b) any land as a shikmi from an occupant as defined in the Bhopal State Land Revenue Act, 1932 (IV of 1932); or
  - (v) in the Sironj region-
    - (a) any land as a sub-tenant of a khatedar tenant or grove holder as defined in the Rajasthan Tenancy Act, 1955 (3 of 1955); or
    - (b) any land as a sub-tenant or tenant of Khudkasht as defined in the Rajasthan Tenancy Act, 1955 (3 of 1955);
- shall be called an occupancy tenant and shall have all the rights and be subject to all the liabilities conferred or imposed upon an occupancy tenant by or under this Code.
- (2) Where any land referred to in item (c) or (d) of clause (ii) of sub-section (1) is at the time of coming into force of this Code, in actual possession of a tenant of a sub-tenant, then such tenant and not the sub-tenant shall be deemed to be the occupancy tenant of such land.
- (3) Nothing in sub-section (1) shall apply to a person who at the coming into force of this Code, holds the land from a bhumiswami who belongs to any one or more of the classes mentioned in sub-section (2) of Section 168.
- (4) Nothing in this section shall affect the rights of a sub-tenant of tenant of a sub-tenant belonging to any of the categories specified in items (c) and (d) of clause (ii) of

sub-section (1) to acquire the rights of a pakka tenant in accordance with the provisions of the Madhya Bharat Abolition of Jagirs Act, 1951 (28 of 1951), or of the Madhya Bharat Zamindari Abolition Act, 1951 (13 of 1951), as the case may be.

### **Section 186 - Maximum rent-**

<sup>172</sup>[Notwithstanding any agreement or usage or any decree or order of a Court or any law to the contrary, the maximum rent payable by an occupancy tenant in respect of the land held by him shall not exceed-

- (a) in the case of any class of irrigated land-four times the land revenue assessed on such land;
- (b) in case of bandh land in the Vindhya Pradesh region-three times the land revenue assessed on such land; and
- (c) in any other case-two times the land revenue assessed :

<sup>173</sup>[Provided that where such land is exempt from payment of land revenue under Section 58-A, the maximum rent aforesaid shall be reduced by the amount of land revenue so exempted under the said section.]

Explanation.-Where any land has not been assessed to land revenue, the multiples aforesaid shall be calculated on the basis of the land revenue assessable on such land.]

### **Section 187 – Commutation-**

<sup>174</sup>[(1) Where an occupancy tenant pays his rent in kind, in terms of service, labor, crop share or a specified quantity of grain, he may apply to the Sub-Divisional Officer for commuting the same into cash.]

(2) On receipt of an application under sub-section (1), the Sub-Divisional Officer shall after holding an enquiry commute by an order in writing such rent into cash, which shall not exceed the maximum rent laid down in Section 186.

### **Section 188 – Rent-**

(1) The rent payable by an occupancy tenant shall, as from the commencement of the agricultural year next following the date of the coming into force of this Code, be the maximum rent laid down in Section 186 or if the rent agreed upon between the tenant and his bhumiswami is less than the maximum rent, then such agreed rent :

<sup>172</sup> Substituted by M.P. Act No. 20 of 1968 (w.e.f. 1-7-1968).

<sup>173</sup> Substituted by M.P. Act No. 5 of 1969 (w.e.f. 13-6-1969).

<sup>174</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>175</sup> [Provided that where the agreed rent is payable in kind, the tenant shall be liable to pay, until such rent commuted into cash under Section 187 the maximum rent laid down in Section 186.]

(2) Every occupancy tenant shall pay the rent to his bhumiswami on or before such date as may be prescribed in that behalf

**Section 189 - Resumption by bhumiswami in certain cases-**

(1) A bhumiswami whose land is held by an occupancy tenant <sup>176</sup>[belonging to any of the categories specified in sub-section (1) of Section 185, except in items (a) and (b) of clause (i) thereof] may if the area of land under his personal cultivation is below twenty-five acres of un irrigated land, within one year of the coming into force of this Code, make an application to the Sub-Divisional Officer for resumption to land held by his occupancy tenant for his personal cultivation.

(2) On receipt of the application, the Sub-Divisional Officer shall, after hearing the parties and making such further enquiry as may be necessary decide the application : Provided that the right of resumption shall be limited to the area which together with the area already under the personal cultivation of the bhumiswami shall not exceed twenty-five acres of un irrigated land :

Provided further that no resumption shall be allowed so as to reduce the total area of land in possession of the occupancy tenant below:

(i) twenty-five acres of un irrigated land if the occupancy tenant has been holding such land from a bhumiswami not belonging to any of the classes mentioned in sub-section (2) of Section 168, for more than five years prior to the coming into force of this Code;

(ii) ten acres in any other case.

(3) Where under an order passed under sub-section (2) the bhumiswami is allowed to resume a part of the land held by the occupancy tenant from such bhumiswami, the Sub-Divisional Officer shall select and demarcate the land allowed to be resumed in accordance with such rules as may be made in that behalf. The resumption shall be allowed only if the bhumiswami agrees to pay the occupancy tenant such compensation as the Sub-Divisional Officer may, after hearing the parties, fix for the improvement effected by the occupancy tenant for the land allowed to be resumed by

<sup>175</sup> Inserted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>176</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

the bhumiswami. The Sub-Divisional Officer shall also in such a case fix the rent in the prescribed manner in respect of the land left with the occupancy tenant.

(4) Every order allowing resumption shall take effect from the agricultural year next following the date of the order and the tenancy of the occupancy tenant in respect of the land resumed shall stand terminated.

*Explanation.-*For the purpose of this section-

(1) the land under the personal cultivation of bhumiswami shall include-

(a) any land transferred by him by sale or otherwise on or after the 1st January, 1959; and

(b) any land allowed by him to lie fallow.

(2) One acre of irrigated land shall be deemed to be equal to two acres of unirrigated land and vice versa.

#### **Section 190 - Conferral of bhumiswami rights on occupancy tenants-**

<sup>177</sup>[(1) Where a bhumiswami whose land is held by an occupancy tenant belonging to any of the categories specified in sub-section (1) of Section 185 except in items (a) and (b) of clause (i) thereof fails to make an application under sub-section (1) of Section 189 within the period laid down therein, the rights of a bhumiswami shall accrue to the occupancy tenant in respect of the land held by him from such bhumiswami with effect from the commencement of the agricultural year next following the expiry of the aforesaid period.]

(2) Where an application is made by a bhumiswami in accordance with the provision of sub-section (1) of Section 189, the rights of a bhumiswami shall accrue to the occupancy tenant in respect of the land remaining with him after resumption if any allowed to the bhumiswami with effect from the commencement of the agricultural year next following the date on which the application is finally disposed of.

<sup>178</sup>[(2-A) Where the land of a bhumiswami is held by an occupancy tenant other than an occupancy tenant referred to in sub-section (1), the rights of a bhumiswami shall accrue to the occupancy tenant in respect of such land-

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<sup>177</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 2-10-1959).

<sup>178</sup> Inserted by MP. Act No. 24 of 1961 (w.e.f. 2-10-1959).

(a) in the case of occupancy tenants of the categories specified in items (a) and (b) of clause (i) of sub-section (1) of Section 185, with effect from the commencement of the agricultural year next following the commencement of the Principal Act;

(b) in any other case, with effect from the commencement of the agricultural year next, following the date on which the rights of an occupancy tenant accrue to such tenant.]

(3) Where the rights of a bhumiswami accrue to an occupancy tenant under sub-section (1),<sup>179</sup>[sub-section (2) or sub-section (2-A)] such occupancy tenant shall be liable to pay to his bhumiswami compensation equal to fifteen times the land revenue payable in respect of the land in five equal annual installments, each installment, being payable on the date on which the rent payable under Section 188 for the corresponding year falls due, and if default is made in payment, it shall be recoverable as an arrear of land revenue :

Provided that if from any cause the land revenue is suspended or remitted in whole or in part in any area in any year, the annual installment of compensation payable by an occupancy tenant holding land in such area in respect of that year shall be suspended and shall become payable one year after the last of the remaining installments.

(4) Any occupancy tenant may at his option pay the entire amount of compensation in a lump sum and where an occupancy tenant exercise this option, he shall be entitled to a rebate at the rate of ten per cent.

(5) The amount of compensation, whether paid in lump sum or in annual installments, shall be deposited in such manner and form as may be prescribed by the occupancy tenant with the<sup>180</sup>[Tahsildar], for payment to the bhumiswami.

(6) Where the rights of a bhumiswami in any land accrue to an occupancy tenant under this section, he shall be liable to pay the land revenue payable by the bhumiswami in respect of such land with effect from the date of accrual of such rights.

#### **Section 191 - Restoration of occupancy tenant-**

<sup>181</sup>[(1) If the bhumiswami in whose favour an order of resumption is passed under sub-section (2) of Section 189 fails to cultivate such land personally during the

<sup>179</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 2-10-1959).

<sup>180</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>181</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 2-10-1959).

agricultural year next following the date on which the order is passed, the occupancy tenant may, within such time as may be prescribed, make an application to the Sub-Divisional Officer for restoration of such land to him :

Provided that the occupancy tenant shall not be entitled to make the application if he in any way obstructs the bhumiswami in taking possession of or cultivating such land.]

(2) On receipt of the application, the Sub-Divisional Officer may, after giving to the bhumiswami an opportunity of being heard and making such further enquiry as may be deemed necessary, pass an order restoring possession of the land in question to the occupancy tenant, and where such order is passed, the occupancy tenant shall be placed in possession of the land at the commencement of the agricultural year next following the date of the order and the rights of bhumiswami shall then accrue to him and the provisions of Section 190 except sub-section (2) thereof shall apply accordingly.

(3) If there is any dispute regarding the rent payable for the land restored under sub-section (2), it shall be decided by the Sub-Divisional Officer.

(4) Where any land is restored to an occupancy tenant under sub-section (2), the bhumiswami against whom restoration is ordered, shall for ever be debarred from claiming resumption of any land of such occupancy tenant under Section 189.

#### **Section 192 - Devolution of rights of occupancy tenants-**

<sup>182</sup>[The interest of an occupancy tenant in his holding shall, on his death, pass by inheritance or survivorship in accordance with his personal law.]

#### **Section 193 - Termination of tenancy-**

(1) The tenancy of an occupancy tenant in his holding shall be liable to terminate by an order of the Sub-Divisional Officer made on any of the following grounds, namely,-

- (a) he has failed to pay on or before the due date in any agricultural year the rent of such land for that year; or
- (b) he has done any act which is destructive or permanently injurious to the land; or
- (c) he has used such land for a purpose other than agriculture; or
- (d) he has transferred his interest in the land in contravention of Section 195.

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<sup>182</sup> Substituted by M.P. Act No. 38 of 1961 (w.e.f. 8-12-1961).

(2) No order for the termination of his rights in the land on the ground specified in clause (a) of sub-section (1) shall be passed unless the Sub-Divisional Officer has by notice called upon the occupancy tenant to tender the rent due together with cost of proceedings within such period as may be specified by the Sub-Divisional Officer in the notice and the tenant has failed to deposit the required amount within the said period.

(3) No proceedings on the ground specified in clause (b) of sub-section (1) shall lie unless the bhumiswami of such land has served on the occupancy tenant a notice in writing specifying the act of destruction or injury complained of and the tenant has failed within a period of six months from the date of service of notice or within such further period as the Sub-Divisional Officer may grant to restore the land to the condition in which it was before such destruction or injury.

#### **Section 194 - Provisions applicable to occupancy tenant whose tenancy is terminated-**

(1) The following provisions shall be applicable in the case of every occupancy tenant whose tenancy is terminated, namely :-

(a) if the occupancy tenant has, before the date of termination, sown or planted crops in any land comprised in the holding he shall be entitled, at the option of the bhumiswami of such land, either to retain possession of such land and to use it for the purpose of tending and gathering in the crops, or to receive from the bhumiswami of such land, the value of the labor and capital expended by him in preparing such land and sowing, planting and tending such crops, together with reasonable interest thereon;

(b) if the occupancy tenant has, before the date of termination prepared for sowing any land comprised in his holding, but has not sown or planted crops thereon, he shall be entitled to receive from the bhumiswami of such land the value of the labor and capital expended by him in preparing such land together with reasonable interest thereon :

Provided that-

(i) an occupancy tenant shall not be entitled to retain his land or receive any sum in respect thereof under this section if, after the commencement of proceedings by the bhumiswami of such land for termination, he has cultivated or prepared such land contrary to local usage;

(ii) the rent, if any payable to the bhumiswami of such land by the occupancy tenant at the time of termination may be set off against any sum payable to the occupancy tenant under this section;

(c) if the occupancy tenant has, before the date of termination, effected any improvement of any land comprised in his holding, he shall be entitled to receive from the bhumiswami of such land compensation for it as the Revenue Officer may, after hearing the parties, determine.

(2) The Revenue Officer terminating the tenancy shall determine the amount, if any, payable under sub-section (1).

#### **Section 195 - Occupancy tenant's rights of transfer-**

(1) No occupancy tenant shall be entitled to transfer by way of sale, gift, mortgage, sub-lease or otherwise his right in the land or any portion thereof, and every such sale, gift, mortgage, sub-lease or other transfer shall be voidable as provided in Section 197 :

Provided that a sub-lease may be granted by or on behalf of an occupancy tenant if such person belongs to any of the categories mentioned in sub-section (2) of Section 168.

Explanation.-For the purposes of this section the expression 'sub-lease' shall be construed as having the same meaning as assigned to lease' in Section 168.

(2) Nothing in sub-section (1) shall prevent an occupancy tenant from transferring his holding or any part thereof by sale or gift to any co-tenant or any person who, if he survived the tenant without nearer heirs, would inherit the holding.

(3) Nothing in this section shall prevent an occupancy tenant from transferring any right in his land to secure payment of, or shall affect the right in his land to secure payment of, or shall affect the right of the State Government to sell such right for the recovery of an advance made to him under the Land Improvement Loans Act, 1883 (XIX of 1883), or the Agriculturists' Loans Act, 1884 (XII of 1884).

(4) Nothing in this section shall prevent an occupancy tenant from transferring any right in his holding to secure payment of an advance made to him by a Co-operative Society or shall affect the right of such society to sell such right for the recovery of such advance.

(5) Except in pursuance of a transfer permitted under any of the foregoing provisions, or in the case of proceedings for recovery of arrears of any annual installment of

compensation, no decree or order shall be passed for the sale of the interest of an occupancy tenant in his holding nor shall such interest be attached or sold in execution of any decree or order nor shall a receiver be appointed to manage such holding under Section 51 of the Code of Civil Procedure, 1908 (V of 1908), nor shall such interest vest in the Court or in a receiver under the Provincial Insolvency Act, 1920 (V of 1920).

**Section 196 - Right of occupancy tenant to make improvement-**

An occupancy tenant of land held for the purpose of agriculture is entitled to make any improvement thereon for the better cultivation of the land or its more convenient use for the purpose aforesaid.

**Section 197 - Right of certain persons to apply to set aside transfers by occupancy tenants-**

(1) If an occupancy tenant transfers his rights in his holding or any portion thereof in contravention of Section 195, any co-tenant or any person who, if he survived the tenant without nearer heirs, would inherit the holding or the bhumiswami of whom such person holds the land, may apply to the Sub-Divisional Officer to be placed in possession and the Sub-Divisional Officer, may in accordance with the rules made under Section 258 place the applicant in possession subject to his acceptance of the liabilities of the occupancy tenant for arrears of rent and for advance for necessary expenses of cultivation.

(2) Where more persons than one apply under sub-section (1), they shall be entitled to be placed in possession in the following order of priority :-

- (i) any person who if he survived the tenant would inherit the holding;
- (ii) co-tenant; and
- (iii) bhumiswami of whom the occupancy tenant holds the land.

**Section 198 – Surrender-**

(1) Any occupancy tenant may, by executing in favour of the bhumiswami not less than thirty days before the commencement of the agricultural year a registered document, surrender his rights and thereupon he shall cease to be an occupancy tenant from the agricultural year next following such date. No surrender shall be valid unless effected by a registered instrument.

(2) Notwithstanding anything to the contrary in the Indian Stamps Act, 1899 (II of 1899), or the Indian Registration Act, 1908 (XVI of 1908), instruments of surrender

executed by occupancy tenants in pursuance of the provisions of this section, shall be exempted from payment of stamp duty and registration fee chargeable thereon.

(3) On a surrender being executed under sub-section (1), a bhumiswami shall be entitled to take possession of land only to the extent of his right of resumption under Section 189 and the excess land, if any, shall vest in the State Government and the bhumiswami shall be paid compensation for such excess land, which shall be equal to two times the rent payable therefore under Section 188.

(4) Where any land vests in the State Government under sub-section (3), the bhumiswami shall specify such land within the prescribed period and in the prescribed manner and on his failure to do so within such period, such land shall be specified by the Sub-Divisional Officer.

(5) After such land has been specified in accordance with the provisions of sub-section (4), the Sub-Divisional Officer shall demarcate it in accordance with such rules as may be made in that behalf and also fix the land revenue in respect of land resumed by the bhumiswami.

### **Section 199 – Receipt-**

Every bhumiswami shall give a written receipt for the amount of rent at the time when such amount is received by him in respect of any land in such form and in such manner as may be prescribed.

### **Section 200 - Penalty for failure to give receipt or for excess recovery-**

If any bhumiswami fails to give a receipt as required by Section 199 or receives by way of rent any amount in excess of the rent payable under this Code, he shall, on the application of the occupancy tenant be liable by an order of the Tahsildar to refund the excess amount recovered and to pay as penalty a sum not exceeding <sup>183</sup>[two thousand rupees], not exceeding twice such amount and the Tahsildar may direct that the whole or part of such sum shall be adjusted towards the amount of compensation payable by the occupancy tenant.

### **Section 201 - Remission and suspension of rent consequent on like treatment of land revenue-**

(1) If from any cause the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, the Collector may, by general

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<sup>183</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “ two hundred”.

or special order, remit or suspend, as the case may be, the payment of the rent, of such land, to an amount which would bear the same proportion to the whole of the rent payable in respect of the land as the land revenue of which the payment has been remitted or suspended, bears to the whole of the land revenue payable in respect thereof, and may distribute the amount so remitted or suspended amongst the occupancy tenants holding such land in such manner as may seem to him to be equitable having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land revenue.

(2) If the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for the recovery of such rent.

(3) The provisions of sub-sections (1) and (2) shall apply to land of which the land revenue has been wholly or in part released, compounded for or redeemed, in any case in which if the land revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might in the opinion of the Collector, have been remitted or suspended.

#### **Section 202 - Reinstatement of wrongfully ejected occupancy tenant-**

(1) If any person who immediately before the coming into force of this Code held land in any region in any of the capacities mentioned in Section 185, has been ejected or dispossessed of any land held by him during the three years immediately preceding the coming into force of this Code, otherwise than by process of law, may within two years from the date of coming into force of this Code, apply to the Tahsildar for his reinstatement in such land.

(2) If any person who on the coming into force of this Code, holds land as an occupancy tenant has been ejected from or dispossessed of any land held by him, after the coming into force of this Code in contravention of its provisions may within two years from the date of such ejection or dispossession, apply to the Tahsildar for his reinstatement in such land.

(3) On receipt of an application under sub-section (1) or (2), the Tahsildar shall, after making an enquiry into the respective claims of the parties, decide the application and when he orders the restoration of the possession to the occupancy tenant, put him in possession of the land.

(4) The Tahsildar may, at any stage of enquiry pass under sub-section (3) an interim order for handing over the possession of the land to the applicant, if he finds that he was ejected or dispossessed by the opposite party within six months prior to the submission of the application under sub-section (1) or (2), and the opposite party shall, if necessary, be ejected under his order.

(5) When an interim order has been passed under sub-section (4), the opposite party may be required by the Tahsildar, to execute a bond for such sum as he may deem fit for abstaining from taking possession of land until the final order is passed by him.

(6) If the person executing a bond is found to have entered into or taken possession of the land in contravention of the bond; the Tahsildar may forfeit the bond in whole or in part and may recover such amount as an arrear of land revenue.

(7) If the order passed under sub-section (3) is in favour of the applicant, the Tahsildar shall also award a reasonable compensation to be paid to the applicant by the opposite party :

Provided that the amount of compensation shall not exceed ten times the revenue of the land for each year's occupation.

(8) The compensation awarded under this section shall be recoverable as an arrear of land revenue.

(9) The Tahsildar shall have the power to review suo motu cases of wrongful ejection, or dispossession, whether by surrender or otherwise of occupancy tenants in any areas to be notified by the State Government in this behalf. Where action is taken under this sub-section, the provisions of the foregoing sub-sections shall, as far as may be, apply.

## CHAPTER XV

### **ALLUVION AND DILUVION**

#### **Section 203 - Alluvion and diluvion-**

(1) Alluvial land formed on any bank shall vest in the State Government but the bburniswami, if any, of the land adjoining such bank shall be entitled to the use of the

alluvial land so added to his holding free from the payment of land revenue during the current term of settlement, unless the area added to his holding exceeds One acre.

(2) When the area of the alluvial land added to a holding exceeds one acre and it appears to the Sub-Divisional Officer that such land may, with due regard to the interest of the public convenience and public revenue, be disposed of, he shall offer such land in bhurniswami rights to the bhurniswami of such holding at a premium which shall not exceed twenty times the fair assessment of the land so formed. If the said bhurniswami shall refuse, the Offer, the Sub-Divisional Officer may dispose of the land <sup>184</sup> [in the prescribed manner.]

(3) Where any holding is diminished in area by diluvion to an extent greater than one acre, the land revenue payable on such holding shall be reduced.

#### **Section 204 - Power to make assessment and decide disputes-**

(1) The Sub-Divisional Officer shall have power, subject to rules made under this Code, to assess all increase and reduction in land revenue which are required or permitted under this Chapter.

(2) The Sub-Divisional Officer shall also have power to decide any dispute which may arise relating to the distribution of alluvial land among the various bhumiswamis claiming such land.

### **CHPTER XVI**

### **CONSOLIDATION OF HOLDINGS**

#### **Section 205 – Definitions-**

In this Chapter-

(i) "Consolidation of holding" means the redistribution of all or any of the land in a village, so as to allot to the bhumiswami continuous - plots of land for the convenience of cultivation;

(ii) "Consolidation Officer" means a Revenue Officer, not below the rank of a Tahsildar, appointed by the State Government for any district or districts to exercise the powers, and to perform the duties of a Consolidation Officer under this Code.

#### **Section 206 - Initiation of consolidation proceedings-**

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<sup>184</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

(1) Any two or more bhumiswamis in a village holding together not less than the minimum area of land prescribed by rules made under Section 221, may apply in writing stating such particulars as may be prescribed by rules made under Section 221, to the Consolidation Officer for the consolidation of their holdings.

(2) The Collector may of his own motion direct the Consolidation Officer to make an enquiry into the feasibility of consolidation of holdings in any village.

(3) If two-thirds of the bhumiswamis in a village apply for consolidation of their holdings or if in the course of an enquiry into an application made under sub-section (1) or sub-section (2) two-thirds of the bhumiswamis of the village make an application agreeing to the consolidation of their holdings, such application shall be deemed to be the application on behalf of all the bhumiswamis of the village.

(4) If in a case falling under sub-section (3), any scheme of consolidation of holdings is confirmed, it shall be binding on all the bhumiswamis of the village, and on any person who may subsequently be entitled to hold or occupy the land.

(5) In any other case, if any scheme of consolidation of holdings is confirmed, it shall be binding on the applicants and those who have agreed to the consolidation of their holdings and on any person who may subsequently be entitled to hold or occupy the land affected by the scheme.

#### **Section 207 - Rejection of application-**

(1) If on receipt of any such application or at any stage of the proceedings thereon, there appears to be good and sufficient reason for disallowing the application or for excluding the case of any applicant from consolidation, the Consolidation Officer may submit the application to the Collector with a recommendation that the application be rejected in whole or in part, or that the proceedings be quashed.

(2) The Collector, on receipt of the recommendation, may accept it and pass orders accordingly or may order further inquiry.

#### **Section 208 - Admission of application-**

If the Consolidation Officer admits the application, he shall proceed to deal with the same in accordance with the procedure laid down by or under this Code.

#### **Section 209 - Preparation of scheme for consolidation of holdings-**

(1) If the bhumiswatis making the application under Section 206 submit a scheme of consolidation of holdings mutually agreed to, the Consolidation Officer, shall, in the

manner laid down by rules made under Section 221 examine it and, if necessary, modify it.

(2) If no scheme is submitted with the application, the Consolidation Officer shall prepare a scheme for the consolidation of holdings in the manner laid down by rules made under Section 221.

(3) If the Consolidation Officer is of the opinion that the re-distribution of land in accordance with a scheme of consolidation will have the result of allotting to any bhumiswami a holding or land of a less market or productive value than that of his original holding or land, the scheme may provide for the payment of compensation to such bhumiswami by such person or persons as the Consolidation Officer may direct.

(4) Where the scheme of consolidation is complete, the Consolidation Officer, after considering and as far as possible removing the objections, if any, made to the scheme, shall submit it for confirmation to the Collector.

(5) When the scheme of consolidation is complete, and if all the bhumiswamis affected by such scheme, agreed to enter into possession of the holdings allotted to them there under, the Consolidation Officer may allow them to enter into such possession from a date to be mentioned in the scheme.

#### **Section 210 - Confirmation of scheme-**

The Collector may either confirm the scheme with or without modification or refuse to confirm it after considering the objection or objections, if any, to the scheme of consolidation and the recommendation of the Consolidation Officer. The decision of the Collector, subject to any order that may be passed in revision by the Settlement Commissioner under Section 50, shall be final.

#### **Section 211 - Procedure on confirmation-**

(1) Upon confirmation of the scheme of consolidation, the Consolidation Officer shall, if necessary, demarcate the boundaries of the holdings and shall proceed to announce the decisions finally made and cause to be prepared in accordance with the scheme, a new field map, record-of-rights, other records prescribed under Section 114, Nistar Patrak and Wajib-ul-arz.

(2) The new records prepared under sub-section (1) shall be deemed to have been prepared under Chapter IX or XVII, as the case may be.

#### **Section 212 - Right of bhumiswamis to possession of holdings-**

The bhumiswami affected by the scheme of consolidation, if they have not entered into possession under sub-section (5) of Section 209, shall be entitled to possession of the holdings allotted to them under the scheme, from the commencement of the agricultural year next following confirmation; and the Consolidation Officer shall, if necessary, put them, by warrant in possession of the holdings to which they are entitled :

Provided that if all the bhumiswamis agree, they may, after confirmation, be put into possession of their holdings by the Consolidation Officer from any earlier date.

**Section 213 - Transfer of rights of bhumiswamis in holdings-**

(1) Notwithstanding anything contained in this Code, the rights of bhumiswamis in their holdings shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and no person shall be entitled to object to or interfere with any transfer made for the said purpose.

(2) The Consolidation Officer may also transfer by exchange or otherwise any land belonging to the State Government where such transfer is necessary for the purpose of giving effect to any scheme of consolidation.

**Section 214 - No instrument necessary to effect transfer-**

Notwithstanding anything contained in any law for the time being in force;—

- (a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings; and
- (b) no such instrument, if executed, shall require registration.

**Section 215 - Costs of carrying out scheme-**

(1) The Consolidation Officer shall, unless the State Government for sufficient reasons directs otherwise, recover from the bhumiswamis whose holdings are affected by the scheme for consolidation of holdings, the cost of carrying out the scheme, which shall be assessed in accordance with rules made under Section 221.

(2) The Consolidation Officer shall apportion the costs among the bhumiswamis liable to pay them according to occupied area of the holdings affected by the scheme.

**Section 216 - Recovery of compensation and cost-**

Any amount payable as compensation under sub-section (3) of Section 209, or as costs under Section 215, may be recovered as an arrear of land revenue.

**Section 217 - Suspension of partition proceedings during currency of consolidation proceedings-**

When an application for the consolidation of holdings has been admitted under Section 208, no proceedings for partition of the holdings which will affect the scheme of consolidation shall be commenced and all such proceedings pending shall remain in abeyance during the continuation of the consolidation proceedings.

**Section 218 - Transfer of property during proceedings-**

When an application for the consolidation of holdings has been admitted, no bhumiswami upon whom the scheme will be binding shall have power, during the continuance of the consolidation proceedings, to transfer or otherwise deal with any part of his original holding or land so as to affect the rights of any other bhumiswami thereto under the scheme of consolidation.

**Section 219 - Rights of bhumiswamis after consolidation same as before-**

A bhumiswami shall have the same rights in the holding or land allotted to him in pursuance of a scheme of consolidation as he had in his original holding.

**Section 220 - Encumbrances of bhumiswamis-**

(1) If the holding of any bhumiswami brought under the scheme of consolidation is validly burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance, shall be transferred and shall attach to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer, subject to any rules that may be made under Section 221, may have appointed in preparing the scheme; and thereupon, the lessee, mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred.

(2) Notwithstanding anything contained in sub-section (1) or any other enactment for the time being in force the Consolidation Officer shall, if necessary, put any lessee or any mortgagee or other encumbrancer entitled to possession, by warrant, into possession of the holding or part of a holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

**Section 221 - Power to make rules-**

(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

- (2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules-
- (a) prescribing the minimum area of land to be held by the persons making an application under sub-section (1) of Section 206;
  - (b) providing for the particulars to be contained in any application made under Section 206;
  - (c) providing for the procedure to be followed by the Consolidation Officer in dealing with applications for the consolidation of holdings and for the appointment and constitution of any Advisory Committee or Panchayat to assist the Consolidation Officer in the examination or preparation of the scheme;
  - (d) for determining the compensation to be paid in cases falling under sub-section (3) of Section 209;
  - (e) for regulating the assessment of costs under Section 215;
  - (f) for determining the market or productive value of the different holdings and lands brought under any scheme of consolidation;
  - (g) for the guidance of the Consolidation Officer in respect of the transfer of encumbrances and leases under Section 220; and
  - (h) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Chapter.

## CHAPTER XVII

### **VILLAGE OFFICERS**

#### **Section 222 - Appointment of patels-**

- (1) Subject to rules made under Section 258, the Collector may appoint for each village or group of villages one or more patels.
- (2) When there are two or more patels in a village, the Collector may distribute, subject to rules made under Section 258, duties of the office of patel in such manner as he may think fit.

<sup>185</sup>[(3) Where in the Vindhya Pradesh region, patwari has been performing the duties imposed on a patel under this Code immediately before the commencement of this

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<sup>185</sup> Substituted by MP. Act No. 24 of 1961 (w.e.f. 2-10-1959).

Code, he shall continue to perform such duties and shall be deemed to be Patel for purposes of this Code, until a Patel is appointed under sub-section (1).]

#### **Section 223 - Remuneration of patels**

The remuneration of patels shall be fixed by the Collector in accordance with rules made by the State Government.

#### **Section 224 - Duties of patels-**

It shall be the duty of every Patel-

<sup>186</sup> [(a) to collect and pay into the-

<sup>187</sup> [(i) 'Gram. Kosh' the collection of land revenue and other related taxes and cesses payable through him after deducting the collection charges as may be determined by the State Government from time to time.]

(ii) Government Treasury the collection charges under sub-clause (i) and such other Government dues ordered to be collected by him.]

(b) to furnish reports regarding the state of his village at such places and times as the Collector may fix in this behalf;

(c) as far as possible to prevent encroachments on waste land, public paths, and roadways in the villages;

(d) to preserve such stations and boundary marks erected in his village by surveyors in the service of Government as may be made over to his care and to report any damage caused to such marks;

(e) subject to rules made under Section 258, to keep the village in good sanitary condition;

(f) to prevent unauthorized cutting of wood or unauthorized removal of any minerals or other properties belonging to the State Government;

(g) to control and superintend the kotwar, to report his death or absence from his duty and to take such steps as may be necessary to compel him to perform his duties;

(h) to perform such other duties as may be prescribed by rules made under Section 258.

<sup>186</sup> Substituted by MP. Act No. 1 of 1998 (w.e.f. 5-1-1998).

<sup>187</sup> Substituted by M.P. Act No. 19 of 2001 (w.e.f. 26-9-2001). Prior to substitution it read as under : "(i) "District Panchayat Raj Fund" constituted under sub-section (1) of Section 76 of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994) the collection of land revenue and other related taxes and cesses payable through him after deducting the collection charges as may be determined by the State Government from time to time."

**Section 225 - Duties imposed under any law upon land holders deemed to be imposed on patels-**

If by any enactment for the time being in force, any public duties are imposed on or public liabilities are declared to attach to landholders, their managers or agents, such duties shall be deemed to be imposed upon and such liabilities shall be held to attach to patels appointed under this Code :

Provided that nothing herein contained shall discharge the land-holders, their managers or agents from any duties or liabilities otherwise imposed upon them by law.

**Section 226 - Removal of patels-**

Subject to rules made under Section 258, the Collector may remove from office any Patel.

**Section 227 - Punishment of patels-**

A Patel who is found negligent in the performance of any duty assigned to him under Section 224 or 225, shall be liable under the order of the Tahsildar to a fine which may extend to<sup>188</sup> [one thousand rupees].

**Section 228 - Appointment of substitute Patel-**

Where a Patel is temporarily unable to perform his duties the Sub-Divisional Officer may, on his application or otherwise, appoint a substitute for a period of not exceeding, six months and the substitute so appointed shall, for all the purposes of this Code, be deemed to be a Patel.

**Section 229 - Entrustment of village management-**

Notwithstanding anything contained in this Code, the State Government may entrust the management of a village or the performance of the duties entrusted to a Patel, to a Gram Panchayat or where a Gram Panchayat has not been constituted, to a Gram Sabha constituted in accordance with the provisions of Section 232.

**Section 230 - Appointment of kotwars and their duties-**

(1) For each village or group of villages, there shall be appointed, in accordance with rules made under Section 258, one or more kotwars for the performance of such duties as may be prescribed : Provided that in the Madhya Bharat region the duties of kotwars under this section shall be performed by the Police Chowkidars who shall, on

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<sup>188</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "twenty".

the coming into force of this Code, be deemed to be kotwars under this section, and be subject in all respects to the control of Revenue Officers.

(2) Every person who at the coming into force of this Code holds the post of a village watchman in the Bhopal and Sironj regions or of a chowkidar in the Vindhya Pradesh region shall be deemed to be a kotwar under this section.

#### **Section 231 - Remuneration of kotwars**

<sup>189</sup>[The State Government may, by general order, subject to such restrictions, terms and conditions as may be mentioned therein, fix the remuneration of Kotwars either prospectively or retrospectively but such retrospective effect shall not be from a date earlier to the 1st March, 1982.]

#### **C-Gram Sabha**

#### **Section 232 - Gram Sabha-**

<sup>190</sup>[Gram Sabha.-

'Gram Sabha' means the body constituted under Section 5-A or Section 129-A, as the case may be, of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994) and the 'Gram Kosh' means the fund established under sub-section (1) of Section 7-J of the said Act.]

### **CHAPTER XVIII**

### **RIGHTS IN ABADI AND UNOCCUPIED LAND AND ITS PRODUCE**

#### **Section 233 - Record of unoccupied land-**

A record of unoccupied land shall, in accordance with rules made in this behalf be prepared and maintained for every village showing separately-

(a) unoccupied land set apart for exercise of nistar rights under Section 237; <sup>191</sup>[x x x].

<sup>192</sup>[(b) Omitted.]

<sup>189</sup> Substituted by M.P. Act No. 31 of 1982 (w.e.f. 1-3-1982).

<sup>190</sup> Substituted by M.P. Act No. 19 of 2001 (w.e.f. 26-9-2001).

<sup>191</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>192</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

**Section 234 - Preparation of Nistar Patrak-**

(1) The <sup>193</sup>[Sub-Divisional Officer] shall, consistently with the provisions of this Code and the rules made thereunder, prepare a Nistar Patrak embodying a scheme of management of all unoccupied land in a village and all matters incidental thereto and more particularly matters specified in Section 235.

<sup>194</sup>[(2) A draft of the Nistar Patrak shall be published in the village and after ascertaining the wishes of the Gram Sabha, it shall be finalised by Sub-Divisional Officer];

<sup>195</sup>[(3) A copy of the Nistar Patrak so finalised shall be kept in the office of the Gram Panchayat];

<sup>196</sup>[(4) On a resolution passed by the Gram Sabha by a majority of not less than two thirds of the members present and voting, the Sub-Divisional Officer with the prior sanction of the Collector and also after making any such inquiry as he deems fit, may,--

- (a) inter se change the entries in the Nistar Patrak;
- (b) record additional unoccupied land under any entry in the Nistar Patrak for fulfillment of further Nistar rights of villagers].

**Section 235 - Matters to be provided for in Nistar Patrak-**

The matter which shall be provided for in the Nistar Patrak shall be as follows, namely :-

- (a) terms and conditions on which grazing of cattle in the village will be permitted;
- (b) the terms and conditions on which and the extent to which any resident may obtain-
  - (i) wood, timber, fuel or any other forest produce;
  - (ii) mooram, kankar, sand, earth, clay, stones or any other minor mineral;
- (c) instructions regulating generally the grazing of cattle and the removal of the articles mentioned in paragraph (b);
- (d) any other matter required to be recorded in the Nistar Patrak by or under this Code.

<sup>193</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>194</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>195</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>196</sup> Ins. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

**Section 236 - Provision in Nistar Patrak for certain matters-**

In preparing the Nistar Patrak as provided in Section 235, the Collector shall, as far as possible, make provision for-

- (a) free grazing of the cattle used for agriculture;
- (b) removal free of charge by the residents of the village for their bona fide domestic consumption of-
  - (i) forest produce;
  - (ii) minor minerals;
- (c) the concessions to be granted to the village craftsmen for the removal of the articles specified in clause (b) for the purpose of their craft.

**Section 237 - Collector to set apart land for exercise of Nistar rights-**

(1) Subject to the rules made under this Code, the Collector may set apart unoccupied land for the following purposes, namely,-

- (a) for timber or fuel reserve;
- (b) for pasture, grass bir or fodder reserve;
- (c) for burial ground and cremation ground;
- (d) for gaothan;
- (e) for encamping ground;
- (f) for threshing floor;
- (g) for bazar;
- (h) for skinning ground;
- (i) for manure pits;
- (j) for public purposes such as schools, play grounds, parks, road, lanes, drains and the like; and
- (k) for any other purposes which may be prescribed for the exercise of right of Nistar.

(2)<sup>197</sup>[xxx].

<sup>198</sup>[(3) Subject to the rules made under this Code, the Collector after securing the land mentioned in clause (b) of sub-section (1) to minimum two percent of the total agriculture land of that village, may divert such unoccupied land as mentioned in sub-section (1) into abadi or for construction of roads, state highways, national highways,

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<sup>197</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>198</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

canals, tanks, hospitals, schools, colleges, Goshalas and any other public utility projects as may be determined by the State Government :

Provided that the land set apart for the purposes mentioned in sub-section (1) shall not be diverted and allotted to any person for agriculture purpose.;

<sup>199</sup>[(4) When it becomes indispensable to divert the land set apart for the purposes mentioned in sub-section (1) for such development and infrastructural projects which are owned or approved by the State Government but not covered under sub-section (3), the Collector, after satisfying himself on alternatives available and also on obtaining land of equivalent area for fulfilling the same Nistar rights from the concerned project, may divert the land for such purposes by passing a reasoned order to this effect].

#### Section 238 - Rights in waste land of another village-

(1) Where the Collector is of the opinion that the waste land of any village is insufficient and it is in public interest to proceed under this section, he may, after such enquiry as he deems fit, order that the residents of the village shall have a right of nistar or a right of grazing cattle, as the case may be, in the neighboring village to the extent specified in the order.

(2) The residents of a village having a right of grazing cattle in the neighboring village under sub-section (1) or Government forest may make an application to the Collector for recording their right of passage for the purpose of exercising the rights.

(3) If, on enquiry, into an application made under sub-section (2), the Collector finds that the right of passage is reasonably necessary to enable such residents to exercise a right to graze their cattle in any other village or in the Government forest, he shall pass an order declaring their right to such passage and shall state the conditions upon which it shall be exercised.

(4) The Collector shall further determine the route of passage, and shall restrict such route in such manner as to cause minimum inconvenience to the residents of the village through which it passes.

(5) The Collector may, if he thinks fit, demarcate such route.

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<sup>199</sup> Ins. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

(6) Orders passed by the Collector under this section shall be recorded in the Nistar Patrak.

(7) Where the villages mentioned in sub-section (1) lie in different districts the following provisions shall apply, namely :-

- (a) the orders specifying the right of nistar or the right of grazing cattle shall be passed by the Collector in whose district the village over which such right is claimed lies;
- (b) any orders regarding route of passage shall be passed by the Collector in whose respective jurisdiction the area over which passage is allowed lies;
- (c) the Collector passing an order in accordance with clauses (a) and (b) shall consult in writing the other Collector concerned.

Section 239 - <sup>200</sup>[Rights in fruit bearing trees and other trees planted in unoccupied land-

(1) Where, before coming into force of this Code any fruit bearing tree was planted by any person in the unoccupied land of any village, and is so recorded, then notwithstanding that such land vests in the State Government, such person, and his successor-in-interest shall from generation to generation be entitled to possession and usufruct of such trees without payment of any royalty or other charge whatsoever therefor.

<sup>201</sup>[(2) The State Government or any Revenue Officer not below the rank of Tahsildar as may be authorised by the State Government in this behalf, may permit any person or persons to plant and grow fruit bearing or other species of trees as may be specified in this behalf on unoccupied land of a village that may be earmarked for the purpose and grant tree planting permit and tree pattas to such person or persons in accordance with the provisions of this section and the rules made there under.

(3) The tree planting permit and the tree patta granted under this section shall be, in such form and subject to such terms and conditions as may be prescribed.

(4) The right conferred under this section shall be transferable but permit or patta holder or his successor-in-interest shall have no right to the land on which such tree stands except the right to grow trees on such land and enjoy the usufructuary rights on such trees including the right in corpus of the tree subject to the terms and conditions of the permit and patta :

<sup>200</sup> Substituted by M.P. Act No. 11 of 1988 (w.e.f. 7-5-1988).

<sup>201</sup> Substituted by M.P. Act No. 11 of 1988 (w.e.f. 7-5-1988).

Provided that no transfer by sale or by lease shall be made except with the previous permission in writing of the officer authorized by the State Government under sub-section (2).

(5) If any of the terms and conditions of tree planting permit or tree patta are breached, the permit or patta shall be liable to be cancelled after affording a reasonable opportunity of being heard to the holder thereof.

(6) The State Government may make rules for carrying out the purposes of this section.]

#### **Section 240 - Prohibition of cutting of certain trees-**

(1) If the State Government is of the opinion that the cutting of any tree is detrimental to public interest or that it is necessary to prohibit or regulate the cutting of certain trees for preventing erosion of soil, it may, by rules made in this behalf, prohibit or regulate the cutting of such trees whether such trees stand on the land belonging to bhumiswami or on land belonging to State Government.

(2) In framing rules under sub-section (1), the State Government may provide that all or any of the rules shall apply only to such area as the State Government may, by notification, specify.

(3) The State Government may make rules regulating the control, management, felling or removal of the forest growth on the lands belonging to the State Government.

#### **Section 241 - Measures to prevent theft of timber from Government forest-**

(1) If the State Government is satisfied that in order to prevent the theft of timber from any Government forest it is necessary in the public interest to regulate the felling and removal of timber in the villages comprised in any area adjoining such forests, the State Government may, by an order published in the Gazette, declare such area to be notified area for the purposes of this section.

(2) Every order published under sub-section (1) shall be proclaimed in the prescribed manner in all the villages comprised in the notified area.

(3) Notwithstanding anything contained in Section 179 but subject to the provisions of sub-section (5), when an order has been proclaimed in any village under sub-section (2), no person shall in pursuance of a transaction of sale or for purposes of trade or business fell any timber tree in any holding in such village or remove the corpus of

any such tree from any such holding except in accordance with such rules as may be made in that behalf.

<sup>202</sup>[(4) Any person who contravenes or attempts to contravene or abets the contravention of the provisions of sub-section (3) or of any rule made there under, shall, without prejudice to any other action that may be taken against him, be liable on the order in writing of the Sub-Divisional Officer, to pay a penalty not exceeding <sup>203</sup>[fifty thousand rupees] as may be imposed by him and the Sub-Divisional Officer shall further order confiscation of any timber trees felled in contravention of the provisions of this sub-section.]

(5) <sup>204</sup> [Nothing in sub-sections (3) and (4) shall apply to the felling or removal up to two cubic meters of timber from trees by any person from his land during a period of one year for his bona fide agricultural or domestic purposes, if such felling or removal is otherwise in accordance with the other provisions of this Code.

#### Section 242 - Wajib-ul-arz-

(1) As soon as may be after this Code comes into force, the <sup>205</sup>[Sub-Divisional Officer] shall, in the prescribed manner, ascertain and record the customs in each village in regard to--

(a) the right to irrigation or right of way of other easement;

(b) the right to fishing;

in any land or water not belonging to or controlled or managed by the State Government or a local authority and such record shall be known as the Wajib-ul-arz of the village.

(2) The record made in pursuance of sub-section (1), shall be published by the <sup>1</sup> [Sub-Divisional Officer] in such manner as may be prescribed.

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<sup>202</sup> Substituted by M.P. Act No. 19 of 2001 (w.e.f. 27-9-2001). Prior to substitution it read as under : "(4) Any person who contravenes or attempts to contravene or abets the contravention of the provisions of sub-section (3) or of any rule made there under, shall, without prejudice to any other action that may be taken against him, be liable on the order in writing of the Collector, to pay a penalty not exceeding one thousand rupees as may be imposed by him and the Collector may, further order confiscation of any timber trees felled in contravention of the provisions of this sub-section."

<sup>203</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "five thousand".

<sup>204</sup> Substituted by M.P. Act No. 19 of 2001 (w.e.f. 27-9-2001), for "Nothing in sub-sections (3) and (4) shall apply to the felling or removal of timber trees by any person from his land for his bona fide agricultural or domestic purposes".

<sup>205</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

(3) Any person aggrieved by any entry made in such record may, within one year from the date of the publication of such record under sub-section (2), institute a suit in a Civil Court to have such entry cancelled or modified.

(4) The record made under sub-section (1) shall, subject to the decision of the Civil Court in the suit instituted under sub-section (3), be final and conclusive.

(5) The <sup>1</sup> [Sub-Divisional Officer] may, on the application of any person interested therein or on his own motion, modify an entry or insert any new entry in the Wajib-ul-arz on any of the following grounds :--

- (a) that all persons interested in such entry wish to have it modified; or
- (b) that by a decree in a civil suit it has been declared to be erroneous; or
- (c) that being founded on a decree or order of a Civil Court or on the order of a Revenue Officer it is not in accordance with such decree or order; or
- (d) that being so founded, such decree or order has subsequently been varied on appeal, revision or review; or
- (e) that the Civil Court has by a decree determined any custom existing in the village.

#### **Section 243 – Abadi-**

(1) Where the area reserved for abadi is in the opinion of the Collector insufficient, he may reserve such further area from the unoccupied land in the village as he may think fit.

(2) Where unoccupied land for purposes of abadi is not available, the State Government may acquire any land for the extension of abadi.

(3) The provisions of the Land Acquisition Act, 1894 (1 of 1894), shall apply to such acquisition and compensation shall be payable for the acquisition of such land in accordance with the provisions of that Act.

#### **Section 244 - Disposal of abadi sites-**

Subject to rules made in this behalf the Gram Panchayat or where a Gram Panchayat has not been constituted, the Tahsildar shall dispose of sites in the abadi area.

#### **Section 245 - Rights to hold house site free of land revenue-**

A building site of reasonable dimensions in the abadi shall not be liable to the payment of land revenue if such site is occupied by a kotwar or a person who holds land or works as an agricultural artisan or an agricultural labourer in such village or in a village usually cultivated from such village.

#### **Section 246 - Right of persons holding house sites in abadi-**

Subject to the provisions of Section 244 every person who at the coming into force of this Code lawfully holds any land as a house site in the abadi or who may hereafter lawfully acquire such land shall be a bhumiswami in respect of such land :

<sup>206</sup>[Provided that the allotment of house site under Gramin Avas Yojna to a landless person on or after the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1973 shall be subject to the following conditions :--

- (i) that the allottee shall build a house on such land within a period of <sup>207</sup>[five years] from the date of allotment;
- (ii) that the allottee shall not transfer the land allotted to him or his interest therein during a period of <sup>208</sup>[ten years] from the date of allotment;
- (iii) that in case of breach of any of the above conditions the land shall vest in the State Government with effect from the date of breach.

Explanation.- For the purpose of this section “ Gramin Avas Vikas Yojna” means the scheme sponsored by the Government of India for the provision for house sites in rural areas whereunder, on 100% grant assistance from the Government of India, the State Government are to provide house sites free of cost to families of landless workers in rural areas who do not already own a house site or a built-up house or a hut on land their own.

#### Section 247 - Government's title to minerals-

(1) Unless it is otherwise expressly provided by the terms of a grant made by the Government, the right to all minerals, mines and quarters shall vest in the State Government which shall have all powers necessary for the proper enjoyment of such rights.

(2) The right to all mines and quarries includes the right of access to land for the purpose of mining and quarrying and the right to occupy such other land as may be necessary for purpose subsidiary thereto, including the erection of offices, workmen's dwellings and machinery, the stacking of minerals and deposit of refuse, the construction of roads, railways or tram-lines, and any other purposes which the State Government may declare to be subsidiary to mining and quarrying.

<sup>206</sup> Inserted by M.P. Act No. 29 of 1973 (w.e.f. 7-5-1973).

<sup>207</sup> Substituted by M.P. Act No. 9 of 1975 (7-5-1975).

<sup>208</sup> Substituted by M.P. Act No. 9 of 1975 (w.e.f. 7-5-1975).

(3) If the Government has assigned to any person its right over any minerals, mines or quarries, and if for the proper enjoyment of such right, it is necessary that all or any of the powers specified in sub-sections (1) and (2) should be exercised, and the Collector may, by an order in writing, subject to such conditions and reservations as he may specify, delegate such powers to the person to whom the right has been assigned :

Provided that no such delegation shall be made until notice has been duly served on all persons having rights in the land affected, and their objections have been heard and considered.

(4) If, in the exercise of the right herein referred to over any land, the rights of any person are infringed by the occupation or disturbance of the surface of such land, the Government or its assignee shall pay to such persons compensation for such infringement and the amount of such compensation shall be calculated by the Sub-Divisional Officer or, if his award is not accepted, by the Civil Court, as nearly as may be, in accordance with the provisions of the Land Acquisition Act, 1894 (I of 1894).

(5) No assignee of the Government shall enter on or occupy the surface of any land without the previous sanction of the Collector, and unless the compensation has been determined and tendered to the persons whose rights are infringed.

(6) If an assignee of the Government fails to pay compensation as provided in sub-section (4), the Collector may recover such compensation from him on behalf of the persons entitled to it, as if it were an arrear of land revenue.

(7) Any person who without lawful authority extracts or removes minerals from any mine or quarry, the right to which vests in, and has not been assigned by, the Government shall, without prejudice to any other action that may be taken against him be liable, on the order in writing of the Collector, to pay penalty not exceeding a sum calculated at <sup>209</sup>[four times] the market value of the minerals so extracted or removed :

<sup>210</sup>[xxx]

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<sup>209</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “double”.

<sup>210</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

(8) Without prejudice to the provisions in sub-section (7) the Collector may seize and confiscate any mineral extracted or removed from any mine or quarry the right to which vests in, and has not been assigned by the Government.

*Explanation*— In this section, “minerals” include any sand or clay which the State Government may declare to have a commercial value or to be required for any public purpose.

**Section 248 - Penalty for unauthorisedly taking possession of land-**

<sup>211</sup>[(1) Any person who unauthorisedly takes or remains in possession of any unoccupied land, abadi, service land or any other which has been set apart for any special purpose under Section 237 <sup>212</sup>[or upon any land which is the property of Government, or any authority, body corporate, or institution constituted or established under any State enactment,] may be summarily ejected by order of the Tahsildar and any crop which may be standing on the land and any building or other work which he may have constructed thereon, if not removed by him within such time as the Tahsildar may fix shall be liable to forfeiture. Any property so forfeited shall be disposed of as the Tahsildar may direct and the cost of removal of any crop, building or other work and of all works necessary, to restore the land to its original condition shall be recoverable as an arrear of land revenue from him. Such person shall also be liable at the discretion of the Tahsildar to pay the rent of the land for the period of unauthorised occupation at twice the rate admissible for such land in locality and to a fine which may extend to <sup>213</sup> [twenty per centum of the market value of such encroached land] and to a further fine which may extend to <sup>214</sup>[five hundred rupees in non urban area and two thousand rupees in urban area] for every day on which such unauthorised occupation or possession continues after the date of first ejectment. The Tahsildar may apply the whole or any part of the fine to compensate persons, who may in his opinion have suffered loss or injury from the encroachment :

<sup>211</sup> Substituted by M.P. Act No. 15 of 1971.

<sup>212</sup> Substituted by M.P. Act No. 33 of 2003 (w.e.f. 30-9-2003), for the words "or upon any land which is the property of Government".

<sup>213</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “Five thousand rupees”

<sup>214</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “Twenty rupees “

Provided that the Tahsildar shall not exercise the powers conferred by this sub-section in regard to encroachment made by buildings or works constructed--

(i) in the Mahakoshal region--

(a) in areas other than the merged States before the first day of September, 1917;

(b) in the merged States, before the third day of April, 1950;

(ii) in the Madhya Bharat region, before the fifteenth day of August, 1950;

(iii) in the Vindhya Pradesh region, before the first day of April, 1955;

(iv) in the Bhopal region, before the eighth day of November, 1933; and

(v) in the Sironj region, before the first day of July, 1958.

*Explanation.--* For the purposes of this sub-section "Merged States" shall have the meaning assigned to it in the Madhya Pradesh Merged States Laws (State) Act, 1950 (XII of 1950).

<sup>215</sup>[(1-A) On a resolution duly passed by the Gram Panchayat in respect of any unauthorised possession, the Tahsildar shall start and complete the proceedings under this section within thirty days from the date of receipt of the information of such resolution and shall communicate the action taken by him to the Gram Panchayat.]

(2) <sup>216</sup>[xxx]

<sup>217</sup>[(2-A) If any person continues in unauthorised occupation or possession of land for more than seven days after the date of order of ejectment under sub-section (1), then without prejudice to the fine that may be imposed there under the Sub-Divisional Officer shall cause him to be apprehended and shall send him with a warrant to be confined in a civil prison for a period of fifteen days in case of first ejectment and <sup>218</sup>[six months] in case of second or subsequent ejectment :

Provided that no action under this sub-section shall be taken--

(i) unless a notice is issued calling upon such person to appear before the Sub-Divisional Officer on a day to be specified in the notice and to show cause why he should not be committed to the civil prison;

<sup>215</sup> Inserted by M.P. Act No. 7 of 2000 (w.e.f. 15-3-2000).

<sup>216</sup> Omitted by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>217</sup> Omitted by M.P. Act No. 7 of 2000 (w.e.f. 15-3-2000).

<sup>218</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "three month"

(ii) in respect of encroachments on Government and Nazul lands for the settlement of which the Government have issued orders from time-to-time :

Provided further that the Sub-Divisional Officer may order the release of such person from detention before the expiry of the period mentioned in the warrant if he is satisfied that the unauthorised possession has been vacated :

Provided also that no woman shall be arrested or detained under this sub-section.

(2-B) The State Government may make rules for the purpose of carrying into effect the provisions of sub-section (2-A).]

(3)<sup>219</sup> [x x x]

(4)<sup>220</sup>[x x x]

#### Section 249 - Regulation of fishing, hunting etc.-

(1) The State Government may make rules for regulating--

(a) fishing in Government tanks;

(b) catching, hunting or shooting of animals in villages; and

(c) the removal of any materials from lands belonging to the State Government.

(2) Such rules may provide for the issue of permits, the conditions attaching to such permits and the imposition of fees therefore and other incidental matters.

#### Section 250 - Reinstatement of bhumiswami improperly dispossessed-

<sup>221</sup> [(1) For the purpose of this section and Section 250-A bhumiswami shall include occupancy tenant and Government lessee.]

<sup>222</sup>[(1-a) If a bhumiswami is dispossessed of the land otherwise than in due course of law or if any person unauthorisedly continues in possession of any land of the bhumiswami to the use of which such person has ceased to be entitled under any provision of this Code, the bhumiswami or his successor-in-interest may apply to the Tahsildar for restoration of the possession,--

(a) in case of bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165--

(i) before the 1st July, 1978 in cases of unauthorised dispossession prior to the 1st July 1976; and

<sup>219</sup> Omitted by M.P. Act No. 7 of 2000 (w.e.f. 15-3-2000).

<sup>220</sup> Omitted by M.P. Act No. 12 of 1976

<sup>221</sup> Inserted by M.P. Act No. 22 of 1988 (w.e.f. 16-8-1988).

<sup>222</sup> Renumbered as sub-section (1 -a) by M.P. Act No. 22 of 1988 (w.e.f. 16-8-1988).

(ii) in any other cases within five years from the date of dispossession or from the date on which the possession of such person becomes unauthorised, as the case may be;

(b) in case of a bhumiswami not covered by clause (a), within two years from the date of dispossession or from the date on which possession of such person becomes unauthorised, as the case may be.]

<sup>223</sup>[(1-b) The Tahsildar shall on coming to know that a bhumiswami has been dispossessed of his land otherwise than in due course of law, suo motu start proceedings under this section.]

(2) The Tahsildar shall, after making an enquiry into the respective claims of the parties, decide the application and when he orders the restoration of the possession to the bhumiswami, put him in possession of the land.

<sup>224</sup> [2-a) The proceedings started under this section shall after receipt of reply from the other party, continue from day to day unless for reasons to be recorded in writing a longer adjournment is considered necessary and in that case a copy of the order sheet containing the reasons for such adjournment shall be sent to the Collector.]

<sup>225</sup>[(3) The Tahsildar may at any stage of the enquiry pass an interim order for handing over the possession of the land to the bhumiswami, occupancy tenant or Government lessee, as the case may be, if he finds that he was dispossessed by the opposite party within six months prior to the submission of the application or commencement of suo motu proceedings under this section. In such case the opposite party shall, if necessary, be ejected under orders of the Tahsildar.]

(4) When an interim order has been passed under sub-section (3) the opposite party may be required by the Tahsildar to execute a bond for such sum as the Tahsildar may deem fit for abstaining from taking possession of land until the final order is passed by the Tahsildar.

(5) If the person executing a bond is found to have entered into or taken possession of the land in contravention of the bond, the Tahsildar may forfeit the bond in whole or in part and may recover such amount as an arrear of land revenue.

<sup>223</sup> Inserted by M.P. Act No. 22 of 1988 (w.e.f. 16-8-1988).

<sup>224</sup> Inserted by M.P. Act No. 22 of 1988 (w.e.f. 16-8-1988).

<sup>225</sup> Inserted by M.P. Act No. 22 of 1988 (w.e.f. 16-8-1988).

<sup>226</sup>[(6) If the order passed under sub-section (2) is in favour of the applicant the Tahsildar shall also award compensation to be paid to the applicant by the opposite party which shall be at the prorata rate of [<sup>227</sup>two thousand rupees] per hectare per year.]

(7) The compensation awarded under this section shall be recoverable as an arrear of land revenue.

<sup>228</sup>[(8) When an order has been passed under sub-section (2) for the restoration of the possession to the bhumiswami the Tahsildar may require the opposite party to execute a bond for such sum as the Tahsildar may deem fit for abstaining from taking possession of the land in contravention of the order.]

<sup>229</sup> [(9) Where an order has been passed under sub-section (2) for the restoration of the possession of the bhumiswami, the opposite party shall also be liable to fine which may extend to <sup>230</sup>[twenty per centum of the market value of such land] :

Provided that it shall not be competent to the Tahsildar to impose a fine of amount exceeding one thousand five hundred rupees but if in any case he considers that circumstances of the case warrant imposition of a higher fine, he may refer the case to the Sub-Divisional Officer who shall, after giving the party concerned an opportunity of being heard, pass such orders in respect of fine as he may deem fit.]

Section 250A - Confinement in civil prison on failure to restore possession under

Section 250-

<sup>231</sup>[(1) If any person continues in unauthorised occupation or possession of land for more than seven days after the date of order for restoration of possession under Section 250, then without prejudice to the compensation payable under sub-section (6) or the fine under sub-section (9) of the said section the Sub-Divisional Officer shall cause him to be apprehended and shall send him with a warrant to be confined in a civil prison for a period of fifteen days in case of first order for restoration of possession and shall cause him to be apprehended and shall send him with a warrant

<sup>226</sup> Substituted by M.P. Act No. 15 of 1980

<sup>227</sup> “two hundred and fifty rupees”

<sup>228</sup> Inserted by M.P. Act No. 15 of 1971

<sup>229</sup> Inserted by M.P. Act No. 44 of 1974 (w.e.f. 16-10-1974).

<sup>230</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words “five thousand rupees”

<sup>231</sup> Inserted by M.P. Act No. 15 of 1980 (w.e.f. 24-10-1980).

to be confined in such prison for a period of three months in case of second or subsequent orders for restoration of the possession to such bhumiswami :

Provided that no action under this section shall be taken unless a notice is issued calling upon such person to appear before the Sub-Divisional Officer on a day to be specified in the notice and to show cause why he should not be committed to the civil prison :

Provided further that the Sub-Divisional Officer may order the release of such person from detention before the expiry of the period mentioned in the warrant if he is satisfied that the unauthorised possession has been vacated :

Provided also that no woman shall be arrested or detained under this section (2) The State Government may make rules for the purpose of carrying into effect the provisions of sub-section (1).]

Section 250B - Failure to vacate land in favour of allottee of land to be an offence-

<sup>232</sup>[(1) If a person to whom land has been allotted in bhumiswami rights or as a Government lessee under a Patta granted to him in accordance with a scheme of distribution or disposal or allotment of land under executive powers of the State Government as may from time to time be adopted or sponsored by the State Government or any such scheme under any enactment for the time being in force and such person has not been able to take actual possession of the land so allotted to him, he may apply to the Tahsildar for putting him in actual possession of the land allotted to him under the Patta granted to him.

(2) On receipt of the application, the Tahsildar shall by an order in writing, issue a direction--

- (i) to the person in possession of the land to vacate the same forthwith; or
- (ii) in the event of any person obstructing the taking over of possession or delivery of possession, to such person to remove such obstruction to enable delivery of possession, and on his vacating the land or removing the obstruction, deliver actual possession thereof to the bhumiswami or the Government lessee, as the case may be, entitled to hold the land under the Patta.

(3) The Tahsildar may, if necessary, use such force including Police force as may be necessary to put the allottee in actual possession of the land.

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<sup>232</sup> Inserted by M.P. Act No. 22 of 1988 (w.e.f. 16-8-1988).

(4) If the person to whom direction is issued under sub-section (2) fails to comply with the direction, he shall be punishable with imprisonment for a term which may extend to three years and with fine or with both, and such non-compliance of direction is a continuing one, with further fine which may extend to one hundred rupees for everyday after the first during which the non-compliance is proved to have been persisted in.

(5) The offence under this section shall be cognizable and non-bailable.]

#### Section 251 - Vesting of tanks in State Government-

<sup>233</sup> [(1) All tanks situated on unoccupied land on or before the date of coming into force of the Act, providing for the abolition of the rights of intermediaries in the area concerned and over which members of the village community were, immediately before such date, exercising rights of irrigation or nistar, shall, if not already vested in the State Government, vest absolutely in the State Government with effect from the 6th April, 1959 :

Provided that nothing in this section shall be deemed to affect any right of a lessee in the tank under a lease subsisting on the date of vesting of the tank which shall be exercisable to the extent and subject to the terms and conditions specified in the lease:

Provided further that no tank shall vest in the State Government, unless--

- (i) after making such enquiry as he deems fit, the Collector is satisfied that the tank fulfils the conditions laid down in this sub-section; and
- (ii) notice has been served on the parties interested and opportunity given to them for being heard.]

(2) Any person claiming in any such tank any interest other than the right of irrigation or nistar, may, within a period of <sup>1</sup>[four years] from the date of vesting under sub-section (1), make an application in the prescribed form to the Collector for compensation in respect of his interest.

<sup>234</sup>[(2-a) The provisions of Section 239 shall apply to trees standing on the embankments of tank vested in the State Government under sub-section (1) as they apply to trees planted in an unoccupied land.]

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<sup>233</sup> Substituted by M.P. Act No. 38 of 1961 (w.e.f. 2-10-1959).

<sup>234</sup> Inserted by M.P. Act No. 38 of 1961 (w.e.f. 2-10-1959).

(3) Such compensation shall be fifteen times the land revenue assessable on the land covered by the tank and for purposes of assessment such land shall be treated as irrigated land of the same quality as the adjoining land.

(4) The compensation as determined under sub-section (3) shall be paid by the Collector to the person or persons proved to his satisfaction to be owning interest in the tank concerned.

(5) The payment of compensation under sub-section (4) shall be a full discharge of the State Government from all liability for compensation in respect of the tank concerned, but shall not prejudice any right in respect of such tank to which any other person may be entitled by due process of law to enforce against the person or persons to whom compensation has been paid as aforesaid.

(6) The State Government may make rules providing for the regulation of the use of water from such tanks.

(7) The vesting of any tank under sub-section (1) shall not affect the rights of irrigation and nistar in such tank to which any person is entitled immediately before the date of vesting.

*Explanation*— For the purposes of this section, tank includes the trees standing on the embankments of the tank but does not include buildings, temples or other constructions standing on the embankments therof.

#### **Section 252 - Maintenance of works of public utility-**

(1) It shall be the duty of the Gram Sabha to maintain and keep in proper repairs the works of public utility in the village.

(2) Subject to the rules made under this Code, the Gram Sabha may, by order in writing, call upon adult males residing in the village (except those who are old and infirm or subject to any physical disability) to perform such labour as it may specify in the order for keeping in a proper state of repairs such works of public utility in the village as may be notified by the State Government in that behalf.

(3) No order under sub-section (2) shall be passed unless the works are of public utility and are likely to benefit generally the persons against whom the order is being passed.

(4) A person required to perform labour under the provisions of sub-section (2), may have it performed by another on his behalf or pay for its performance at such rate as may be determined by the Tahsildar.

(5) Any person who neglects or refuses to perform the labour referred to in sub-section (2) or fails to pay for the performance of labour as provided in sub-section (4) shall, on the order of the Tahsildar, be liable to pay an amount equal to the value of the labour at the rates determined by the Tahsildar under sub-section (4), and such amount shall be recoverable as an arrear of land revenue.

**Section 253 - Punishment for contravention of provisions-**

(1) Except as otherwise provided in this Code, any person who acts in contravention of the provisions of this chapter or rules made there under or who contravenes or fails to observe, any rules or custom entered in the Wajib-ul-arz or commits a breach of any entry entered in the Nistar Patrak shall be liable to such penalty not exceeding<sup>235</sup> [fifty thousand] rupees as the Sub-Divisional Officer may, after giving such person an opportunity to be heard, deem fit and the Sub-Divisional Officer may further order confiscation of any timber, forest produce, or any other produce which such person may have appropriated or removed from lands belonging to the State Government.

(2) Where any contravention, breach or non-observance punishable under sub-section (1) has been committed by the Gram Sabha, every office bearer of the Gram Sabha shall be liable under that sub-section unless he proves that the contravention, breach or non-observance took place without his knowledge or that he exercised all due diligence to prevent such contravention, breach or non-observance.

(3) Where the Sub-Divisional Officer passes an order imposing a penalty under this section, he may direct that the whole or any part of the penalty may be applied to meet the cost of such measures as may be necessary to prevent loss or injury to the public owing to such contravention, breach or non-observance.

**Section 254 - Performance of duties of Gram Sabha by Patel-**

Any function assigned to a Gram Sabha under this chapter shall be performed by the Patel until a Gram Sabha is duly constituted under Section 232.

**CHAPTER XIX**  
**MISCELLANEOUS**

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<sup>235</sup> Subs. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011] for the words "five thousand".

**Section 255 - Prescription of standards of cultivation and management-**

(1) With a view to bring agricultural economy to a higher level of efficiency, the Government may, by rules, regulate standards of efficient cultivation and management.

(2) Such rules may provide for the issue of directions as regards the methods of agriculture to be adopted, the use of improved seeds, conservation and proper utilisation of manure, sale of surplus food grains, and for ensuring proper wages and terms of employment of agricultural workers, and such other directions as may be necessary or desirable for the efficient utilisation of lands.

(3) Such rules shall apply to agriculturists who cultivate personally land in excess of such limits as may be prescribed.

(4) If any agriculturist to whom such rules apply under sub-section (3) fails to carry out the directions issued under sub-section (2), the State Government may have the directions carried out by any other agency in such manner as it deems fit and recover from him all such cost as may be incurred.,

**Section 256 - Inspection and copies of maps and land records-**

Subject to such conditions and to the payment of such fees as may be prescribed by rules made under this Code, all revenue record, maps and land records which have been prepared or are required to be prepared or kept under this Code or any other enactment for the time being in force, shall be open to the inspection of the public at reasonable hours, and certified extracts there from, or certified copies thereof, shall be given to all persons applying for the same.

**Section 257 - Exclusive jurisdiction of revenue authorities-**

Except as otherwise provided in this Code, or in any other enactment for the time being in force, no Civil Court shall entertain any suit instituted or application made to obtain a decision or order on any matter which the State Government, the Board, or any Revenue Officer is by this Code, empowered to determine, decide or dispose of, and in particular and without prejudice to the generality of this provision, no Civil Court shall exercise jurisdiction over any of the following matters :--

renumbered as clause (a-1) and before clause (a-1) as so renumbered, the following new clause shall be inserted, namely :-

<sup>236</sup>[(a) any decision regarding any right under sub-section (1) of Section 57 between the State Government and any person].

<sup>237</sup>[(a1) any decision regarding the purpose to which land is appropriated under Section 59];

(b) any question as to the validity or effect of the notification of a revenue survey or any question as to the term of a settlement;

(c) any claim to modify a decision determining abadi made by a Settlement Officer or Collector;

(d) any claim against the State Government to hold land free of land revenue, or at less than the fair assessment, or to be assigned in whole or in part the land revenue assessed on any land;

(e) the amount of land revenue assessed or reassessed under this Code or any other enactment for the time being in force;

(f) any claim against the State Government to have any entry made in any land records or to have any such entry omitted or amended.

(g) any question regarding the demarcation of boundaries or fixing of boundary marks under Chapter X;

(h) any claim against the State Government connected with or arising out of, the collection of land revenue or the recovery of any sum which is recoverable as land revenue under this Code or any other enactment;

(i) any claim against the State Government or against a Revenue Officer for remission or suspension of land revenue, or for a declaration that crops have failed in any year;

(j) any decision regarding forfeiture in cases of certain transfers under Section 166;

(k) ejection of a lesser of a bhumiswami under sub-section (4) of Section 168;

<sup>238</sup>[(l) any claim to set aside transfer by a bhumiswami under sub-section (1) of Section 170 and clauses (a) and (b) of sub-section (2) of Section 170-A;]

<sup>239</sup>[(l-1) any matter covered under Section 170-B.]

(m) ejection of a Government lessee under Section 182;

<sup>236</sup> renumbered as clause (a-1) by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011]

<sup>237</sup> Ins. by The Madhya Pradesh Land Revenue Code (Amendment) Act, 2011[Act No. 42 of 2011].

<sup>238</sup> Substituted by M.P. Act No. 18 of 1984.

<sup>239</sup> Inserted by M.P. Act No. 38 of 1995 (w.e.f. 15-12-1995).

- (n) resumption by a bhumiswami of land held by an occupancy tenant under Section 189 and the fixation of rent of land left, if any, with the occupancy tenant;
- (o) claims by occupancy tenants for conferral of the rights of bhumiswami under Section 190;
- (p) restoration of possession to an occupancy tenant under Section 191;
- (q) termination of tenancy of an occupancy tenant under Section 193;
- (r) any claim to set aside transfer by an occupancy tenant under Section 197;
- (s) the imposition of penalty on a bhumiswami under Section 200;
- (t) suspension and remission of rent under Section 201;
- (u) any decision regarding reinstatement of wrongfully ejected occupancy tenant under Section 202;
- (v) amount payable as compensation under sub-section (3) of Section 209, confirmation of the scheme for consolidation of holdings under Section 210, transfers of rights in carrying out the scheme under Section 213 and assessment and apportionment of costs of consolidation of holdings under Section 215;
- (w) any claim to modify any entry in the Nistar Patrak;
- <sup>240</sup> [(w-i) any decision regarding penalty under Section 248, for unauthorisedly taking possession of land.]
- (x) any decision regarding reinstatement of a bhumiswami improperly dispossessed under Section 250;
- <sup>241</sup> [(x-i) any decision regarding confinement in civil prison under Section 250-A; (x-ii) any decision regarding delivery of actual possession of land to the bhumiswami or the Government Lessee under Section 250-B.]
- (y) any decision regarding vesting of tanks in State Government under Section 251 and any claim against the State Government arising there under;
- (z) any claim against the State Government to set aside or modify any premium, penalty, cess or rate imposed or assessed under the provisions of this Code or any other enactment for the time being in force;
- (z-1) any claim against the State Government arising under Section 255 regarding prescription of standard cultivation and management;

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<sup>240</sup> Inserted by M.P. Act No. 7 of 2000 (w.e.f. 10-3-2000).

<sup>241</sup> Inserted by M.P. Act No. 32 of 1997 (w.e.f. 22-8-1997).

(z-2) any claim to compel the performance of any duty imposed by this Code on any Revenue Officer or other officer appointed under this Code.

**Section 257A - Burden of proof and bar of legal practitioners in certain proceedings-**

<sup>242</sup>[In any proceedings under sub-section (6) of Section 165, or under the proviso to Section 169 or under sub-section (1) of Section 170 or under Section 170-A or under Section 250 in which one of the parties is a bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165, the burden of proving the validity of transfer there under shall, notwithstanding anything contained in this Code or in any other law for the time being in force, lie on the person who claims such transfer to be valid.

(2) No legal practitioner shall appear, plead or act on behalf of any party in any proceedings specified in sub-section (1) in which one of the parties is a bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 except with the written permission of the Revenue Officer/Court before whom the case is pending.]

**Section 258 - General rule making power-**

(1) The State Government may make rules generally for the purpose of carrying into effect the provisions of this Code.

(2) In particulars and without prejudice to the generality of the foregoing powers such rules may provide for--

(i) the terms and conditions of service of the President and members of the Board of Revenue constituted under Section 3;

(ii) the prescription of the duties of Superintendents of Land Records and Assistant Superintendents of Land Records:

(iii) regulation of assessment of land revenue on diversion of land to other purposes and imposition of premium under Section 59;

(iv) assessment on unassessed land under Section 60;

<sup>243</sup>[(v) formation of survey numbers and villages under Section 68 and the minimum extent of survey numbers comprising land used for agricultural purposes;

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<sup>242</sup> Inserted by M.P. Act No. 61 of 1976 (w.e.f. 29-11-1976.)

<sup>243</sup> Substituted by M.P. Act No. 16 of 1985 (w.e.f. 12-6-1985).

- (vi) division of survey numbers into sub-divisions and apportionment of the assessment of survey number among the sub-divisions of a survey number under Section 70;
- (vii) prescription of records in which area and assessment of survey numbers and sub-divisions of survey numbers shall be entered under Section 71;
- (viii) the manner of dividing a village into two or more villages or uniting two or more villages into one or constituting village or altering the limits of a village under Section 73;
- (ix) the necessary inquiry which shall be completed and the form in which and the particulars with which the proposals for assessment rate shall be forwarded under Section 77;
- (x) the manner in which notice of assessment shall be given under Section 82;
- (xi) the manner of inquiry into the profits of agriculture and into the value of land used for agriculture and non-agricultural purposes under Section 87;
- (xii) the regulation of the conduct of revenue survey or settlement under Section 91-A;]
- (xiii) regulation of division of lands in urban areas into plot numbers, recognition of existing survey numbers as plot numbers, reconstitution of plot numbers or formation of new plot numbers under Section 93;
- (xiv) the manner of dividing plot numbers into sub-divisions and apportioning the assessment of plot number among the sub-divisions; and the limits either of area or of land revenue or both in any local area for recognition of sub-divisions under Section 94;
- (xv) prescription of records under Section 95;
- (xvi) prescription of other special purposes under Section 96;
- (xvii) the manner of publishing the standard rates under Section 97;
- (xviii) (a) the manner of keeping record of all registered sales and leases of lands under Section 98(1), and  
(b) determination of the average annual letting value of lands under Section 98(2);
- <sup>244</sup>[(xix) prescription of other duties of patwaris under sub-section (2) of Section 104;]
- (xx) prescription of other duties of Revenue Inspectors under Section 106;

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<sup>244</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

- (xxi) prescription of other particulars under Section 107 (2);
- (xxii) the prescription of the form of, and the additional particulars to be entered in the papers to be included in the record of rights under Section 108;
- (xxiii) form of acknowledgement to be given by patwari under Section 109;
- <sup>245</sup> [(xxiv) (a) prescription of register under Section 110(1) for entering acquisition of rights reported under Section 109;
- (b) prescription of other persons and authorities to whom written intimation shall be given under Section 110(3);
- (xxv) (a) prescription of other land records under Section 114(1).
- (b) prescription of fee on the payment of which Rasid Bahi shall be provided under Section 114(2) and the prescription of entries which it shall contain;]
- (xxvi) the regulation of requisition of assistance under Section 120;
- (xxvii) preparation, maintenance and revision of land records under Section 121;
- <sup>246</sup> [(xxvii-a) manner in which objection shall be disposed of by Tahsildar under Section 123 (3);]
- (xxviii) (a) specification of, and manner of construction and maintenance of, boundary marks of villages and survey numbers or plot numbers under Section 124(3); and
- (b) the manner of distribution of the cost of construction of new boundary marks among the holders of lands under Section 124 (4);
- (xxix) the manner of demarcating boundary marks between a village road, village waste or land reserved for communal purposes and the land adjoining it and the manner in which they shall be kept in repair and renewed;
- (xxx) the procedure of demarcating the boundaries of survey numbers, sub-divisions, or plot numbers, the nature of boundary marks and the levy of fees under Section 129;
- (xxxi) the dates on which and the installments in which land revenue shall be payable and the persons to whom and the places whereat such installments shall be paid under Section 140;
- (xxxii) the form in which receipt shall be given under Section 142;

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<sup>245</sup> Substituted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>246</sup> Inserted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

(xxxiii) the regulation of remission or suspension of land revenue under Section 144(1);

(xxxiv) the guidance of Revenue Officers in issuing notices of demand under Section 146 and executing the processes specified in Section 147;

(xxxv) prescription of the form of application <sup>247</sup> [for grant of annuity, the time within which such application shall be made] and the conditions of such grant under Section 160;

(xxxvi) the regulation of reduction of revenue during the currency of settlement under Section 161;

<sup>248</sup> [(xxxvii) x x x]

(xxxviii) prescription of the ceiling limits of land under Section 165;

(xxxix) prescription of the manner in which land forfeited under Section 166 shall be selected and demarcated and land revenue fixed on land left with transferee;

(xl) regulation of the procedure in disposing of claims to be placed in possession of a holding under Section 170;

<sup>249</sup>[(xl-a) the form and manner in which information shall be notified to Sub-Divisional Officer under sub-section (1) of Section 170-B;]

(xli) regulation of grant or refusal of permission to a bhumiswami for diversion of his holding or any part thereof under Section 172;

(xlvi) regulation of relinquishment of rights by a bhumiswami under Section 173;

(xlvi) prescription of the terms and conditions on which a person may be put in possession of an abandoned holding under Section 176(2);

(xliv) (a) regulation of partition of holdings and apportionment of assessment, under Section 178(2); and

<sup>250</sup> [(b) x x x]

(xlv) guidance of Revenue Officers with regard to applications for purchase of right in trees under Section 179 (2);

<sup>251</sup>[(xlvi) x x x]

<sup>247</sup> Substituted by M.P. Act No. 24 of 1961 (w.e.f. 2-10-1959).

<sup>248</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>249</sup> Inserted by M.P. Act No. 15 of 1980 (w.e.f. 24-10-1980).

<sup>250</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

<sup>251</sup> Omitted by M.P. Act No. 25 of 1964 (w.e.f. 23-4-1964).

- (xlvii) prescription of the manner of selection and demarcation of land allowed to be resumed by a bhumiswami under Section 189 and the fixation of land revenue on it and fixation of rent in respect of land left with the occupancy tenant;
- (xlviii) prescription of the manner and the form in which amount of compensation shall be deposited by an occupancy tenant payable to his bhumiswami under Section 190(5);
- <sup>252</sup>[(xlviii-A) prescription of time within which an application under sub-section (1) of Section 191 shall be made;]
- (xlix) the regulation of the procedure in disposing of claims to be placed in possession of an occupancy holding which has been transferred under Section 197;
- (l) prescription of the manner of selection and demarcation of land vesting in the State Government and the fixation of land revenue on the land reserved by the bhumiswami under Section 198 (4);
- (li) the form and the manner in which the receipt for rent shall be given under Section 199;
- (lii) the regulation of assessment of increase and reduction in land revenue required or permitted under Chapter XV;
- (liii) the regulation of appointment of patels under Section 222(1), the manner of distribution of duties of the office of Patel where there are two or more patels in a village, fixation of remuneration of a Patel, and prescription of additional duties of Patel under Section 224 and his removal from office under Section 226 and the appointment of a substitute under Section 228;
- (liv) the regulation of the sanitation of villages, the burial of the carcasses of animals, the protection and fencing of wells, the upkeep of village roads and like matters of village self-government for villages not included within the area of a municipality or a municipal corporation, or a notified area committee or a Gram Panchayat;
- <sup>253</sup>[(lv) (a) the appointment punishment, suspension and dismissal of Kotwars,  
 (b) the prescription of the duties and mode of supervision of Kotwars;]

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<sup>252</sup> Inserted by M.P. Act No. 24 of 1961 (w.e.f. 23-6-1961).

<sup>253</sup> Substituted by M.P. Act No. 31 of 1982 (w.e.f. 1-3-1982), published in M.P. Rajpatra, dated 29-10-1982.

- (lvi) (a) the regulation of procedure for the establishment of a Gram Sabha under Section 232,
  - (b) the manner in which a Gram Sabha shall acquire, hold or transfer property movable and immovable, enter into contracts, etc., under Section 232(4), and
  - (c) sums to be recovered as fees and other incomes by a Gram Sabha;
  - (lvii) prescription of the record to be maintained under Section 233;
  - (lviii) the manner in which the wishes of the villagers shall be ascertained under Section 234 (2);
  - (lix) (a) regulation of setting apart of unoccupied land for the exercise of nistar rights under Section 237 (1); and
  - (b) other purposes for the exercise of nistar rights under Section 237 (1)(k);
- <sup>254</sup>[(c) regulation of diversion of unoccupied land under Section 237 (3).]
- <sup>255</sup> [(lx) (i) The categories of persons for whom priority will be given for granting of tree planting and tree pattas;
  - (ii) the manner of selection of such persons to whom tree planting permit and tree pattas to be granted;
  - (iii) the extent of land to be earmarked;
  - (iv) the terms and conditions for granting of tree planting permit and tree pattas;
  - (v) the form of the tree planting and the tree patta;
  - (vi) the extent of usufructuary rights under the tree planting permit and the tree patta.]
- (lxii) the regulation of the cutting of trees under Section 240 (1), and of control, management, felling or removal of the forest growth under Section 240 (3);
  - (lxiii) prescription of the manner of proclaiming an order published under Section 241 and regulation of the felling or removal of trees there under;
  - (lxiii) (a) the manner of ascertaining and recording the customs in regard to matters specified in Section 242 (1); and
  - (b) the manner of publication of record of customs under Section 242 (2);
  - (lxiv) prescription of the manner of disposal of sites in the abadi area under Section 244;

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<sup>254</sup> Inserted by M.P. Act No. 1 of 1998 (w.e.f. 5-1-1998).

<sup>255</sup> Substituted by M.P. Act No. 11 of 1988 (w.e.f. 7-5-1988).

(lxv) regulation of fishing, catching hunting or shooting of animals in villages and removal of any materials from land belonging to the State Government under Section 249;

(lxvi) (a) prescription of the form of application under Section 251 (2); and  
 (b) the regulation of the use of water from tanks under Section 251 (6);

(lxvii) the regulation of procedure of the Gram Sabha in calling upon persons residing in the village to perform labour under Section 252;

(lxviii) prescription of standards of cultivation and management under Section 255;

(lxix) prescription of conditions for inspection and grant of copies of records, maps and land records under Section 256;

(lxx) generally for the guidance of Revenue Officers and all other persons in proceedings under this Code;

(lxxi) any other matter which has to be or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication.

(4) All rules made under this Code shall be laid on the table of the Legislative Assembly and shall be subject to such modifications as the Legislative Assembly may make.

#### Section 259 - Reference to certain tenures-

Any reference in any enactment to,--

<sup>256</sup>[(a) A bhumiswami or a bhumidhari in the Mahakoshal region;]

<sup>257</sup> [(a-i) a pakka tenant, muafidar, inamdar or a concessional holder in the Madhya Bharat region;]

(b) a pachpan paintalis tenant, pattedar tenant, grove holder or a holder of a tank in the Vindhya Pradesh region;

(c) a khatedar tenant or a grove holder in the Sironj region; and

(d) an occupant in the Bhopal region;

shall be deemed to be reference to a bhumiswami.

#### Section 260 - Reference to laws not in force in any region-

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<sup>256</sup> Inserted by M.P. Act No. 24 of 1961 (w.e.f. 2-10-1959).

<sup>257</sup> Re-numbered by M.P. Act No. 24 of 1961 (w.e.f. 2-10-1959).

Any reference in this Code to a Central Act which is not in force in any region of the State shall in relation to that region be construed as a reference to the corresponding law in force in that region.

*Explanation*— For the purposes of this section the expression “Central Act” shall have the same meaning as assigned to it in Section 3 (7) of the General Clauses Act, 1897 (X of 1897).

#### **Section 261 - Repeal and savings-**

The enactments specified in Schedule II are hereby repealed to the extent mentioned in the 4th column thereof:

Provided that the repeal shall not affect--

- (a) the previous operation of any law so repealed or anything duly done or suffered there under; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, constituted or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed :

Provided further that subject to the preceding proviso, anything done or any action taken (including any rules, assessment, appointments and transfers made, notifications and powers conferred, forms and leases granted, record-of-rights, and other records framed or confirmed, rights acquired, liabilities incurred and times and places appointed), under any such enactment shall be deemed to have been done or taken under the corresponding provision of this Code and shall continue to be in force accordingly unless and until superseded by anything done or action taken under this Code.

#### **Section 262 - Transitory provisions-**

- (1) Save as otherwise expressly provided in this Code, all cases pending before the State Government or any Revenue Court in any region immediately before the coming into force of this Code, whether in appeal, revision, review or otherwise shall be

decided in accordance with the provisions of the appropriate law, which would have been applicable to them had this Code not been passed.

(2) Any case pending in Civil Court at the coming into force of this Code, which would under this Code be exclusively triable by a Revenue Court, shall be disposed of by such Civil Court according to the law in force prior to the commencement of this Code.

(3) All proceedings under any of the laws described in Schedule III pending before the State Government immediately before the commencement of this Code shall, on such commencement, stand transferred to the Board, and shall thereupon be disposed of by the Board as if they were proceedings entertained by the Board under this Code.

*Explanation*— For the purposes of this sub-section “State Government” shall include Governor , Council of Ministers or a Minister.

**Section 263 - Power to remove difficulties-**

(1) If any difficulty arises in giving effect in any region to the provisions of this Code, the State Government may, by order notified in the Gazette, make such provisions or give such directions as appear to it to be necessary for the removal of the difficulty.

(2) A copy of the order passed under sub-section (1) shall as soon as may be after it is passed be laid before the Legislative Assembly.

**Section 264 - Code not to apply in certain cases-**

Nothing contained in this Code shall apply to a person who holds land from the Central Government.

## **SEED LAW**

## **20. The Seeds Act, 1966**

(see Central Law Vol. page.....)

# The Seeds Act, 1966

(Cent. Act 54 of 1966)

## N O T I F I C A T I O N S

[Notification. No. 6781-7559-XIV-11-69, dt. 1-12-1969; Published in M. P. Gaz. Pt. I, dt. 10-4-70, p. 680].-In exercise of the powers conferred by section 3 of the Seeds Act, 1966 (No. 54 of 1966), the State Government hereby directs that the National Seed Corporation shall be the Certification Agency for the State to carry out the functions entrusted to the Certification Agency by or under the said Act.

S. 4(2)

[Notification No. 6768-7559-XIV-II, dt. 1-12-1969; Pub. in M. P. Gaz. Pt. 1, dt. 10-4-70, p. 680].-In exercise of the powers conferred by sub-section (2) of section 4 of the Seeds Act 1966 (No. 54 of 1966), the State Government hereby declares the Seed Testing Laboratory at Jabalpur as the State Seed Laboratory where analysis of seeds of any notified kind or variety shall be carried out by the seed Testing Laboratory at Jabalpur under the said Act in the prescribed manner.

[Notification No. B-15-2-92-XIV-2, dt. 10-6-1992, Pub. In M. P. Gaz. Pt. I, dt. 10-7-92, p. 2025].-In exercise of the powers conferred by the sub-section (2) of section 4 of the Seeds Act, 1966 (No. 54 of 1966), on recommendation of State Seeds Sub- Committee, the State Government hereby declares the Seed Testing Laboratory Raipur, as a "State Seed. Laboratory" where analysis of seeds of any notified kind or variety, as per Seed Rules and instructions issued from time to time by the State Government shall be carried out by seed analysis under the said Act.

It further declares that the Director of Agriculture Joint Director of Agriculture, Raipur Division, and representative of State Government would be authorised to inspect/enquire from time to time laboratory or its working and give necessary instructions.

This notification will come into force with effect from its publication in the "Madhya Pradesh Gazette".

[Notification No. B-6-275- 74-2-XIV. dt. 1-2-1980; Pub. In M. P. Gaz. Pt. I, dt. 20-6-80, p. 1615].-In exercise of the powers conferred by section 8 of the

Seeds Act, 1966 (No. 54 of 1966), the State Government hereby establishes the certification agency consisting of:-

- |   |                |
|---|----------------|
| 1. Agriculture Minister   | Chairman       |
| 2. Agriculture Production Commissioner and Secretary<br>Agriculture Government of Madhya Pradesh. | Vice -Chairman |
| 3. Finance Secretary to Government of Madhya Pradesh.   | Member         |
| 4. Director of Agriculture, Madhya Pradesh  | Member         |
| 5. Director Research. J.N.K.V. Jabalpur.  | Member         |
| 6. Managing Director, State Seed Certification, Sanstha,<br>Secretary Madhya Pradesh.             | Member-        |

for the State to carry out the functions entrusted to the Certification agency for under the said Act.

S. 11(1)

[Notification No. B-6-158-80-2-XIV, dt. 9-12-1980; Pub .in M. P. Gaz. Ext., dt. 9-12-80, p. 2063].-In exercise of the powers conferred by sub-section (1) of section 11 of the Seeds Act, 1966 (No. 54 of 1966), the State Government hereby specifies the Production Commissioner, Madhya Pradesh as an appellate authority for the purpose of the said sub-section.

[Notification No. 9492-XIV-II, dt. 16-1-1970; Pub. in M. P. Gaz. Pt. I, dt. 3-4-70, p. 562].-In exercise, of the powers conferred by Section 12 of the Seeds Act, 1966 (No. 54 of 1966), the State Government hereby appoints the officer-in-charge of State Seed Laboratory, Jabalpur to be the Seed Analyst who shall exercise his jurisdiction in whole of the State of Madhya Pradesh.

[Notification No. 6766-7559-XIV-II. dt. 1-12-1969; Pub. in M. P. Gaz. Pt. I, dt. 10-4-70,p.679 and as amended by Notfn. No. B-130-73- 2-XIV, dt. 20-2-1973; Pub. in M. P. Gaz. Pt. I dt. 27-4- 73, p. 480].-In exercise of the powers conferred by sub- section (1) of section 13 of the Seeds Act, 1966 (No. 54 of 1966), the State Government hereby appoints the persons specified in column (2) of the table below to be the Seed Inspectors who shall exercise their jurisdiction within the areas specified in column (4) thereof:—

## TABLE

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S1. No.	Persons	Number	Areas
<hr/>			
1. Assistant Director of Agriculture (Seed Division Certification Officer). Gwalior		One	Gwalior
2. Assistant Director of Agriculture (Seed Certification Officer). Indore.		One	Indore Division
3. Assistant Director of Agriculture (Seed Certification Officer). Rewa.		One	Rewa Division
4. Assistant Director of Agriculture (Seed Division Certification Officer). Bilaspur		One	Bilaspur
5. Assistant Director of Agriculture (Seed Division Certification Officer). Jabalpur		One	Jabalpur
6. Assistant Director of Agriculture. (Seed Division Certification Officer). Bhopal		One	Bhopal
7. Seed Development Officer. Intensive Division Agriculture District Programme. Raipur		One	Raipur
8. Agriculture Assistants (Seed Certification Division)		Two	Gwalior
9. Agriculture Assistants (Seed Certification)		Two	Indore Division
10. Agriculture Assistants (Seed Certification)		Two	Rewa Division
11. Agriculture Assistants (Seed Certification Division)		Two	Bilaspur

12. Agriculture Assistants (Seed Certification) Division	Two	Jabalpur
13. Agriculture Assistants (Seed Certification) Divisions	Two	Bhopal
14 .Agriculture Assistants (Seed Certification)	Two	Raipur Division
<sup>504</sup> 15. Assistant Director of Agriculture (Seed Certification Officer)	One	Durg Division
16. Agriculture Assistants (Seed Certification Inspector)	One	Durg Division
17. Agriculture Assistants (UD Seed Inspector)	One	Hoshangabad Division.
[Notification No. B-6-30-74-2-XIV, dt. 18-2-1974; Pub. in M. P. Gaz. Pt. I, dt. 29-3-74, p. 468].-In exercise of the powers conferred by sub-section (1) of section 13 of the Seeds Act 1966 (No. 54 of 1966), the State Government hereby appoints the persons specified in column (2) of the Table below to be the Seed Inspectors who shall exercise jurisdiction within the area specified in column (4) thereof:-		

**TABLE**

---

Sl. No.	Persons	Number	Areas
—	—	—	—
1. Assistant Director of Agriculture (Seed Certification Officer) Sagar	One	Sagar Division	
2. Assistant Director of Agriculture (Seed Certification Officer) Morena	One	Morena Division	
3. Agriculture Assistant (Seed Certification) Sagar	Two	Sagar Division	
4. Agriculture Assistant (Seed Certification) Bhind	One	Morena Division	
[Notification No. B--6-130-73-2-XIV, dt. 20-2-1973; Pub. in M. P. Rajpatra , Pt. I, dt. 27-4-73, P. 480].-In continuation of this department Notification No. 6766-7559-XIV-II, dated the 1st December 1969 in exercise of the powers conferred			

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<sup>504</sup> Ins. by Notfn. dt.20-2-73.

by sub-section (1) of section 13 of the Seed Act, 1966 (No. 54 of 1966) the State Government hereby appoints the persons specified in column (2) of the Table below to be the Seed Inspectors who shall exercise their jurisdiction within the area specified in Column (4) thereof:-

TABLE

---

SI. No.	Persons	Number	Areas
15.	Assistant Director of Agriculture. (Seed Division Certification Officer)	One	Durg
16.	Agriculture Assistant (Seed Certification Inspector) Division	One	Durg
17.	Agriculture Assistant (UD) (Seed Inspector) Division	One	Hoshangabad

**21. The Madhya Pradesh Rajya Beej Evam  
Farm Vikas Nigam Adhiniyam, 1980**

# The Madhya Pradesh Rajya Beej Evam Farm Vikas Nigam Adhiniyam, 1980<sup>1</sup>

[Act No. 18 of 1980]

## **PREAMBLE**

An Act to establish a Corporation for the execution of projects with a view to developing production of quality seeds and setting up, developing and running agricultural farms, to provide for better and larger agricultural production and for matters connected therewith or incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-first Year of the Republic of India as follows:-

### **Section 1 - Short title and extent-**

- (1) The Act may be called The Madhya Pradesh Rajya Beej Evam Farm Vikas Nigam Adhiniyam 1980.
- (2) It extends to the whole of the State of Madhya Pradesh.

### **Section 2 – Definitions-**

In this Act unless the context otherwise requires,-

- (a) "Bank" means a banking company as defined in the Banking Regulation Act, 1949 (No. 10 of 1949) and includes:-

  - (i) the State Bank of India constituted under the State Bank of India Act, 1955 (No. 23 of 1955);
  - (ii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (No. 38 of 1959);
  - (iii) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (No. 5 of 1970);
  - (iv) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 (No. 10 of 1963);
  - (v) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (No. 1 of 1956);

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<sup>1</sup> Received the assent of the Governor on the 4th November, 1980; assent first published in the "Madhya Pradesh Gazette"(Extraordinary), dated the 6th November, 1980)

- (vi) a financing bank as defined in the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961); and
- (vii) any other banking institution that may be notified by the State Government to be a bank for the purpose of this Act.
- (b) "Beej or Seed" means seeds of food grains, fiber crops, plantation crops, oil seeds, commercial crops, vegetables, fruits and fodder and includes seedlings, tubers, bulbs, rhizomes, roots or stem cuttings (rooted or un rooted) grafts and all other vegetative propagated plant materials;
- (c) "Board" means the Board of Directors of the Nigam constituted under Section 8;
- (d) "Financing Institution" means any statutory corporation or other body corporate established in India which has one of its objects the financing of agriculture in India and which is notified by the State Government to be a financing institution for the purposes of this Act;
- (e) "Land" shall have the same meaning as assigned to that expression under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959);
- (f) "Nigam" means the Madhya Pradesh Rajya Beej Evam Farm Vikas Nigam established under this Act;
- (g) "Farm" means an area of land belonging to the Nigam or not which is used or proposed to be used for agricultural farm for the production of seeds;
- (h) "Project" means any project or scheme for seeds and farm development approved under Section 25;
- (i) "Regulation" means regulations made by the Nigam under Section 41;
- (j) "Works" includes any works relating to organization, production, conservation, development or exploitation of seeds and agricultural farms to be executed under a project under this Act;
- (k) "Year" means the financial year.

**Section 3 - Establishment and incorporation of the Madhya Pradesh Rajya Beej Evam Farm Vikas Nigam-**

- (1) With effect from such date as the State Government may, by notification appoint, there shall be established for the purposes of this Act a Nigam to be known as the Madhya Pradesh Rajya Beej Evam Farm Vikas Nigam.
- (2) The Nigam shall be a body corporate with the name aforesaid, having perpetual succession and common seal with power, subject to provisions of this Act to acquire,

hold and dispose of any property and to contract, and may, by that name sue and be sued.

#### **Section 4 - Offices and Agencies-**

The head office of the Nigam shall be at Bhopal and it may, with the previous approval of the State Government, establish offices or agencies at other places.

#### **Section 5 - Share capital and share holders-**

(1) The authorized capital of the Nigam shall be ten crores of rupees divided in ten thousand shares of rupees ten thousand each. With the previous sanction of the State Government, the first issue of share shall be made by the Nigam.

(2) The State Government may enter into an agreement with the Central Government or any of its related agencies for subscribing to the share capital of the Nigam and subject to such agreement the State Government and the Central Government or any of its related agencies shall subscribe in such proportion as may be mutually determined to the share capital to be issued in the first instance. The Nigam may unless otherwise agreed, issue at any time or from time to time, fully paid shares to the State Government of the value of any plants and machinery or fixed assets which may be acquired by it from the State Government.

(3) Subsequent issues of share capital may be subscribed by the State Government and the Central Government or any of its related agencies as may be mutually agreed upon between both the Governments and the related agencies aforesaid.

(4) The State Government may, from time to time, increase the authorized capital of the Nigam to such extent as the State Government may deem necessary.

#### **Section 6 - Restrictions on transfers of shares-**

The shares of the Nigam shall not be transferable except as between the State Government and the Central Government or the related agencies concerned and in accordance with the regulations made in this behalf.

#### **Section 7 – Management-**

(1) The general superintendence, direction and management of the affairs and business of the Nigam shall vest in the Board of Directors which may exercise all such powers and do all such acts and things as may be exercised or done by the Nigam under this Act.

(2) The Board of Directors, in discharging its functions shall act on business principles, regard being had to public interest and shall be guided by such directions

on questions of policy as may, from time to time, be given to it by the State Government.

### **Section 8 - Constitution of Board-**

(1) <sup>2</sup>[The Board of Directors of the Nigam shall consist of the Chairman to be nominated by the State Government and the following other Directors]:-

#### **A-EX-OFFICIO DIRECTORS**

- (i) <sup>3</sup>[xxx].
- (ii) the Secretary to Government, Madhya Pradesh, Agriculture Department, who shall be Vice-Chairman;
- (iii) the Secretary to Government, Madhya Pradesh, Finance Department or his nominee not below the rank of Deputy Secretary,
- (iv) Director of Agriculture, Madhya Pradesh;
- (v) Director Research, Jawaharlal Nehru Krishi Vishwavidyalaya, Jabalpur;
- (vi) the Registrar of Co-operative Societies, Madhya Pradesh;
- <sup>4</sup>[(vii) the Managing Director appointed under Section 11.]

#### **B-NOMINATED DIRECTORS**

- (viii) one Director to be nominated by the State Government to represent banks and financing institutions;
- (ix) one Director having special knowledge or practical experience in respect of agriculture and allied subjects to be nominated by the State Government;
- (x) two Directors having practical experience in respect of organization, management of Farms and production and marketing of seeds to be nominated by the State Government.

(2) <sup>5</sup>[The Chairman or a nominated Director] shall hold office during the pleasure of the authority nominating him but the term of his office shall not exceed three years from the date of notification of his nomination. <sup>6</sup>[The Chairman or a nominated Director] may, however, resign his office at any time, by writing a letter under his

<sup>2</sup> Substituted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

<sup>3</sup> Omitted by MP. Act No. 6 of 1983 (w.e.f. 22-1-1983).

<sup>4</sup> Substituted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

<sup>5</sup> Substituted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

<sup>6</sup> Substituted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

hand to <sup>7</sup>[the State Government and the Chairman of the Board] and the resignation shall be effective from the date of its receipt.

(3) In the event of the death, resignation or disqualification of <sup>8</sup>[the Chairman or a nominated Director], the vacancy shall be filled up by nomination as soon as possible.

**Section 9 - Disqualification for being a Director of the Nigam-**

(1) A person shall be disqualified for being nominated or appointed as, and for being a Director of the Nigam,-

(a) if he is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(b) if he is of unsound mind and stands so declared by a competent Court; or

(c) if he is or has been convicted of any offence which, in the opinion of the State Government, involves moral turpitude; or

(d) if he is removed or dismissed from the service of the Government or a Corporation owned or controlled by the Central Government or the State Government; or

(e) if he acts in any manner prejudicial to the interest of the Nigam or has any interest in any body, institution or organization whose activities are prejudicial to the interest of the Nigam.

(2) If a Director of the Nigam becomes subject to any of the disqualifications mentioned in sub-section (1) he shall cease to be a Director of the Nigam with effect from the date of notification to this effect by the State Government.

<sup>9</sup>[Explanation-For the purpose of this Section "Director" shall include Chairman.]

**Section 10 - Vacation of office by nominated Directors-**

(1) If a nominated director,-

(a) becomes subject to any of the disqualifications mentioned in Section 9; or

(b) is absent without leave of the Board from more than three consecutive meetings thereof without cause sufficient in the opinion of the State Government to exonerate his absence;

the State Government may declare that the said Director shall be deemed to have vacated his office from the date of notification to this effect and thereupon his seat shall become vacant.

<sup>7</sup> Substituted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

<sup>8</sup> Omitted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

<sup>9</sup> Inserted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

(2) A Director whose office has been declared vacant under sub-section (1) shall not be eligible for re nomination to the Board as a Director or for employment in the Nigam in any capacity.

### **Section 11 - Managing Director-**

(1) The Managing Director shall be appointed by the State Government and he shall -  
 (i) be a whole time officer of the Nigam;  
 (ii) exercise such powers and perform such duties as the Board may delegate or entrust to him;  
 (iii) receive such salary and allowances and be governed by such terms and conditions of service as the Nigam may, with the approval of the State Government, determine :

Provided that the first Managing Director shall receive such salary and allowance and shall be governed by such terms and conditions of service as the State Government may determine.

(2) The State Government may at any time remove the Managing Director from office without assigning any reason therefore.

### **Section 12 - Casual vacancies in the office of the Managing Director-**

If the Managing Director is by infirmity or otherwise, rendered incapable carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his appointment, the State Government may appoint another person to act in his place during his absence.

### **Section 13 - Remuneration of Directors-**

Directors, save as otherwise provided in Section 11 shall be paid such fees and allowances as may be provided by regulations for attending the meetings of the Board or of any of its committees and for attending to any other work of Nigam :

Provided that no fee shall be payable under this Section to the Chairman, Managing Director or any other Director who is a Minister or an Officer of the State Government or of the Central Government.

### **Section 14 - Meetings of Board-**

(1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to transaction of the business at its meetings as may be provided by regulation :

Provided that the Board shall meet at least once in every three months.

(2) The Chairman of the Board or, in his absence the Vice-Chairman, or in the absence of both the Chairman and the Vice-Chairman, any other Director chosen by the directors present at the meeting shall preside at a meeting.

(3) All matters which come up before any meeting of the Board shall be decided by a majority of the votes of the Directors present and voting and, in the event of equality of votes, the person presiding shall have a second or casting vote.

(4) In case the Board deems necessary to seek the advice or opinion of any person on any particular matter, the Board may invite such person to attend any meeting of the Board, such an invitee shall have a right to participate in any discussion but shall have no right to vote at the meeting.

#### **Section 15 - Committees of the Board-**

(1) The Board may constitute one or more executive committees consisting of such number of Directors as may be provided by the regulations for discharging such functions as may be delegated to it by the Board.

(2) The Board may constitute such other committees whether consisting wholly of Directors or wholly of other persons, as thinks fit, for such purposes, related to the activities of the Nigam, as it may decide.

(3) The members of a Committee other than the Directors of the Nigam, shall be paid by the Nigam such fees and/or allowances for attending its meeting and for attending to any other work of the Nigam as may be provided by regulations.

#### **Section 16 - Member of Board or Committee thereof not to participate or vote in certain cases-**

A Director of the Nigam or a members of a Committee who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board or a committee thereof, shall disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Board or of the Committees, as the case may be, and the director or member shall not take any part in any deliberation or decision of the Board or the Committee with respect to that matter except to furnish such clarification as may be required of him.

#### **Section 17 - Appointment of Officers and other employees, etc.-**

(1) The Nigam may appoint such officers and other employees as it considers necessary for the efficient performance of its functions.

(2) Every person employed by the Nigam under this Act shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

(3) The Managing Director acting on behalf of the Board shall be deemed to be the appointing authority and shall exercise all powers of such an authority in respect of all officers and other employees employed by the Nigam.

(4) An appeal shall lie to the State Government or such authority as the State Government may specify in this behalf against the order of Managing Director in such manner as may be provided by regulations.

**Section 18 - Condition of service of employees transferred to the Nigam from Government Department-**

(1) Subject to the provisions of Section 32 any official transferred to the Nigam, at the request of the Nigam, permanently or temporarily by the State Government from any of their departments, shall enjoy all such privileges of gratuity, pensionary benefits and any other benefits to which that official would have been entitled had he continued to serve in his parent department in the State Government.

(2) An official specified in sub-section (1) shall, during the tenure of employment in the Nigam, be subject disciplinary control of the Nigam.

**Section 19 - Business which the Nigam may transact-**

(1) The principal business of the Nigam shall be production, procurement, processing and distribution of seeds, development and running of farms, conducting research and development in seed production, processing, preservation, installation, management and operation of processing plants, storage and testing facilities and rendering to seed growers such other assistance as may be considered necessary to improve seed production.

(2) To carry out the duties specified in sub-section (1) the Nigam shall prepare a statement of programme of work listing out the projects prepared for different activities which are to be executed during the next year.

(3) The State Government may specify any other works for execution in addition to the programme submitted by the Nigam.

**Section 20 - Borrowing by the Nigam-**

(1) The Nigam may for the purpose of carrying out its functions under this Act,-

- (a) with the prior approval of the State Government issue and sell bonds and debentures, and other securities carrying interest;
  - (b) borrow money and accept deposits from Central Government, the State Government, any bank or financial institution and with the approval of the State Government, from a corporate body or from any other person.
- (2) Subject to such conditions and restrictions as the State Government may deem fit to impose, it may guarantee the bonds and debentures and other securities issued under clause (a) of sub-section (1) and the loans and deposits raised by the Nigam under clause (b) of sub-section (1) as to the repayment of principal and payment of interest thereon and incidental charges.
- (3) Without the approval of the State Government the total borrowing of the Nigam under sub-section (1) shall not at any time, in the aggregate exceed four times the amount of the capital subscribed by the State Government under Section 5.

**Section 21 - Other source of funds-**

- (1) The Nigam may receive remuneration for its services including cost of works incurred by the Nigam under this Act, and accept gifts, grants, subsidies, donations or any benefactions from the State Government or any other Government or agency or from any person.
- (2) The State Government may also transfer to the Nigam, buildings, land, machinery or any other movable or immovable property for the use of the Nigam on such terms and conditions as the State Government may deem fit.

**Section 22 - Execution of works-**

The Nigam may execute the works itself or through any other agency.

**Section 23 - Power to enter upon a land holding-**

- (1) Such officers, servants and other persons as may be authorized by the Nigam or the State Government in this behalf, may at any time, after giving the land holder reasonable notice, enter upon his holding and carry out surveys and investigations and all such works and things as may be necessary in connection with the execution of the projects, scheme or work under this Act.
- (2) The staff of the Nigam shall while acting or purporting to act in pursuance of any of the provisions of this Act be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (No. 45 of 1860)

**Section 24 - Penalties for obstruction of work**

Any person who obstructs the execution of any work or causes any damage to any work, being executed by the Nigam shall on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

**Section 25 - Submission of Programme or activities and financial estimate-**

- (1) The Nigam shall, in respect of every year submit to the State Government, a statement of programme of its activities together with annual financial statement showing therein in detail the estimated receipt and expenditure of the Nigam for the year.
- (2) The Nigam may, with the prior approval of the State Government revise or modify the statement and estimate referred to in sub-section (1).
- (3) The Nigam shall submit each year to the State Government the programme of work and details of the project for different activities which are to be executed during the next year.
- (4) The State Government may, either approve the projects or may approve it with such modifications as it may consider necessary or may return it to the Nigam to modify the same or to prepare a fresh project in accordance with such directions as the State Government may deem appropriate.

**Section 26 - Funds of the Nigam-**

- (1) The Nigam shall have and maintain its own funds, and all receipts of the Nigam shall be carried thereto and all payments by the Nigam shall be made there from.
- (2) The funds of the Nigam shall be applied by it for meeting all administrative expenses of the Nigam and for carrying out the purposes of this Act.
- (3) The Nigam may deposit with any bank such sums as may be needed by it for its operations and the surplus may be invested in such manner as may be approved by the State Government.

**Section 27 - Allocation of surplus profit-**

- (1) The Nigam shall establish a reserve fund to which shall be credited every year such portion of its annual net profits as the Nigam thinks fit.
- (2) After making provisions for such reserve fund and for bad and doubtful debts and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956 (Central Act I of 1956) the balance of its annual net profits shall be paid to the State Government.

**Section 28 - Accounts and audit-**

(1) The Nigam shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare an annual statement of account in the prescribed manner. The books of accounts of the Nigam shall be balanced and closed as on the 31st day of March each year. The annual statement of accounts shall be submitted to the Board of Directors within six months of the close of the financial year, failing which the Managing Director shall explain the delay and apply to the State Government for permitting the submission in another three months at the most.

(2) The Nigam shall cause its accounts to be audited annually by such person as the State Government may direct.

(3) As soon as the accounts of the Nigam have been audited, the Nigam shall send a copy thereof together with a copy of the report of the auditor thereon to the State Government and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at reasonable price.

(4) The Nigam shall comply with such directions as the State Government may after perusal of the report of the auditor think fit to issue.

**Section 29 - Depreciation reserve-**

The Nigam shall create a depreciation reserve and, shall at the end of every year, credit to such reserve from its revenue an amount calculated in accordance with the straight line method of depreciation, that is to say, such an amount as is arrived at by dividing ninety per cent of the original cost of the assets, after taking into account the sums already written off and set aside in the books of the Nigam by the prescribed period in respect of such assets:

Provided that the contribution in respect of any asset to the depreciation reserve under this Section shall cease at the end of the prescribed period or when the asset cease to be used by the Nigam whichever is earlier:

Provided further that if in any year it is not practicable fully to comply with the provisions of this Section, the amount by which the sums actually credited falls short of the amount required under this Section in respect of that year shall be carried forward and together with simple interest thereon at the Reserve Bank rate ruling at the beginning of that year, shall be credited to the said reserve as soon as it is found possible so to do:

Provided also that the accumulations in the depreciation reserve may be invested in the business of the Nigam or utilized for repayment of the principal of any loan raised under sub-section (1) of Section 20 or for repayment of sums paid by the State Government under sub-section (2) of the said Section.

### **Section 30 - Returns**

- (1) The Nigam shall furnish to the State Government from time to time, such returns as the State Government may require.
- (2) The Nigam shall, in respect of each year, furnish to the State Government, within a period of three months from the date on which the annual accounts of the Nigam are closed, a copy of the balance sheet as on the close of that year together with a profit and loss account for the year and a report on the working of the Nigam including its policy and programme during the year.
- (3) The State Government shall, as soon as may be after the receipt of such report cause such report and the annual report received under Section 28 to be laid on the table of Legislative Assembly.

### **Section 31 - Power of State Government to give directions-**

- (1) In the discharge of its functions under this Act, the Nigam shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing and if any question arises whether the direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.
- (2) Where the Nigam incurs any loss directly in consequence of carrying out the directions of the State Government under sub-section (1) the same shall be made good by the State Government.

### **Section 32 - Transfer of Government employee to the Nigam-**

- (1) On and after the establishment of the Nigam, the State Government may from time to time, direct that the services of such of the existing officers and servants of the State Government in Agriculture Department who in its opinion, are rendered surplus to its requirements, shall stand terminated and their posts shall stand abolished, from such date as may be specified by it (hereinafter in this Section referred to as the appointed date), and shall on that date (which may be different for different officers and servants) become the officers or servants of the Nigam.

(2) Every permanent or temporary employee of the State Government in respect whom a direction is issued under sub-section (1) shall, on and from the appointed date, be a permanent or temporary employee of the Nigam, as the case may be, against a permanent or temporary post, which shall stand created in the establishment of the Nigam with effect from the appointed date.

(3) Any officer or servant so transferred shall hold office under the Nigam by the same tenure, at the same remuneration and upon the same other conditions of service and with the same rights and privileges as to pension, gratuity, provident fund and other matters as would have been admissible to him on the appointed date if this Act had not come into force. Any service rendered by him under the State Government shall be deemed to be service rendered under the Nigam. He shall continue to serve under the Nigam until his employment under the Nigam is duly terminated or his remuneration or the conditions of service are duly revised or altered by the Nigam in pursuance of the law which for the time being governs his conditions of service :

Provided that the conditions of service applicable immediately before the appointed date to the case of any such officer or servant shall not be varied to his disadvantage, except with the previous approval of the State Government.

(4) The sums standing to the credit of the employees referred to in sub-section (1) in any person, provident fund, gratuity or other like funds constituted for them shall be transferred by the State Government to the Nigam along with any accumulated interest due till the appointed date and with the accounts relating to such funds. On and after the appointed date, the Nigam shall, to the exclusion of the State Government, be liable for payment of person, provident fund, gratuity or other like sums as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(5) Nothing contained in sub-section (1) shall apply to any employee who by notice in writing given to the State Government within two months from the appointed date or such extended time as the State Government may, by general or special order, specify, intimate his intention of not becoming or continuing as an employee of the Nigam. Where such notice is received from any employee-

(a) in case of a permanent employee, he shall be allowed to retire giving him the benefit of pension, gratuity, provident fund and other benefits accrued to him had he retired from the Government service on the appointed date;

(b) in case of a temporary employee, his service shall be terminated after giving him notice or remuneration in lieu of notice as per the existing service rules of the State Government.

(6) Notwithstanding anything contained in the foregoing sub-sections-

(a) no person employed in the Agriculture Department against whom any disciplinary proceeding is pending or to whom any notice or order of termination of his service or compulsory retirement has been issued before the date of commencement of this Act shall be transferred to the Nigam, and such person may be dealt with after the said date in such manner and by such authority as the State Government may, by general or special order, specify in this behalf;

(b) if the services of any employee of the State Government stand transferred under sub-section (1) to the Nigam, the Nigam shall be competent after such transfer to take such disciplinary or other action as it thinks fit against or in respect of such employee having regard to any act or omission or conduct or record of such employee while he was in service of the State Government.

### **Section 33 - Liquidation of the Nigam-**

The Nigam shall not be placed in liquidation save by an order of the State Government and in such manner as it may direct.

### **Section 34 - Indemnity of Director-**

(1) Every Director of the Nigam shall be indemnified by the Nigam against all losses and expenses incurred by him, in or in relation to discharge of his duties except such as are caused by his own willful act or default.

(2) A Director of the Nigam shall not be responsible for any other Director or for any officer or other employee of the Nigam for any loss or expenses resulting to the Nigam from the insufficiency or deficiency of value of, or title to any property or security acquired or taken on behalf of the Nigam or the insolvency or wrongful act of any debtor or any person under obligation to the Nigam or anything done in good faith in the execution of the duties of his office in relation thereto.

### **Section 35 - Defects in appointment of directors not to invalidate acts etc.-**

(1) No act or proceeding of the Board or of any committee of the Board shall be invalid merely by reason of-

(a) any vacancy in or defect in the composition of the Board or Committee, as the case may be; or

(b) any defect in the nomination of any person action as a <sup>10</sup>[Chairman or a Director] of the Nigam or member of the Committee; or

(c) any defect or irregularity in the procedure of the Board or Committee, as the case may be.

(2) No act done by any person acting in good faith as a <sup>11</sup>[Chairman or a Director] of the Nigam or as a member of a Committee of the Board shall be deemed to be invalid merely on the ground that he was disqualified to be a <sup>1</sup>[Chairman or a Director] or a member or that there is any defect in his appointment.

#### **Section 36 - Protection of action under the Act-**

No suit or other legal proceeding shall lie against the Nigam or any other person authorized by the Nigam to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in the pursuance of this Act.

#### **Section 37 - Declaration of fidelity and secrecy-**

<sup>12</sup>[The Chairman, every Director], member of the Board or Committee, auditor, Officer or other employee of the Nigam or an employee of the State Government whose services are utilized by the Nigam, shall before entering upon his duties, make a declaration of fidelity and secrecy in the form prescribed by regulations.

#### **Section 38 - Delegation of powers-**

The Board may delegate to any committee of the Board or to the Chairman or Managing Director or any other officer of the Nigam such of its powers and functions under this Act as it may deem necessary.

#### **Section 39 - Money due to Nigam recoverable as arrear of Land Revenue-**

All moneys recoverable by the Nigam under this Act or under any agreement which provides for recovery of any amount payable there under as arrears of land revenue shall on a certificate signed by the Managing Director or any person authorized by him in this behalf be recoverable as arrears of land revenue.

#### **Section 40 - Power of the State Government to make rules-**

(1) The State Government may make rules not inconsistent with the provisions of this Act to give effect to the provisions of this Act.

<sup>10</sup> Substituted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

<sup>11</sup> Substituted by M.P. Act No. 6 of 1983 (w.e.f. 22-1-1983).

<sup>12</sup> Substituted by MP. Act No. 6 of 1983 (w.e.f. 22-1-1983).

(2) All rules made under this Section shall be laid on the table of the Legislative Assembly.

**Section 41 - Power of the Nigam to make regulations-**

(1) The Nigam may, with the previous approval of the State Government make regulations not inconsistent with this Act and the rules made there under, providing for all matters for which no rules have been framed under this Act and for which provision is necessary and expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for the following matters, namely:-

- (a) the manner in which and the conditions subject to which the shares of the Nigam shall be transferable;
- (b) the fees and allowances that may be paid to the directors;
- (c) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for transaction of business;
- (d) the number of directors constituting the executive committee and the functions which such committee shall discharge;
- (e) the functions which any other committee may discharge under this Act;
- (f) the fees and allowances that may be paid to the member of a committee other than directors;
- (g) the manner in which appeal lie to the State Government or the specified authority;
- (h) delegation of powers and functions of the Board to the committees or to the Chairman, the Managing Director and other officers of the Nigam;
- (i) the manner and terms of issue and redemption of bonds and debentures and other securities by the Nigam;
- (j) the manner and conditions subject to which the Nigam may borrow moneys;
- (k) the form and manner in which the balance sheet and accounts of the Nigam shall be prepared and maintained;
- (l) the form of returns, statements and estimates required to be prepared under this Act;
- (m) duties and conduct, salaries, allowances and conditions of service of the employees of the Nigam;

- (n) establishment and management of provident fund or other benefit funds for employees of the Nigam; and
- (o) generally for the efficient conduct of the affairs of the Nigam.

**21 Insecticides (Madhya Pradesh Appeal)  
Rules, 1976**

# Insecticides (Madhya Pradesh Appeal) Rules, 1976

## **PREAMBLE**

In exercise of the powers conferred by the Section 37 of the Insecticides Act, 1968 (No. 46 of 1968), the State Government hereby makes the following rules, the same having been previously published, as required by sub-section (1) of the said section, namely :

### **1. Short title.--**

These rules may be called the Insecticides (Madhya Pradesh Appeal) Rules, 1976<sup>1</sup>.

### **2. Definitions.--**

In these rules, unless the context otherwise requires,--

- (a) "Act" means the Insecticides Act, 1968 (No. 46 of 1968);
- (b) "Section" means a section of the Act.

### **3. Appeal.--**

(1) Any person aggrieved by a decision of the licensing officer under Section 13 except under the proviso to sub-section (4) thereof or Section 14, may appeal, within a period of thirty days from the date on which the decision of the licensing officer has been communicated to him, to--

- (a) the Director of Agriculture, Madhya Pradesh, Bhopal if such decision is relating to the Licence to manufacture insecticides;
- (b) the Joint Director of Agriculture, if such decision is relating to the Licence to sale, stock or exhibit for sale or distribute insecticides.

(2) The appeal shall be in writing and shall set out concisely and under distinct heads the grounds on which the appeal is preferred.

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<sup>1</sup> Vide Notification No. B-6-60-73-II-XIV, dated 13-9-1976, published in the M.P. Rajpatra Part IV (Ga), dated 19-11-1976, Page 788.

(3) Every appeal shall be accompanied by a treasury challan evidencing the payment of Rs. 50 per pesticide subject to a maximum of Rs. 500 and a copy of the decision appealed against.

(4) The fee payable for preferring an appeal shall be deposited under head "105 Agri-As-other receipts".

(5) Every such appeal shall be presented either in person or through an agent duly authorised in writing in this behalf by the appellant or may be sent by registered post.

4. Procedure to be followed by the appellate authority.--

In deciding appeals under this Act, the appellate authority shall follow the same procedure which a Court follows in deciding appeals from decree or order of an original Court under the Code of Civil Procedure, 1908 (No. 5 of 1908).

**22. Madhya Pradesh Vanaspati Rog Tatha  
Vinashi Kit Adhiniyam, 1972**

# Madhya Pradesh Vanaspati Rog Tatha Vinashi Kit Adhiniyam, 1972

[Act No. 27 of 1973]

[25th April, 1973]

## **PREAMBLE**

Act to prevent the introduction spread or re-appearance of plant diseases, pests, parasites and noxious weeds.

Be it enacted by the Madhya Pradesh Legislature in the Twenty-third Year of the Republic of India as follows:—

### **Section 1 - Short title and extent-**

- (1) This Act may be called the Madhya Pradesh Vanaspati Rog Tatha Vinashi Kit Adhiniyam, 1972<sup>1</sup>.
- (2) It extends to the whole of Madhya Pradesh.

### **Section 2 – Definitions-**

In this Act, unless the context otherwise requires,—

- (a) “Affected area” means any area declared as such under Section 3;
- (b) “District Magistrate” includes any Gazetted Officer of Government authorised by the District Magistrate to perform all or any of the functions of the District Magistrate under this Act;
- (c) “Insertedecting Officer” means an Insertedecting Officer appointed under Section 14;
- (d) “Noxious weeds” means any weed declared as such under Section 3;
- (e) “Occupier” means the person having for the time being the right of occupation of any land, water or premises, or his authorised agent or any person in actual occupation of the land, water or premises, and includes a local authority and a company having such right of occupation or in such actual occupation;

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<sup>1</sup> Received the assent of the President on the 25th April, 1973; assent first published in the Madhya Pradesh Gazette (Extraordinary), dated the 7th May, 1973.

- (f) “parasite” means any plant or animal carrying on its existence wholly or in part on any agricultural crop, plant, tree, bush or herb and declared to be a parasite under Section 3;
- (g) “pest” means any insect, invertebrate animal or vertebrate animal (including any other animal organism) and declared to be a pest under Section 3;
- (h) “plant” includes all horticultural or agricultural crops, trees, bushes or herbs and also includes the seed, fruit, leaves, trunk, roots, bark or cutting or any part thereof; and
- (i) “plant disease” meant any fungoid; bacterial, virus, vegetable organism, parasitic or other disease, declared to be a plant disease under Section 3.

**Section 3 - Power to declare plant diseases, pests, parasites and noxious weeds-**

Where it appears to the State Government that any disease, pest, parasite or weed in any area is injurious to plants, or is likely to contaminate water supply or is obstructive to waterways, and that it is necessary to take measures to eradicate such disease, pest, parasite or weed, or to prevent its introduction, spread or re-appearance, the State Government may, by notification, declare the area to be an affected area for such period as may be specified, and with reference to such area also,—

- (a) declare that such disease, pest, parasite or weed is a plant disease, pest, parasite or noxious weed;
- (b) prohibit or restrict the movement and renewal of any plant, soil or manure from one place to another;
- (c) prohibit the plantation or growing of any plant which is likely to be injurious to other plants;
- (d) direct that such other preventive or remedial measures shall be carried out as the District Magistrate may consider necessary to eradicate, destroy or prevent the introduction, spread or reappearance of any plant disease, pest, parasite or noxious weed; and
- (e) prescribed the period within which it shall not be lawful to plant the specified crop or to allow a specified crop to remain in the whole or in portion of the affected area.

**Section 4 - Power to issue directions-**

On or after the issue of a notification under Section 3, the District Magistrate may, by notice,—

- (i) direct every occupier within the affected area to carry out such preventive or remedial measures, including the removal or destruction of plants which are infested or likely to be infested, as the District Magistrate may specify in the notice, to eradicate, destroy or prevent the introduction, spread or re-appearance of any plant disease, pest, parasite or noxious weed within the period specified in the notice;
- (ii) call upon any male person, not being below the age of eighteen years and residing within the said area, to render such assistance as may be specified in the notice, in carrying out the measures referred to in clause (i) :

Provided that,—

- (a) no person who is not an occupier shall be called upon to render whole time service for a period exceeding seven days at a time and there shall be an interval of not less than ninety days before any such person is called upon to render whole time service after having already rendered such service; and
- (b) no person who is, by reason of old age, physical disability or any other reasonable cause, incapable of rendering assistance, or who lives at a distance of more than 8 kilometres from the place where his presence is required for the purpose of rendering assistance, shall be called upon to render such assistance;
- (c) it shall not be necessary to notify every occupier under clause (i) or every other person whose assistance is required under clause (ii) and a proclamation in this behalf made by beat of drum or other customary mode in the area, village or locality shall be deemed sufficient notice to all affected persons residing in that area, village or locality.

#### **Section 5 - Duties of occupier on the issue of notice under Section 4-**

On the issue of a notice under Section 4, it shall be the duty of,—

- (i) every occupier within the affected area to carry out the preventive or remedial measures specified in such notice; and
- (ii) every male person to render assistance in such manner as has been specified in the notice.

**Section 6 - Power of Insertedetecting Officer to enter upon any land or premises-**

- (1) Any Insertedetecting Officer may, after giving reasonable notice to the occupier enter upon any land, water or premises situated in the affected area within his jurisdiction for the purpose of ascertaining,—
  - (i) where there is any plant disease, pest, parasite or noxious weed on such land, water or premises;
  - (ii) whether any prohibition or restriction imposed under clause (b) or clause (c) of Section 3 has been complied with;
  - (iii) whether other preventive or remedial measures specified in clause (i) of Section 4 have been carried out.
- (2) The Insertedetecting Officer shall have the authority to stop any person or vehicle for the purposes of inspection at a notified check post to prevent the entry of pests, plant diseases and weeds in the areas other than the affected area.
- (3) The Insertedetecting Officer shall have the power to inspect the plant material, soil or manure being removed from an affected area to any other place within the State.
- (4) The Insertedetecting Officer shall have the power to seize, quarantine or destroy any material specified in sub-section (3) which is unaccompanied by an authoritative photosanitary certificate.

**Section 7 - Power to carry out measures-**

- (1) If on inspection of any land, water or premises, an Insertedetecting Officer finds that any prohibition or restriction imposed under clause (b) or clause (c) of Section 3 has not been complied with or that the preventive or remedial measures specified under clause (i) of Section 4 have not been carried out as directed, he may, subject to any general or special order of the District Magistrate and without prejudice to any action that may be taken against the defaulter under Section 11, carry out the preventive or remedial measures including the removal or destruction of plants which are infested or are likely to be infested.
- (2) The cost of any preventive or remedial measures carried out under sub-section (1) shall be payable by the occupier and shall on demand be recoverable from him as an arrear of land revenue.

**Section 8 - Power to carry out measures in emergent situations-**

(1) Notwithstanding anything contained in Sections 3, 4, 5, 6 and 7, if the State Government is satisfied that plants in any affected area are in danger of being damaged or destroyed by any plant disease, pest, parasite or noxious weed prevalent in that area and that it is necessary to take immediate preventive or remedial measures it may by notice published in the Gazette or in any local newspaper or by beat of drums in the affected area,—

- (a) declare that it shall be competent for the District Magistrate or any Insertedetecting Officer to carry out such preventive or remedial measures in the affected area of any part thereof or to take such other steps, including the removal or destruction of plants which are infested or likely to be infested, as he may deem fit;
- (b) direct that every occupier in respect of whose land such preventive or remedial measures or other steps have been taken, shall be liable to pay the cost thereof at such rate and within such time as the District Magistrate may by order from time to time determine having regard to the following namely—
  - (i) the charges to be incurred for labour, material or use of equipment; and
  - (ii) any other charges to be incurred for the purpose aforesaid.

(2) Subject to any general or special order of the State Government any Insertedetecting Officer may upon the publication of a notice under sub-section (1) enter upon any land or premises within the affected area and carry out such preventive or remedial measures or take such other steps referred to in clause (a) of sub-section (1), as he may deem fit.

(3) The Insertedetecting Officer shall by order in writing assess the amount payable by an occupier in respect of the preventive or remedial measures or other steps taken under sub-section (2).

(4) If the occupier fails to pay the amount so assessed within the time fixed under clause (b) of sub-section (1), the amount shall be recoverable from him as an arrear of land revenue.

### **Section 9 – Appeal-**

(1) Any person aggrieved by an order made under Section 7 or sub-section (3) of Section 8 may, within thirty days from the date of the service of the order, prefer an appeal to such authority and in such form as may be prescribed :

Provided that no appeal shall lie against an order under Section 7 or sub-section (3) of Section 8 except on the following grounds,—

- (i) in the case of an order under Section 7—
  - (a) that no preventive or remedial measures were taken in respect of his land; or
  - (b) that the charges for labour, material or use of implements are unreasonably high; and
- (ii) in case of an order under sub-section (3) of Section 8—
  - (a) that the assessment of the amount payable has not been made in accordance with the rates fixed by the District Magistrate;
  - (b) that the amount assessed includes charges other than the items mentioned in sub-clauses (i) and (ii) of clause (b) of sub-section (1) of Section 8;
  - (c) that the charges for labour material or use of equipment are unreasonably high :

Provided further that in computing the period of thirty days the time requisite for obtaining a copy of the order shall be excluded.

(2) Subject to such procedure as may be prescribed and after such further enquiry as the appellate authority may deem fit, it may either affirm, vary or reverse the order of the Insertedetecting Officer:

Provided that it shall not vary or reverse any order unless notice has been served on the parties interested and an opportunity of being heard is given to them.

(3) Every order passed under sub-section (2) shall be final and shall not be called into question in any Court of law.

(4) If the appellate authority is satisfied that the amount paid by the occupier is in excess of the amount payable by him, it shall cause a refund to be made of the amount paid in excess.

#### **Section 10 - Special provisions in the event of locust infestation-**

(1) Where any affected area in which locusts have been declared as pest under Section 3, is infested or is in danger of being infested by locusts; the District Magistrate may, with a view to facilitating preventive or remedial measures or other steps against locusts, by order in writing requisition any vehicle and make such other orders as may appear to him to be necessary or expedient in connection with such requisitioning.

(2) Every order made under sub-section (1) shall be served on such persons and enforced in such manner as may be prescribed.

(3) Any vehicle requisitioned under this section may be used or dealt with in such manner as may appear to the officer requisitioning the vehicle to be necessary or expedient.

(4) If the owner of the vehicle in respect of which an order of requisition has been made, does not place the vehicle at the disposal of the District Magistrate, the District Magistrate may, without prejudice to any other action that may be taken under the Act or the rules, seize the vehicle from any person who for the time being may be in custody of it.

(5) No person shall remove or allow to be removed any part of a vehicle (including tyre, tube or any other accessory) in respect of which an order of requisition has been made or in any way damage it or permit it to be damaged so as to reduce the value or utility of such vehicle.

(6) When any vehicle is requisitioned under this section, there shall be paid to the owner such compensation as may be agreed upon between him and the District Magistrate and in the absence of any such agreement, such compensation as the District Magistrate may fix, having due regard to the type and condition of the vehicle at the time of requisition and the fares or rates prevailing in the locality for the hire of such vehicle.

**Explanation.**—In this section, ‘vehicle’ means any vehicle used or capable of being used for the purpose of road-transport whether propelled by mechanical power or otherwise.

(7) The manner in which the compensation shall be assessed and the manner in which the order of compensation shall be served, the time within which and the persons to whom it shall be paid and the other matters relating thereto shall be such as may be prescribed.

(8) Any person aggrieved by any order fixing compensation under sub-section (6), may appeal against the same to such authority, within such time and in such manner as may be prescribed.

(9) Any vehicle requisitioned under this section may at any time by an order be released from such requisition by the District Magistrate.

(10) When an order of derequisitioning is made, notice of the same shall be given to the person to whom the vehicle is to be returned and if he cannot be found and has no

local agent or other person empowered to accept delivery of the vehicle on his behalf, such notice shall be given by publishing the order in the Gazette. After service of the notice personally or by publication as aforesaid, the vehicle specified therein shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claims in respect of any such vehicle for any period after the said date.

### **Section 11 - Contravention of directions issued-**

(1) If a person,—

- (i) act in contravention of the prohibition or restriction contained in any notification issued under Section 3; or
- (ii) acts in contravention of the direction contained in a notice issued under Section 4 or fails to render assistance having been called upon to do so by notice issued under the said section; or
- (iii) acts in contravention of the declaration or direction contained in any notification issued under sub-section (i) of Section 8; or
- (iv) obstructs the entry of any person referred to in Section 6 as sub-section (2) of Section 8; or
- (v) obstructs the carrying out of the preventive or remedial measures under sub-section (1) of Section 7 or sub-section (2) of Section 8; or
- (vi) does not place the vehicle at the disposal of the District Magistrate in pursuance of an order under sub-section (1) of Section 10 or acts in contravention of the provisions of subsection (5) of Section 10;

shall be deemed to have committed an offence under this Act.

(2) Any person convicted by a Magistrate for an offence specified in sub-section (1) for the first time shall be liable to a fine not exceeding one hundred rupees or in default to a simple imprisonment for a period not exceeding ten days and if the same person is subsequently convicted for a like offence he shall be liable to fine not exceeding three hundred rupees or in default for a simple imprisonment for a period not exceeding one month for each such subsequent conviction.

(3) If a person has been convicted under this section for a contravention of the prohibition or restriction contained in the notification issued under Section 3, the plant

of or soil or manure in respect of which such contravention has been committed may also be forfeited to the State Government.

### **Section 12 - Cognizance of offences-**

No Magistrate shall take cognizance of an offence under this Act except upon a complaint made by an Insertedetecting Officer.

### **Section 13 - Obligation of village officers to report plant diseases, pests, etc-**

(1) Patel, Sarpanch and Patwari and such agriculturist who is affected thereby and such other officers as may be prescribed of the village adjoining an affected area shall forthwith report the existence within the village of any plant diseases, pest, parasite or noxious weed of the nature specified in the notification issued under Section 3, in respect of the said area, to the village level worker, Agriculture Demonstrator, Insertedetecting Officer or such other officer as the State Government may appoint in this behalf.

(2) The officer to whom a report is made under sub-section (1) shall on receipt of such report and after making such further enquiry as he may deem necessary forward it with his comments to the District Agriculture Officer for onward transmission to the State Government.

*Explanation.—*For the purpose of this section,—

- (a) “Patel” means a person appointed as Patel under Section 222 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959);
- (b) “Patwari” means a person appointed as Patwari under Section 104 of the Madhya Pradesh Land Revenue Code, 1959 (20 of 1959);
- (c) “Sarpanch” means a Sarpanch of a Gram Panchayat.

### **Section 14 - Appointment of Insertedetecting Officers**

The State Government may, by notification, appoint Insertedetecting Officer for such local areas as may be specified in the notification.

### **Section 15 - Protection of persons acting in good faith-**

No suit, prosecution or other legal proceedings shall lie against the State Government or any officer in respect of anything done or intended to be done in good faith under

this Act, or for any damage caused by any action taken in good faith in carrying out the provisions of this Act.

### **Section 16 - Delegation of powers-**

The State Government may, by notification delegate to any officer or authority all or any of the powers conferred on it under this Act to be exercised subject to such restrictions and conditions as may be specified in the notification.

### **Section 17 - Power to make rules-**

- (1) The State Government may after previous publication make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely,—
  - (a) (i) the authority to which and the form in which an appeal under sub-section (1) of Section 9 shall be preferred;
  - (ii) the procedure to be followed in the disposal of appeal under sub-section (2) of Section 9;
  - (b) (i) the manner in which the order under sub-section (1) of Section 10 shall be enforced;
  - (ii) the manner in which the compensation shall be assessed and the order thereto shall be served, the time within which and the persons to whom it shall be paid and the other matters relating thereto, to be prescribed under sub-section (7) of Section 10;
  - (iii) the authority to which, the time within which and the manner in which an appeal under sub-section (8) of Section 10 shall be filed;
  - (c) the class of officers who are bound to make a report as required under sub-section (1) of Section 13; and
  - (d) any other matter which has to be or may be prescribed.
- (3) Rules made under this Act may provide that a contravention of any such rule shall be punishable with fine which may extend to fifty rupees.
- (4) All rules made under this Act shall be laid on the table of the Legislative Assembly.

### **Section 18 - Repeal**

The Madhya Pradesh Agricultural Pests and Diseases Act, 1936 (No. XXXV of 1936), is hereby repealed.

**22.1    Madhya Pradesh Vanaspati Rog  
Tatha Vinashi Kit Rules, 1977**

# Madhya Pradesh Vanaspati Rog Tatha Vinashi Kit Rules, 1977<sup>1</sup>

## **PREAMBLE**

In exercise of the powers conferred by Section 17 of the Madhya Pradesh Vanaspati Rog Tatha Vinashi Kit Adhiniyam, 1972 (No. 27 of 1973), the State Government hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section, namely :—

### **1. Short title.—**

These rules may be called the Madhya Pradesh Vanaspati Rog Tatha Vinashi Kit Rules, 1977.

### **2. Definitions.—**

In these rules, unless the context otherwise requires,-

- (a) “Act” means the Madhya Pradesh Vanaspati Rog Tatha Vinashi Kit Adhiniyam, 1972 (No. 27 of 1973);
- (b) “Section” means a section of the Act.

### **3. The Authority to which and the Form in which an appeal under sub-section (1) of Section 9 shall be preferred.—**

Any person aggrieved by an order made under Section 7 or sub-section (3) of Section 8 may, prefer an appeal to the Joint Director of Agriculture of the area concerned in the Form appended to these rules.

### **4. The procedure to be followed in the disposal of an appeal under sub-section (2) of Section 9.—**

(1) An appeal to the Joint Director of Agriculture of the area concerned shall be presented by an Appellant or by his duly authorised agent either in person during office hours or sent to it by registered post.

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<sup>1</sup> Vide Notification No. B-6-254-73-II-XIV, dated 5-4-1977; published in M.P. Rajpatra, Part IV (Ga), dated 14-10-1977 at p. 317.

(2) When such an appeal is presented by an agent it shall be accompanied by a letter or authority of the appellant authorising him as such.

(3) Every appeal shall be accompanied by a certified copy of the order appealed.

(4) Every appeal shall—

- (a) be either type written or hand written in ink legibly;
- (b) specify the name and address of the appellant;
- (c) state the authority by whom the order appealed against was passed;
- (d) state clearly the grounds on which the appeal is preferred;
- (e) state precisely the relief which the appellants seek; and
- (f) give the date of the order appealed against.

(5) On receipt of the appeal, the appellate authority shall endorse on it the date of its receipt by it. The appellate authority shall, as soon as possible, examine it and satisfy itself that—

- (a) the person presenting it has the authority to do so;
- (b) that it is made within the prescribed time limit; and
- (c) that it conforms to all the provisions of the Act and these Rules.

(6) If the appellate authority finds that the appeal presented does not conform to any of the said provisions, it shall make a note on the appeal to that effect and may call upon the appellant or his agent to remedy the defects within a period of seven days of the receipt of the notice to do so or in case the appeal has not been presented within the prescribed time limit to show cause within the said period of seven days why it should not be dismissed as time-barred by the appellate authority.

(7) If the effect is remedied or the causes shown by the appellant or his agent satisfies the appellate authority, the appellate authority may proceed to consider the appeal.

(8) If the appellant or his agent fails to remedy the defects to show cause to the satisfaction of the appellate authority within the said period, the appellate authority may, if the appeal is not presented within the time limit, dismiss the appeal as time-barred. In cases where it is considered necessary to give a hearing, the appellate authority may fix a date for hearing, of which due notice shall be given to the appellant or his agent.

(9) On the date so fixed, the appellate authority shall go through the relevant papers, hear the appellant or his agent, if present, and pass suitable order on the appeal.

(10) The appellate authority may, at its discretion, adjourn to any other day the hearing of any appeal at any stage.

(11) When the hearing of the appeal is completed, the appellate authority shall announce its judgment forthwith or may fix a date or the same, after giving due notice to the appellant or the other parties to the appeal.

(12) Every decision or order of the appellate authority shall be in writing and copy of the same shall be supplied to the appellant and such other parties as in the opinion of the appellate authority are likely to be affected by the decision or the order.

**5. The manner in which the order under sub-section (1) of Section 10 shall be enforced.—**

The order requisitioning vehicle under sub-section (1) of Section 10 shall be served personally to the person who is in custody of it and also to the owner of the vehicle.

**6. The manner in which the compensation shall be assessed and the order thereto shall be served, the time within which and the persons to whom ‘it shall be paid and other matters relating thereto to be prescribed under sub-section (7) of Section 10.—**

(1) The manner of assessment of compensation under sub-section (7) of Section 10 for the vehicle/vehicles requisitioned under sub-section (1) of Section 10, shall be, based on decision of the Collector of the district for which the vehicle has been requisitioned. The assessment of the Collector will be in consultation with the Agri. Engineer of the area and the related Regional Transport Officer.

(2) The order of the assessment of the compensation under sub-section (7) of Section 10 of the vehicle shall be served on the owner of the vehicle.

(3) The amount of compensation after arriving at the final claim shall be paid to the owner of the vehicle within 90 days from the date of issue of claim.

**7. The Authority to which, the time within which and the manner in which an appeal under sub-section (8) of Section 10 shall be filled.—**

(1) Appeal against an order fixing of compensation under sub-section (6) of Section 10 shall be made to the Commissioner of the Division concerned within 45 days of the order appealed against.

(2) An appeal to the Commissioner of the Division concerned shall be presented by an Appellant or by his duly authorised agent to the Appellate Authority either in person during office hours or sent to it by registered post.

- (3) When such an appeal is presented by an agent, it shall be accompanied by letter of authority of the appellant appointing him as such.
- (4) Every appeal shall be accompanied by a certified copy of the order against which the appeal is preferred.
- (5) Every appeal shall—
  - (a) be either type-written or hand-written in ink legibly;
  - (b) specify the name and the address of the appellant;
  - (c) state the authority by whom the order appealed against was made;
  - (d) clearly state the grounds on which the appeal is made;
  - (e) state precisely the relief which the appellant claims.

**8. The class of officer who are bound to make a report as required under sub-section (1) of Section 13.—**

Under sub-section (1) of Section 13, the Patel, Sarpanch and Patwari, Village Level Workers, Agriculture Extension Officers and Assistant Director of Agriculture shall report the presence of any Plant disease, Pest, Parasite or Noxious Weed of the nature specified in the notification issued under Section 3 in respect of the said area to the district head of the Agriculture Department of class I or class II cadre, as the case may be.

## **HORTICULTURE LAWS**

**23. Madhya Pradesh Phal Paudh Ropani  
(Vinyaman) Adihiniyam, 2010**

# Madhya Pradesh Phal Paudh Ropani (Viniyaman) Adhiniyam, 2010

[Act No. 3 of 2011]

[4th January, 2011]

## **PREAMBLE**

*An Act to provide for the licensing and regulation of fruit-plant nurseries in the State of Madhya Pradesh and for matters connected therewith or incidental thereto.*

Be it enacted by the Madhya Pradesh Legislature in the Sixty-First year of the Republic of India as follows:—

### **Section 1 - Short title, extent and commencement**

- (1) This Act may be called the **Madhya Pradesh Phal Paudh Ropani (Viniyaman) Adhiniyam, 2010**.
- (2) It extends to the whole of the State of Madhya Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

### **Section 2 - Definitions**

In this Act, unless the context otherwise requires,—

- (a) "competent authority" means a competent authority appointed under section 3;
- (b) "fruit-plant" means any plant which can produce edible fruits or nuts, and includes bud wood, seedlings, grafts, layers, seeds, bulbs, suckers, rhizomes and cuttings of any such plant;
- (c) "fruit-plant nursery" means any place where fruit plants are in the regular course of business propagated and sold for transplantation;

- (d) "owner" in relation to a fruit-plant nursery means the person who, or the authority which, has the ultimate control over the affairs of such fruit-plant nursery; and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the fruit-plant nursery;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "rootstock" means a fruit-plant or part thereof on which any portion of a fruit-plant has been grafted or budded;
- (g) "scion" means portion of a fruit-plant which is grafted or budded on to a rootstock.

### **Section 3 - Appointment of competent authority**

The State Government may, by notification in the official Gazette,—

- (a) appoint such persons, being Gazetted officers of the State Government, as it thinks fit to be competent authorities for the purposes of this Act; and
- (b) define the limits within which a competent authority shall exercise the powers conferred and perform the duties imposed on him, by or under this Act.

### **Section 4 - Owner of every fruit-plant nursery to obtain license**

No owner of a fruit-plant nursery shall, after the expiry of six months from the date of commencement of this Act or from the date on which he first becomes owner of such nursery, whichever is later, conduct or carry on the business of the fruit-plant nursery, except under and in accordance with a license obtained by him under the provisions of this Act and the rules made thereunder.

*Explanation.*—Where an owner has more than one fruit-plant nursery, whether in the same town or village or in different towns or villages, he shall obtain a separate license in respect of each such fruit-plant nursery.

## **Section 5 - Application for grant and renewal of license**

- (1) Any owner desiring to obtain a license referred to in the last preceding section shall make an application in writing to the competent authority in such form and manner, and accompanied by such license fee as may be prescribed by the State Government from time to time.
- (2) On the receipt of such application, the competent authority shall make such inquiry as it considers necessary, and if the competent authority is satisfied—
  - (a) that the fruit-plant nursery is suitable for the proper propagation of the fruit-plants in respect of which the license has been applied for;
  - (b) that the applicant is competent to manage such a fruit-plant nursery;
  - (c) that the applicant has paid the prescribed license fee; and
  - (d) that the applicant fulfils or undertakes to fulfil such other conditions as may be prescribed, being conditions for ensuring the quality of plants to be propagated, and their sale at a reasonable price, the Competent Authority shall grant the license to the applicant after completion of inspection within one month, and if the competent authority is not so satisfied, it may, after giving a reasonable opportunity to the applicant of being heard and after recording a brief statement of the reasons for refusal, refuse to grant the license and furnish a copy of such statement to the applicant.
- (3) Every license granted under this section shall be valid for the period specified therein, and may, on an application made to it be renewed from time to time by the competent authority for such period and on payment of such fee, and on such conditions, as may be prescribed, and where the competent authority refuses to renew a license, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant:

Provided that no order refusing to renew a license shall be made, unless the applicant is given a reasonable opportunity of being heard.

## **Section 6 - Duties of the holder of a license**

Every holder of a license under this Act shall—

- (a) undertake to employ only such varieties of the fruit-plants specified in the license in respect of scion or rootstock for propagation and sale as may be directed by the competent authority;
- (b) keep a complete record of the origin or source of every rootstock and every scion showing—
  - (i) the botanical name, together with the local name, if any, of the rootstock used;
  - (ii) the botanical name, together with the local name, if any, of the scion tree employed in raising the fruit-plants;
- (c) keep the nursery plots as well as the parent trees used for the propagation of fruit-plants free from insects, pests and plant diseases;
- (d) undertake to prepare the fruit-plants in such manner as may be directed by the competent authority;
- (e) specify in a conspicuous manner on a label the name of every variety of fruit-plant enclosed in any package intended for sale, its age as determined in the prescribed manner and the name of the rootstock together with that of the scion of every such fruit-plant;
- (f) undertake to release for sale or distribution only such fruit-plants as are completely free from any kind of insect, pest or plant disease;
- (g) maintain a register in the form specified by the competent authority showing the name of the fruit-plant sold to any person, its age, the name of the root stock and scion and the name and address of the person purchasing it.

## **Section 7 - Power of the State Government to regulate or prohibit import, export or Transport of certain fruit-plants**

The State Government may, for the purpose of maintaining the quality of any fruit-plants grown in any part of the State or to protect them from injurious insects, pests or plant diseases, by notification in the official Gazette, regulate or prohibit, subject to such restrictions and conditions as it may impose, the bringing into, or taking out of the State or any part thereof, otherwise than across the customs frontiers as defined by the Central Government, or the transport within the State, of any fruit-plants of unknown pedigree or affected by any infectious or contagious pests or disease.

### **Section 8 - Power to cancel or suspend licenses**

(1) The competent authority may suspend or cancel any license granted or renewed under this Act on any one or more of the following grounds, namely:—

- (a) that he has parted, in whole or in part, with his control over the fruit-plant nursery or has otherwise ceased to conduct or hold such fruit-plant nursery;
- (b) that where the maximum rate or price of any variety of any fruit-plants has been fixed by the State Government by notification in the official Gazette, he has sold any such fruit-plant at a higher rate or price;
- (c) that he has, without reasonable cause, failed to comply with any of the terms and conditions of the license or any directions lawfully given by the competent authority or has contravened any of the provisions of this Act or the rules made thereunder;
- (d) on any other prescribed ground.

(2) The competent authority may suspend the license pending the passing of a cancellation order in respect thereof under sub-section (1).

(3) Before passing an order under sub-section (1) the competent authority shall inform the licensee, the grounds on which it is proposed to take action and give him a reasonable opportunity of showing cause against such action.

(4) A copy of every order passed under sub-section (1) or (2) shall be communicated to the licensee forthwith.

### **Section 9 - Return of license**

On the expiry of the period of validity specified in a license or on receipt of an order suspending or cancelling a license, the licensee shall return the license to the competent authority:

Provided that such authority may, after such expiration, suspension or cancellation, give such reasonable time as it thinks fit to the owner to enable him to wind up his fruit-plant nursery.

### **Section 10 - Duplicate license**

If a license granted to an owner is, lost, destroyed, mutilated or damaged, the competent authority shall, on application and payment of the prescribed fee, issue a duplicate license.

### **Section 11 - Appeals**

(1) Any person aggrieved by an order of a competent authority refusing to grant or renew a license or suspending or cancelling a license, may appeal in such form and manner within such period and to such authority, as may be prescribed:

Provided that the appellate authority may entertain the appeal on expiry of the prescribed period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it thinks fit.

(3) An order passed under this section shall, subject to the decisions of revision under section 12, be final.

### **Section 12 - Revision**

(1) The State Government may on an application made to it by an aggrieved person against an order in appeal or *suo motto* against an order of the competent authority and also against an order in appeal, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed under this Act, call for and examine the record of any case and may pass such order thereon, as it thinks fit:

Provided that the State Government shall not exercise the power conferred on it by this section, in respect of an order against which an appeal is pending;

Provided further that the State Government shall not pass any order under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

(2) An order passed under this section shall be final.

### **Section 13 - Power of entry and inspection**

For the purpose of ascertaining the position, or examining the working of any fruit-plants nursery or place of business where the fruit- plants are sold or for any other purpose mentioned in this Act or the rules made there under, the competent authority or any person authorized by it or by the State Government in this behalf, shall have the right at all reasonable hours and with or without assistants—

(a) to enter into any fruit-plant nursery or place of business where the fruit-plants are sold and to inspect or examine the fruit-plants therein;

(b) to order the production of any account book, register, record or other document relating to such nursery or such place of business and take or cause to be taken extracts from, or copies of such a document;

(c) to ask all necessary questions and examine any person having control of, or employed in connection with, such nursery.

(2) The licensee and all persons employed in connection with such nursery or such place of business shall afford the competent authority or the authorized

person all reasonable access and facilities for such inspection and examination as may be required for the purposes aforesaid and shall be bound to answer all questions to the best of their knowledge and belief to produce documents in their possession and to furnish such other information in relation to the fruit-plant nursery or place of business where fruit plants are sold as may be required by such authority or person.

### **Section 14 - Penalties**

If any person—

- (a) contravenes any of the provisions of this Act or contravenes the provisions of any rule made thereunder, the contravention of which is made punishable under this section; or
- (b) obstructs any officer or person in the exercise of any powers conferred or in the performance of any duty imposed on him by or under this Act,

he shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or both.

### **Section 15 - Offences by companies**

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person, liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the

offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation—**For the purpose of this section-

- (a) "company" means anybody corporate and includes a firm or other association of individuals;
- (b) "director" in relation to a firm, means a partner in the firm.

### **Section 16 - Cognizance of offence**

No Court shall take cognizance of any offence punishable under this Act except on the report in writing of the facts constituting such offence made by the competent authority or any officer authorized by the state Government in this behalf.

### **Section 17 - Jurisdiction of court**

No court inferior to that of a magistrate of first class, shall try any offence punishable under this Act.

### **Section 18 - Officers and persons exercising power under this Act to be public servants**

All officers appointed under this Act and every person authorized to exercise any powers conferred or to perform any duties imposed on him by or under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

### **Section 19 - Protection of action taken in good faith**

No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

### **Section 20 - Power to delegate**

The State Government may, by notification in the official Gazette, direct that any power or duty which by this Act or by any rule made thereunder is conferred or imposed on the State Government (except the power to make rules) shall in such circumstances and subject to such conditions, if any, as may be specified in the notification, be exercised or performed also by any officer or authority subordinate to the State Government.

### **Section 21 - Power to make rules**

- (1) The State government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
  - (a) the form of and manner of making an application for a license, the fees for such license and renewal thereof, the period for which, the conditions subject to which and the form in which a license may be granted under section 5;
  - (b) the other grounds, the contravention of which by the licensee, shall entail suspension or cancellation of the license under section 8;
  - (c) the fees payable in respect of a duplicate license under section 10;
  - (d) the form and manner in which, the period within which and the authority to which, an appeal may be made under section 11, and the procedure to be followed by the appellate authority in disposing of the appeal;
  - (e) any other matter which is to be or may be prescribed.
- (3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 14.
- (4) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

**Section 22 - Power to remove difficulties**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

**24. The Madhya Pradesh Water  
(Prevention and Control of Pollution)  
Rules, 1975      (For Water Act see Central  
Volume-III)**

# The Madhya Pradesh Water (Prevention and Control of Pollution) Rules, 1975

[Notifi. No. 3816-XXXII, dt 8-12-1975; pub. In M.P. Rajpatra Pt. IV (Ga), dt  
**19 - 12 - 7 p.** 9731

As amended by the following notifications:—

1. No. 2375-XXXII, dt. 31-5-1979; pub. in M.P. Rajpatra Pt. II, dt. 14-9-79, p. 393.
2. No. F. 3437 11- 12-87-XXXII, dt. 30-6-1989; pub. in M.P. Rajpatra (Asadharan), dt. 5-7-89, p. 1185.
3. No. F-11-5-85-XXXII, dt. 31-5-1991; pub.- in M.P. Rajpatra (Asadharan), dt. 4-6-91, p. 1220.
4. No. F-5-114-XXXII-90, dt. 18-3-1993; pub. In M.P. Rajpatra, (Asadharan), dt. 27-4-93, p. 256.
5. No. F. 5-114-XXXII-90, dt. 13-1-1994; pub. In M.P. Rajpatra (Asadharan), dt. 24-1-94, p. 46.
6. No. F-5-114-XXXII-90, dated 12 .8.1997, Pub. in M.P.Raj- patra, Pt. IV(ga), dated 22.8.1997, p. 153.

In exercise of the powers conferred by section 64 of Water (Prevention and Control of Pollution) Act, 1974 (No of 1974), the State Government, after consultation with the State Board for the Prevention and Control of Water Pollution, hereby makes the following rules, namely:—

## CHAPTER 1

### PRELIMINARY

- 1. Short title and commencement.-** (1) These rules may be called the Madhya Pradesh Water (Prevention and Control of Pollution) Rules, 1975,  
(2) They shall come into force on the date of their publication in the “Madhya Pradesh Gazette”.
- 2. Definitions.-** In these rules, unless the context otherwise requires —  
(a) “Act” means the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974);  
(b) “Chairman” means the Chairman of the State Board;  
(c) “State Board Laboratory” means a laboratory established or recognised as such under sub-section (2) of Section 17;  
(d) “<sup>44</sup>State Water Laboratory” means a laboratory established or specified as such under sub-section (1) of section 52;  
(e) “Form” means a from set out in Schedule I;  
(f) “Member” means a member of the State Board and includes the Chairman

thereof;

(g) "Member-Secretary" means the Member-Secretary of -the State Board;  
 (li) "Section" means a section of the Act;

(i) "Schedule" means a Schedule appended to these rules;  
 (j) "Year" means the financial year commencing on the first day of April.

## **CHAPTER II**

### **TERMS AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE STATE BOARD AND COMMITTEES OF STATE BOARD**

#### **3. Salaries, allowance and other conditions of service of the Chairman.-**

(1) The terms and conditions of service of the Chairman including the scales of pay and allowances payable to him shall be such as may be specified in his order of appointment and in the absence of bring so specified, such terms and conditions shall be as such as may be, the same as are applicable to the head of Department of the State Government of corresponding status.

(2) Notwithstanding anything contained in sub-rule (I) where a Government servant is appointed as Chairman, the terms and conditions of his service shall be such as may be specified by the State Government from time to time.

(3) The Chairman of the Board shall be entitled to travel by Air or Air-conditioned First Class compartment of railway and he shall be entitled to the actual lodging charges in addition to daily allowances subject to such actual lodging expenditure limited to rupees 75 per day.

#### **4. Salaries, allowance and other conditions of member Secretary. -**

The terms and conditions of service of the Member Secretary including the scales of pay and allowances payable to him shall be such as may be specified in his order of appointment and in the absence of being so specified, such terms and conditions shall be as far as may be, the same as are applicable to a Grade I Officer of corresponding status of the State Government.

(2) The Member-Secretary of the Board shall be entitled to the actual lodging charges in addition to daily allowances subject to such actual lodging expenditure limited to Rupees 50/- per day.

#### **5. Terms and conditions of service of members of the State Board.-**

Non-official members of the State Board shall be paid an allowance of Rupees 25 per day for each day of the actual meeting of the State Board.

(2) Non-official members shall be paid 1st class railway fares both ways for the railway journey undertaken by them for attending any of the Board's meeting from the normal place of their residence to the place of meeting.

(3) In case of journey by means of communication other than rail, the fare shall be limited to the amount as given in sub-clause (2).

(4) In respect of journeys for place not connected by rail he shall be eligible for actual bus fares plus 5 paise per Km. to the nearest railhead.

(5) Non-official members, who are entitled to travailing allowance shall also be paid incidental charges at rupees 15/- for each journey to cover expenses of transport from the residence at the headquarters to the bus stand/railway station or vice versa, porter charges, reservation charges etc. for departure from the headquarters and for arrival back to the headquarters. No incidental charges shall be paid for expenses that may be incurred for similar purpose at places of halts during the tour. Provided that in case a Member of the Legislative Assembly who is also a member of the State Board, the said daily and travelling allowances and incidental charges will be admissible when the Assembly is not in session and on production of certificate by the member that he has *not* drawn any such allowance for the same journey and halts from any other Government source or any other body.

(6) Government official members shall be governed by the government T.A. and D.A. Rules and application to them.

**6. Fees and allowances to be paid to such members of a committee of the State Board as are not members of the Board under sub- section (3) of section 9.**-A member of the committee of the State shall be paid in respect of meetings of the Committee travelling and daily allowance if he is a non-official, at the rates specified in rule 5, as if he were a member of the State Board and, if a Government servant, at rates, admissible under the relevant rules for Government servants.

### **CHAPTER III**

#### **POWERS AND DUTIES OF THE CHAIRMAN AND MEMBER-SECRETARY AND APPOINTMENTS OF OFFICERS AND EMPLOYEES**

**7. Powers and duties of the Chairman.-**(1) The Chairman shall have overall control over the day-to-day activities of the State Board.

(2) (i) The Chairman may undertake tours within India for carrying out the functions of the State Board:

Provided that he shall keep the State Government though the Secretary to Government Madhya Pradesh Town and Country Planning Department and the State Board informed of his tours.

(ii) The Chairman may, with the prior approval of the State Government, visit any country outside India.

(3) The Chairman shall have full powers to make appointment, promotion, confirmation, and termination of services of the officers and the employees of the Board.

(4) The Chairman shall exercise other financial and administrative powers as detailed in Annexure appended to these rules.

**8. Creation and abolition of posts.-** The State Board may create such posts as it considers necessary for the efficient performance of its functions and may abolish any post, so created;

Provided that for the creation of, and appointments to posts, the maximum of the scale of which is above Rs. 1500/- per month the State Board shall obtain prior sanction of the State Government.

**9. Powers and duties of the Member-Secretary.-** The Member Secretary shall be subordinate to the Chairman and shall, subject to the control of Chairman, exercise the following powers, namely:—

(1) The Member-Secretary shall have full powers in matters of promotion, confirmation, transfer and termination of services of Class III and Class IV employees of the Board:

Provided such persons shall have the right of appeal against the orders of the Member-Secretary, to the Chairman in disciplinary action cases. Where the disciplinary action has been order by the Chairman, the appellate authority shall be the State Government in respect of class I and Class II officers of the Board.

(2) The Member-Secretary shall be in charge of all the confidential papers of the Board and shall be responsible for preserving them.

(3) The Member-Secretary shall make all arrangements for holding meeting of the State Board and meetings of the committees constituted by the State Board.

(4) All orders or instructions to be issued by the State Board shall be over the signature of the Member-Secretary or of any other officer authorised in this behalf by the Chairman.

(5) The Member-Secretary shall authorise, sanction or pass all payments against allotment made or estimates sanctioned.

(6) The Member-Secretary shall exercise other financial and administrative powers as detailed in annexure appended to these rules.

(7) The Member-Secretary shall exercise such other Powers arid perform such other functions as may be delegated to him from time to time either by the Board or by the Chairman.

**10. Recruitment of staff. -** (1) Recruitment to all posts under the Board shall

be made:—

- (a) by direct recruitment or
  - (b) by promotion or
  - (c) by re-employment of retired Government servants whenever found necessary;
- (2) Recruitment to all posts under the Board shall ordinarily be made subject to fulfillment of such standards as may be laid down for posts of corresponding status under the State Government from time to time.

**11. Scales of pay, Allowances and T.A. and Daily Allowance, leave etc.-I)**

Scales of pay for the posts mentioned in column (1) of the table below shall be those as are specified in the corresponding entries in column (2) of the said table.

**TABLE**  
**FOR STATE BOARD OFFICE**

Name of Post	Scale of pay
(1)	(2)

Rs.

**CLASS I POSTS**

(a) Chief Chemist	680-1150
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**CLASS II POSTS**

(b) Asst. Secretary	500-900
(c) Accounts Officer	500-900
(d) Asstt. Engineer (Civil)	425-900
(e) Asstt. Engineer (Chemical)	425-900
(f) Public Relation-cum- Statistical Officer.	425-900
(g) Part time Legal Adviser	250 P.M.

Name of Post	Scale of pay
(1)	(2)

Rs,

**CLASS III POSTS (NON-MINISTERIAL**

(a) Junior Chemists	280-480
(b) Sub-Engineers	280-480
(c) Tracers	169-300

### CLASS III - MINISTERIAL

(a) Office Superintendent	350-600
(b) Accountant	280-480
(c) Accountant Clerk	195-330 (UDC Scale)
(d) Upper Division Clerk	195-300
(e) Lower Division Clerk	169-300
(f) Stenographer	280-480
(g) Steno-Typist	169-300 with special pay of Rs.40 p.m.

### CLASS IV POSTS

(h) Peons	125-150
(i) Chowkidar	125-150

### STAFF FOR FIELD OFFICE CLASS I POSTS

(a) Superintending Engineer	1100-1500
(b) Executive Engineer	680-1150

### CLASS II POSTS

(c) Assistant Engineer	425-900
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### CLASS III NON-MINISTERIAL

(d) Sub Engineer	228-480
(e) Draftsman	280-480
(f) Tracer	169-300

### CLASS III - MINISTERIAL

(g) Office-Superintendent	280-480
(h) Accountant	280-480
(i) Upper Division Clerks	195-330
(j) Lower Division Clerk/Typist	169-300
(k) Steno-Typist	169-300 with special pay

of Rs. 40 p.m.

### CLASS IV

(i) Peons	125-150
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(m) Chowkidar	125-150
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**STAFF FOR CENTRAL ENVIRONMENT CLASS I POSTS**

(a) Superintending Engineer	1100-1500
(b) Senior Scientists	680-1150

Name of Post	Scale of pay
(1)	(2)
	Rs.

**CLASS II POSTS**

(C) Scientists	425-900
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**CLASS III-(NON-MINISTERIAL)**

(d) Junior Scientists	350-650
(e) Chemists	280-480
(f) Tracers	169-300

**CLASS III-MINISTERIAL**

(g) Superintendent	280-480
(h) Accountant	280-480
(i) Upper Division Clerk	195-300
(j) Lower Division Clerk/Typist	169-300

**CLASS IV**

(k) Laboratory Attendants	125-150
(l) Peons	125-150

(2) The employees of the State Board shall be entitled to dearness allowance, city compensatory allowance house rent allowance, conveyance allowance, travelling allowance and daily allowance at the rates as axe applicable to the Government employees in the post carrying corresponding scales of pay.

(3) The employees of State Board shall be governed by the leave rules applicable to Government employees.

(4) For purposes of reimbursement of medical expenses and grant of loans and advances etc. employees of the State Board shall be governed by the rules as are applicable to Government employees.

(5) The employees of the State Board shall be governed by the same rules in respect of scales of pay, etc. as are prescribed by the State Government for

its employees of corresponding status.

(6) Class I and Class II Officers of the State Board shall get the actual lodging charges, in addition to daily allowance while on tour limited to Rs. 25/- and Rs. 15/- per day respectively.

**12. Powers of the Board.**-The Board shall exercise powers in respect of other items as given in the Annexure appended to these rules.

## CHAPTER IV

### TEMPORARY ASSOCIATION OF PERSONS WITH STATE BOARD

**13. Manner and purpose of association of persons with State Board.** (1) The State Board may invite any person, whose assistance or advice it considers useful to obtain in performing any of its functions, to participate in the deliberations of any of its

(2) If the person associated with the Board under sub-rule (1) happens to be a non-official, he shall be entitled to get an allowance of Rupees 25/- per day for each day of actual meeting of the State Board in which he is so associated.

(3) If such person is non-resident in Bhopal, he shall be entitled to travelling allowance at the rates specified under sub-rules (2) to (6) under rule 5.

(4) Notwithstanding anything in sub-rules (2) and (3), if such person is a Government servant or an employee of any other organisation he shall be entitled to travelling and daily allowance only at the rates admissible under the relevant rules applicable to him.

## CHAPTER V

### CONSULTING ENGINEER

**14. Appointment of consulting engineer.**-For the purpose of assisting the State Board in the performance of its functions, the State Board may appoint a consulting engineer to the State Board for a specified period not exceeding four months:

Provided that the State Board may, with the prior approval of the State Government extend the period of the appointment from time to time:

Provided further that if at the time of the initial appointment the State Board had reason to believe that the services of the consulting engineer would be required for a period of more than four months, the State Board shall not make the appointment without the prior approval of the State Government.

**15. Power to terminate appointment.**-Notwithstanding the appointment of a consulting engineer for a specified period under rule 14, the State Board shall have the right to terminate the services of the consulting engineer before the expiry of the specified period, if in hte opinion of the Board, the consulting engineer is not discharging his duties properly or to the satisfaction of the Board or such a course of action is necessary in the public interest.

**16. Emolument of the consulting engineer.**-The State Board may pay the consulting engineer suitable emoluments of fees depending on the nature of work, and the qualifications and experience of the consulting engineer:

Provided that the State Board shall not appoint any person as consulting engineer without the prior approval of the State Government if the emoluments or fees payable to him exceed rupees one thousand five hundred per month.

**17. Tours by consulting engineer.**-The consulting engineer may undertake tours within the country for the performance of the duties entrusted to him by the State Board and in respect of such tours he shall be entitled to travelling and daily allowances as admissible to a Grade I Officer of the State Government. He shall, however, get the prior approval of the Chairman to his tour *programme*.

**18. Consulting engineer not to disclose information .**-The consulting Engineer shall not disclose any information either given by the State Board or obtained during the performance of the duties assigned to him either from the State Board or otherwise, to any person other than the State Board without the written permission of the Board.

**19. Duties and functions of the consulting engineer.**-The consulting engineer shall discharge such duties and perform such functions are assigned to him, by the State Board and it will be his duty to advise the Board on all technical matters referred to him by the Board.

## CHAPTER VI

### BUDGET OF THE STATE BOARD

**20. Form of budget estimates.**-(1) The budget in respect of the year next ensuing showing the estimated receipts and expenditure of the State Board shall be prepared in Forms, I, II, III and IV and submitted to the State Government.

(2)The estimated receipts and expenditure shall be accompanied by the revised budget estimates for the current year.

(3)The budget shall, as far as may be, based on the account heads specified in Schedule II.

**21. Submission of budget estimates to the State Board.** (1)The budget estimates as complied in accordance with rule 20 shall be placed by the Member-Secretary before the State Board before the 5th October each year for approval.

(2)After approval of the budget estimates by the State Board, four copies of the final budget proposals incorporating therein such modifications as have been decided

upon by the State Board shall be submitted to the State Government before the 15th October each year.

**22. Estimates of establishment expenditure and fixed recurring charges.**-(1) The estimates of expenditure on fixed establishment as well as fixed monthly recurring charges on account of rent, allowance, etc. shall provide for the gross sanctioned pay without deductions of any kind.

(2) To the estimates referred to in sub-rule (1) shall be added a suitable provision for leave salary based on past experience with due regard to the intention of the members of the staff in regard to leave as far as the same can be ascertained.

(3) If experience indicates that the total estimate for fixed charges referred to in sub-rules (1) and (2) is not likely to be fully utilised, a suitable lump sum deduction shall be made from total amount estimated.

**23. Re-appropriations and emergent expenditure.**-No expenditure which is not covered by a provision in the sanctioned budget estimates, or which is likely to be in excess over the amount provided under any head, shall be incurred by the State Board without provision being made by re-appropriation from some other head under which saving are firmly established and available.

**24. Power to incur expenditure.**-The State Board shall incur expenditure out of the funds received by it in accordance with the powers delegated to the Board and the Chairman and Member-Secretary as laid down in rules of the Board and where no specific Rules have been framed by the Board the financial rules of the State Government and other instructions issued by the Government from time to time shall apply.

**25. Operation of fund of the State Board.**-The fund of the State Board shall be operated by the Member-Secretary of the State Board or in his absence by any other officers of the State Board who may be so empowered by the State Board.

<sup>520</sup>[**26. Opening of Account in Bank.**-(1) Bank accounts shall be opened in the name of the Board in any scheduled Bank and such accounts shall be operated by the following authorities upto the limits as shown against them:—

1. Chairman Full powers

<sup>521</sup>[2. Member Secretary Upto Rs. 1,00 lakh in one transaction

3. Chief Scientific Officer/ Chief Engineer /Finance Officer Upto Rs. 10,000/- (Rs

<sup>520</sup> Subs. by No. 5, dt 13-1-1994.

<sup>521</sup> Subs. by No. 6, dated 12.8.1997

Ten Thousand) (in absence of Member Secretary)]

Provided that the Chairman may delegate his power to Member- Secretary or any other Officer to sign the cheques for amounts exceeding Rs. 50,000 (Rupees Fifty thousand) in the event of his absence],

- 27. Maintenance of cash book.**-(1) The Cash Book shall be maintained by the Member-Secretary,  
 (2) The Member-Secretary shall immediately bring into account in the Cash Book all moneys received and spent by the Board.

**28. Saving.**-Nothing in this Chapter shall apply to a budget already finalised or expenditure already incurred before the commencement of these rules.

## CHAPTER VII

### ANNUAL REPORT OF THE STATE BOARD

**29. Form of annual report.** -The annual report in respect of the year last ended giving a true and full account of the activities of the State Board during the previous financial year shall contain the particulars specified in the Schedule III<sup>522</sup>[x x x],

## CHAPTER VIII

### ACCOUNT OF THE STATE BOARD

**30. Form of annual statement of accounts of the State Board.**-The annual statement of account of the State Board shall be in Forms V to IX.

## CHAPTER IX

### REPORT OF STATE BOARD ANALYST

**31.** When a sample of any water, sewage or trade effluent has been sent for analysis to a laboratory established or recognised by the State Board, the State Board analyst appointed under subsection (3) of section 53 shall analyse the sample and submit to the State Board a report in triplicate in Form X of the result of such analysis.

## CHAPTER X

### STATE WATER LABORATORY

**523[32. Functions of the State Water Laboratory.**-The State Water Laboratory shall undertake to receive samples sent by authorised representative of the State Board.

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<sup>3</sup>Omitted by No. 3. dt. 31-5-1991.

<sup>523</sup> Rules 32 & 33 subs. by No. 1, dt. 31-5-79

(2)The said Laboratory shall analyse the sample expeditiously for the various parameters indicated in the covering letter with the sample.

(3)The said Laboratory shall maintain a permanent record of all such analysis done indicating the date of collection of the sample, date of analysis, name of person collecting the sample, name of person doing the analysis and the result.

(4)The analyst immediately after completion of the analysis shall send the report in triplicate to the State Board in Form XI.

**33. Fee for Report.**-The State Water Laboratory shall charge a fee of Rs. 100/-for each report.]

## CHAPTER XI APPLICATION FOR CONSENT

**34. Form of Notice,-** A notice under clause (a) of sub-section(3)of section 21 shall be in Form XII.

<sup>524</sup>[**35. Application for consent.-** An application for obtaining the consent of the State Board for establishing or taking any steps to establish any industry, operation or process or any treatment and disposal system or any extension or addition or thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereinafter in this rule referred to as discharge of sewage); or for bringing into use any new or altered outlet for the dischage of sewage or beginning to make any new discharge of sewage under Section 25 or for continuing an existing discharge of sewage under Section 26 shall be made to the State Board in the form prescribed under Water (Prevention and Control of Pollution)(Consent) Madhya Pradesh Rules, 1975].

**36. Procedure for making inquiry into application for consent.**—(1) On receipt of an application for consent under section 25 or section 26, the State Board may depute any of its Officers, accompanied by as many assistants as may be necessary, to visit the premises of the applicant, to which such application relates, for the purpose of verifying the correctness or otherwise of the particulars furnished in the application or for obtaining such further particulars of information as such officer may consider necessary. Such officer may, for the purpose, inspect any place where water or sewage or trade effluent is discharged by the applicant, or treatment plants, purification works or disposal systems of the applicant and may require the applicant

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<sup>524</sup> Subs. by No. 3 dt. 31-5-1991

to furnish to him any plants, specification works or disposal systems or any part thereof; that he considers necessary.

(2) Such officer shall before visiting any premises of the applicant for the purpose of inspection under sub-rule (1) above, given notice to the applicant of his intention to do so in Form XIII. The applicant shall furnish to such officer all facilities that such officer may legitimately require for the purpose.

(3) An officer of State Board may, before or after carrying out an inspection under sub-rule (1) above, require the applicant to furnish to him, orally or in writing such additional information or clarification, or to produce before him such documents, as he may consider necessary for the purpose of investigation of the application and may, for that purpose, summon the applicant or his authorised agent to the office of the State Board.

<sup>525</sup>[37. **Directions.**-(1) Any direction issued under, Section 33-A shall be in writing.

(2) The direction shall specify the nature of action to be taken and the time within which it shall be complied with by the person, officer or the authority to whom such direction is given.

(3) The person, officer or authority to whom any direction is sought to be issued shall be served with a copy of the proposed direction and shall be given an opportunity of not less than fifteen days from the date of service of a notice to file with an officer designated in this behalf, the objections, if any, to the issue of the proposed direction.

(4) Where the proposed direction is for the stoppage or regulation of electricity or water or any other services affecting the carrying on any industry, operation or process and is sought to be issued to an officer or an authority, a copy of the proposed direction shall also be endorsed to the occupier of the industry, operation or process, as the case may be, and objections, if any, filed by the occupier with an officer designated in this behalf shall be dealt with in accordance with the procedures under sub- rules (3) and

(5) of this rule:

Provided that no opportunity of being heard shall be given to the occupier, if he had already been heard earlier and the proposed direction referred to in sub-rule (3) above for the stoppage or regulation of electricity or water or any other service was the resultant decision of the State Board after such earlier hearing.

(5) The State Board shall within a period of 45 days from the date of receipt of the objections, if any, or from the date upto which an opportunity is given to the person, officer or authority to file objections, whichever is earlier, consider the objections,

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<sup>525</sup> Rules 37 & 38 ins. by NO. 3, dt. 31-5-1991

and for reasons to be recorded in writing, confirm, modify or decide not to issue the proposed direction.

(6) In case where the State Board is of the opinion that there is likelihood of a grave injury to the environment and it is not expedient to provide an opportunity to file objections against the proposed direction it may, for reasons to be recorded in writing, issue directions without providing such an opportunity.

(7) Every notice or direction required to be issued under this rule shall be deemed to be duly served:—

- (a) where the \* person to be served is a company, if the document is addressed in the name of the company at its registered office or at its principal office or place of business and is either—
  - (i) sent by registered post, or
  - (ii) delivered at its registered office or at the principal office or place of business;
- (b) where the person to be served is an officer serving Government, if the document is addressed to the person and a copy thereof is endorsed to his Head of the Department and also to the Secretary to the Government in charge of the Department in which for the time being the business relating to the Department in which the officer is employed is transacted and is either:-
  - (i) sent by registered post, or
  - (ii) is given or tendered to him.
- (c) in any other case, if the document is addressed to the person to be served and—
  - (i) is given or tendered to him, or
  - (ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building if any, to which it relates, or
  - (iii) is sent by registered post to that person,

**Explanation.-**For the purposes of this sub-rule—

- (a) “company” means anybody corporate and includes a firm or other association or individuals;
- (b) “a servant” is not a member of the family.

**38. Manner of giving notice.**-The manner of giving notice under clause (b) of sub-section (1) of Section 49 shall be as follows, namely:—

- (1) The notice shall be in writing in form XIV;
- (2) If the alleged offence has taken place in any part of the State, the person giving notice may send notice to:—
  - (i) the State Board, and
  - (ii) Housing and Environment Department (represented by Secretary to Government of Madhya Pradesh).
- (3) The notice shall be sent by registered post with acknowledgment due; and
- (4) The period of sixty days mentioned in clause (b) of subsection (1) of Section 49 of the Act, shall be reckoned from the date it is first received by one of the authorities mentioned in clause (2)]

Explanation:-

- (1) In case the notice is given in the name of a company, documentary evidence authorizing the person to sign the notice on behalf of the company shall be enclosed to this notice. Company defined in the explanation to s 47 of the Act.
- (2) Here give the name and address of the alleged and offender. In case of manufacturing, processing, operating unit indicate the name of location/ nature of activity, etc.
- (3) Documentary evidence shall include photographs/ technical reports/ health reports of the area etc. for enabling enquiry into the alleged violation/ offence.

## **24.1    The Madhya Pradesh Water Supply Rules 1975**

# The Madhya Pradesh Water Supply Rules 1975

The State Government hereby makes the following rules for supply of water from Government Owned Water Works the same having been previously published in the "Madhya Pradesh Rajpatra" :-

## **1. Short title and commencement.--**

- (i) These rules shall be called the Madhya Pradesh Water Supply Rules 1975<sup>1</sup>.
- (ii) These rules shall come into force from the date of publication in the "Madhya Pradesh Gazette".

## **2. Definitions.--**

In these rules, unless the context otherwise requires:-

- (a) "Water Works" means the machinery and equipment owned by State Government for the supply of water under these rules;
- <sup>2</sup>[(b) "Officer-in-charge" means the Executive Engineer, of the Division under which the water works exist, but if that water works is at a place other than the district head quarter then, the Assistant Engineer concerned];
- (c) "Authorised Officer" means the Officer-in-charge or the Water Works and works connected therewith and includes any other officer authorised by the Officer-in-charge in this behalf;
- (d) "Consumer" means anybody corporate, person or persons supplied or applying to be supplied with, or using the water from the water works, or any person or persons otherwise liable for payment of water tax or water charges;
- (e) "Water Works Main" means the distributing pipe line carrying water from the water works;
- (f) "Communication Pipe" means the portion of the pipe line between the main and the meter stopcock valve;

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<sup>1</sup> Vide Notification 3190-1520-XVII-Med.-2, dated 30-10-1968. Published in M.P. Rajpatra, Part IV (Ga), dated 29-11-1968 at pp. 1032-1046.

<sup>2</sup> Subs. Notification No. F-1753-464-35-1-79, dated 27-5-1979.

- (g) "Departmental stopcock or valve" means Gland-cock or valve fixed on the ferrule or the communication pipe to control flow of water, through the meter;
- (h) "Ferrule" means a ferrule connecting a communication pipe with water works main;
- (i) "Meters" means the apparatus fixed for measuring the quantity of water supplied;
- (j) "Premises" means any house or building (inclusive of the grounds attached thereto) or its parts or any tenements thereof, or any other land in respect of which water is supplied or applied for;
- (k) "Storage Cistern" means any cistern for storing the water supplied by water works but shall not include a cistern for storing rain water or hot water or water for flushing or other sanitary needs;
- (l) "Plumber" means any person engaged in pipe laying and fitting and licensed by the Officer-in-charge or the Authorised Officer;
- (m) "Agreement" means the agreement in the prescribed form executed by the person or persons desiring water supply from the water works;
- (n) "Domestic Supply" means water supply for bona fide domestic use of drinking, bathing, kitchen, gardening and for household sanitary fittings;
- (o) "Non-domestic supply" means supply of water for purposes other than those covered under domestic supply;
- (p) "Industrial Supply" means supply of water for industrial purposes;
- (q) "Water tax or water charges" water tax or water charges shall mean the rates of water supply as fixed from time to time for domestic or non-domestic or industrial supply. Rates shall be fixed by the State Government for State owned water works;
- (r) "Minimum charge" Minimum charge shall mean the minimum water tax leviable for metered connection irrespective of the meter reading which shall be fixed by the State Government for all sizes of connections;
- (s) "Flat Rate" the flat rate shall mean the Water tax leviable on the supply where meters are not fixed and shall be fixed by the State Government from time to time.

### **3. Purposes for which water can be supplied.--**

The supply of water under these rules is intended ordinarily for bonafide domestic purposes and the water so supplied shall not be used for any other purposes without the previous permission in writing from the Officer-in-charge of the water works.

### **4. Restrictions on taking water from public fountains.--**

No water cart or lorry shall take water from public fountains installed for bona fide domestic purposes. Water may be drawn for shrinking water on public roads, for Hushing drains and other Municipal Services from duly metered apparatus provided for such purposes at the cost of the local body.

### **5. Public Fountains and Cattle Troughs.--**

- (i) Public fountains may be established by the local body with prior permission of Officer-in-charge of the water works at suitable place not hindering the public traffic preferably in poor localities. These fountains will be duly metered and fitted with waste not taps.
- (ii) It shall be the responsibility of the local body to pay all the water charges of the water consumed at the Public fountains.
- (iii) The Officer-in-charge of the water works or the authorised officer may close temporarily or permanently any public fountain if it is misused or its water contaminated or if water charges have not been paid.

### **6. Application for Water Supply or Alteration.--**

- (i) Person or persons desiring to have a private supply or addition to or alteration in the existing pipes and fittings shall apply to the authorized officer in this behalf through a licensed plumber in such form and in such manner as may be prescribed by the officer-in-charge of the water works from time to time, specifying therein the purpose for which supply is required and the quantity likely to be consumed together with the plan showing the location of the premises and the proposed connection.
- (ii) The application shall be signed by the owner or his lawful agent and shall be accompanied with the current house tax receipt, if no house tax is being paid by him an attested copy of the sale-deed or other documents shall be produced as proof of his ownership.
- (iii) If the premises are Government property or belong to any society or public body the application shall be signed by the person authorised for making payments of taxes.

## **7. Connection to Mains.--**

After a connection is sanctioned the consumer shall deposit with the officer-in-charge of the water works or authorised officer security deposit of rupees 15 for single tap and Rs. 25 for more than one tap and Rs. 50 for temporary connection.

Further he shall pay the following charges:-

- (i) Application fee of Re. 1.
- (ii) boring fee at Rs. 2 for each bore.
- (iii) The connection fee at Rs. 3.
- (iv) In case of Asbestos pipes, Human pipes or other water mains requiring saddle pieces, the cost of such saddle piece as decided from time to time by the Officer-in-charge of the water works shall be borne by the consumer.
- (v) The charges for digging and cutting the roads shall also be borne by the consumer. Further the charge for restoration of the road, which is required to be cut shall be paid to the local body or to the Public Works Department, as the case may be, by the consumer directly and a receipt therefor shall be produced by him to enable the authorised officer to release the connection.
- (vi) In case of connection in Government premises charges under (i) to (iv) above shall be payable by the Public Works Department or the institution concerned. However, in respect of these buildings no security deposit by consumers will be necessary.
- (vii) In case of reconnection a fee of Rs. 7 (Rupees seven) and actual cost of digging and cutting the road, shall be charged from the consumer. Restoration charges shall be paid by the consumer direct to the authorities mentioned in sub-rule (iv) above.
- (viii) Every water connection shall be a metered connection.
- (ix) In exceptional cases unmetered connection with 1/4" ferrule may be allowed for domestic purposes only, but if the consumer is found making misuse or let his tap open so as to run the water waste, he shall be liable to be punished under Rule 11.
- (x) No premises shall be connected with more than one communication pipe, except in special cases to be decided by the officer-in-charge.

- (xi) Size of ferrule shall be decided by the officer-in-charge or authorised officer according to the size of communication pipe and number of taps, etc. This size shall be intimated to the consumer on his application itself and no change in the size will thereafter be permitted.
- (xii) Connection shall be given only after the consumer has signed the agreement.

#### **8. Separate Communication Pipe to every Premises.--**

Every premises supplied with water by the water works shall be its own separate communication pipe and no communication pipe shall be used to supply water to more than one premises; provided that in case of a group or block of premises the water tax of which is paid by one owner, the said owner can be given one communication pipe sufficient for such group or block if considered adequate by the officer-in-charge of the water works.

#### **9. Water charges.--**

The water supplied shall be charged at such rates as are fixed for the water works from time to time.

#### **10. Payment of Water Charges.--**

(i) Monthly bills for the water consumed shall be prepared with due date for payment indicated therein and sent to the consumers for payment. If the consumer fails to pay the bill within the due date a surcharge at such rates as may be current at the time the bill was due for payment will have to be paid in addition to the water charges. Supply shall be liable to be disconnected without notice in case any arrears remain outstanding for 3 months. The consumer will also be liable to pay the outstanding bills despite disconnection of supply.

(ii) Bills shall be sent by post or through messenger. Non-receipt of the bill, however, shall not exonerate the consumer from making payment of the bill along with due surcharge.

(iii) Non-acceptance of the bill by the consumer or his agent does not exonerate the consumer from making payment within the due date. As soon as non-acceptance of the bill is reported a notice by post will sent to the consumer asking him to pay within 10 days of the date of the notice else supply will be disconnected. On expiry of 10 days, the supply will be disconnected if the bill remains unpaid and such a consumer will not be granted new connection/reconnection on the same or any other premises.

- (iv) Any complaint in regard to the bill should be made to authorised officer in writing within 15 days of the receipt of the bill. Even if there be any discrepancy in the bill or clarification called for, consumers shall be required to pay the bill amount in full provisionally or under protest subject to subsequent adjustment.
- (v) If the name of the consumer is changed by way of succession or by transfer of property, successor or transferer, transferee, as the case may be, shall apply for the change of name within a period of one month, of such a change.
- (vi) Payment of water charges by Government employees. In case of Non-gazetted Government servants occupying Government premises, bills shall be sent to the concerning head of office by the 20th of the month or any convenient date fixed for the same, for recovery of the water charges from the salary bills. In case of non-receipt of the bills by the head of offices before preparation of salary bills, the minimum charge as fixed from time to time will be deducted from the salary bills of the consumer, adjustable in the subsequent salary bills. The schedule of recoveries shall be prepared by the Head of Office for the recoveries made and forwarded to the authorised officer.
- (vii) In the premises where water meters are not fixed and water charges are levied at flat rate, no bills shall be sent to the consumer or the concerning Head of Office but the Head of Office shall recover the water charges at the flat rate as fixed from time to time and the schedule of recoveries thus made shall be sent to Authorised Officer.
- (viii) In case of Gazetted Government servants occupying Government premises bills shall be sent to them with a copy to the Treasury Officer concerned by 25th of the month for necessary adjustment.

## **11. Provision Relating to the Prevention of Misuse of Water.--**

No consumer shall use the water for any purpose other than that for which the connection has been allowed nor shall the water be wasted or permitted to be tapped by occupiers of other premises. On infringement of this rule, the authorised officer shall recover the water charges fixed for the purpose. In addition, the house connection shall be disconnected for the reasons to be recorded in writing.

## **12. Right to Access and to Inspect Fittings.--**

- (i) The authorised officer shall have the right to enter the premises and inspect all or any fittings and pipes and to check that no misuse of water is being made.

(ii) If the consumer or his representative obstructs the authorised officer in performing his duties, supply is liable to be disconnected after giving him a show-cause notice.

### **13. Pipes and pipe fittings.--**

(i) All pipes, special, fittings of whatever kind shall conform to the particulars prescribed and specification in accordance with Indian Standard Specification or British Standard Specification. As a general rule, all the fittings shall be capable of withstanding a pressure of 100 lbs. per sq. inch. Brass screw down Bid-Taps and stop-cocks preferably be used at fittings to avoid unnecessary leakings and water wastage.

(ii) No materials which is not in accordance with the specification and descriptions mentioned in sub-rule (i) above shall be allowed to be used in the fittings. All such materials which is to be used as fittings shall have to be get approved by the authorised officer.

(iii) All consumers pipes shall be laid in ground not less than 1'6" below the surface unless laid inside a building and they shall be laid or fixed as not to be exposed to the heat of Sun nor shall any consumer's pipe and fittings be laid in any position or manner which would involve risk or injury to the pipe or fitting or waste or contamination of water.

(iv) No consumer's tap shall be fixed in an open yard, passage or outside any premises so as to be available for use by the public without special permission in writing from the officer-in-charge of the Water Works.

(v) Every arrangement shall be made by the consumer to drain off the waste water, and the taps shall be fixed at such a level that the water may drain off easily.

### **14. Plumber to obtain licence.--**

No person shall execute or permit to execute any alteration or repairs or fitting to water pipes or house connections unless he has obtained a license from officer-in-charge of the water works.

### **15. Period for which licence shall be valid.--**

Every such licence shall remain in force from the date of its grant to the 31st day of March next following and may be renewed from year to year.

### **16. Fee for licence and security deposit.--**

(i) An initial amount of Rs. 25 (non-refundable) and sum of Rs. 250 (refundable) as security deposit shall be charged for such licence.

- (ii) The amount of security deposit shall be refunded as soon as a plumber ceases to be a licensee.
- (iii) Every licence, not suspended or cancelled, may be renewed on payment of Rs. 10.
- (iv) Every application for licence shall be made in writing to the officer-in-charge of water works.

#### **17. Test for Granting Licence--**

- (i) No person shall be granted a licence under these rules unless he has passed the plumber's test taken by the Officer-in-charge or authorised officer of the water works.
- (ii) Every person appearing for such test shall have to pay Rs. 10 (non-refundable) for which a receipt shall be granted.

#### **18. Licence to comply with Rules.--**

Every plumber shall be subject to and comply with the provisions of these rules.

#### **19. Cancellation of Licence--**

The licence of a plumber can be revoked or cancelled on the following grounds :-

- (i) That the licence has been obtained by fraud; or
- (ii) That he has failed to comply with or contravened any of the provisions of these rules or infringed any of the conditions of the licence; or
- (iii) That he is found to be unsuitable to work as a plumber on a complaint received from Public and confirmed by the Officer-in-charge of the water works.
- (iv) That he has failed to attend to the work of consumers in the area he has been authorised to operate.

#### **20. Fine for Breach of Rule--**

- (i) A breach of any of these rules by the licensee shall in addition to cancellation of licence be punishable with fine which may extend to Rs. 100.
- (ii) In the event of any damage caused due to negligence on the part of the plumber or a person working in his behalf the amount of damage shall be

recovered from his security deposit and he shall make good the security deposit within a period of 30 days failing which the licence shall be liable for cancellation.

## **21. Meters.--**

(1) Meters and meter readings-All meters, indicators and special apparatus required for metering the supply of water shall be installed, sealed and maintained by the water works on the premises of the consumer and shall be charged in accordance with Rule 21 (3) (c) of these rules.

(2) (a) The consumer, if he so desires, may install his own meter on getting his meter tested as per rules (for which testing charges shall not be refunded).

The authorised officer may at his discretion test meters owned by consumers any time during their service. If the meter goes out of order or is found to register incorrectly, the owner shall have to replace or get the meter repaired at his cost within such period as may be specified in this regard during which period the Authorised Officer may fix a substitute meter. The cost of installation of substitute meter and its rent is recoverable from the consumer.

(b) In any case no meter shall be fixed or connected to the system except by the authorised officer of the water works and such meters sealed by the authorised officer. When any meter is provided by the consumer or purchased by the consumer from the water works, the consumer shall be responsible for maintaining his meter and metering equipment in good order within the meaning of the rules.

(c) The water works shall, as far as possible, have its meters tested and calibrated once a year.

(d) The readings of meters shall be taken once in each month or at such intervals or times as the officer-in-charge or authorised officer may think expedient. Every reading of each meter so taken shall be entered immediately after being taken on a chart to be attached on or near such meter so as to be available at all times for the inspection of the consumer.

(e) If the officer-in-charge of the water works or his representative have reasons to believe that a meter or meters on the premises of a consumer is/are incorrect (which includes stoppage, slow or fast meters) and in the absence of a check meter, the correct quantity shall be determined from the average of the readings of the last three months.

(3) (a) On every connection meter shall be fixed. Meter from 1/2" to 1-1/2" if available shall be supplied by the water works. For meters above 1-1/2" size the consumer shall have to make his own arrangements.

(b) For all such meters as supplied by the water works from 1/2" to 1-1/2" size a security deposit of Rs. 25 (refundable) shall be deposited by the consumer along with the application for connection.

(c) Any person on whose premises meter is installed by the water works on hire shall, in addition to the charges otherwise payable for the use of the water, pay the following rent for providing and maintaining the meter :-

1/2" meter	Rs. 0.75 paise per month
3/4" meter	Rs. 1.00 paise per month
1" meter	Rs. 1.50 paise per month
1-1/2" meter	Rs. 2.00 paise per month

(d) Any person on whose premises a meter has been installed may apply to the officer-in-charge or authorised officer, of water works to test it and thereupon it shall be tested. The testing charges shall be as follows, which shall be payable along with the application and shall not be refunded on any ground.

1/2" to 1-1/2"	Rs. 3/-
2" and above	Rs. 5/-

If the meter proves to be registering either more than 5 per cent fast or more than 5 per cent slow, the testing fee so deposited will be refunded to the consumer and the water charges for last three months will be adjusted accordingly.

(e) In case where a meter goes out of order or is under repair, the water charges at the discretion of the officer-in-charge of the water works shall be calculated as follows :-

- (i) On the actual consumption recorded if the meter on test is found to register not more than five per cent slow.
- (ii) On the average or the immediately preceding and succeeding reliable readings.

OR

- (iii) On the reading for the corresponding period of the previous year, or on the average of last three months.
- (f) It shall be the duty of the consumer to keep the meter safe from all sorts of damages and if it is damaged the same shall be got repaired at the cost of the consumer.
- (g) The life of a meter on an average is 10 years. The water works shall maintain and keep the meter given on hire in running order. The worn out parts shall be replaced at the cost of the water works.
- (h) The meter shall be fixed just after the stop-cock or valve, in a safe position easily accessible to the Meter Reader.
- (i) The cost of the meter chamber and its box shall be borne by the consumer as determined and fixed by the officer-in-charge of the water works from time to time.
- (j) No consumer shall interfere with the meter nor shall remove or get its position changed without the permission of the authorised officer. In case of default he shall be liable to a penalty which may extend to Rs. 100.

## **22. Breakdown and control over water supply.--**

- (1) The water works shall not guarantee the supply and shall not be liable for any damage that may result on account of failure of water supply due to accident to the water mains, or machinery, etc. or any emergency arising, which renders the stoppage of water supply. The officer-in-charge of the water works shall be the sole Judge of the sufficiency of the cause of the stoppage of the aforesaid supply.
- (2) The special cases when the supply is to be stopped for more than 12 hours for repairing some breakdown or so the public shall be informed 2 hours before by public announcement.
- (3) The officer-in-charge of the water works reserves the full right to control the supply or the supply hours as the situation may be.
- (4) The officer-in-charge of the water works shall not bind himself regarding quality, quantity and pressure of water supply.

## **23. Punishment for Infringement of Rules.--**

A breach of any of these rules shall be punishable with fine which may extend to Rs. 100, the officer-in-charge of the water works shall exercise powers under this rule.

**24. Agreement.--**

The consumer shall, as soon as the grant of meter connection to him is approved by officer-in-charge of water works or authorised officer enter into an agreement for the supply of water and payment of water tax or water charge thereof in the Form appended to these rules.

**25. Dispute and Appeal.--**

In all cases in which dispute arises as to the application of the above rules, the matter shall be referred to the officer-in-charge of the water works within a period of 30 days of the date of orders passed by the authorised officer. An appeal may be preferred to the Superintending Engineer concerned within a period of thirty days from the date of orders passed by the officer-in-charge of the water works and the decision on the appeal by the Superintending Engineer concerned shall be final.

**26. Mode of recovery.--**

Any amount due on account of water charges or otherwise recoverable from the consumer under these rules, if not paid when they are due may be recovered from the defaulter by the Collector on a requisition, made by the officer-in-charge of the water works as if they were arrears of land revenue.

**27. Repeal.--**

On and from the date on which these rules are brought into force in the State, provisions of all other rules in this connection in force before the above mentioned date, shall stand repealed.

**FORM OF AGREEMENT**

[See Rule 24]

Public Health Engineering Department Water Works at.....

**AGREEMENT FOR DOMESTIC/INDUSTRIAL WATER CONNECTION**

This Agreement is made this ..... day of ..... between the Governor of Madhya Pradesh acting through ..... (hereinafter called the "Supplier" which expression shall, which the context so admits include his successors-in-Office) of the one part and Shri ..... son of ..... resident of ..... (hereinafter called the "Consumer" which expression shall where the context so admits, include his legal heirs, successors, representatives, executors, administrators and assigns) of the other part. Whereas the consumer has applied in the prescribed form for water connection in his own house/house engaged or occupied by him/house under his trusteeship, bearing Municipal No..... situated in ..... (hereinafter referred to as the said premises);

And whereas the Water Works Department at ..... has granted ..... inch size having ..... ferrule domestic/industrial metered unmetered water connection in the said premises subject to the terms and conditions hereinafter appearing.

Now, therefore, this agreement witnesses and it is hereby agreed as follows :—

1. This agreement shall be read and construed as subject in all respects to the provisions of the Water Works Rules for the time being in force.
2. The consumer shall not apply the water to any purpose other than that for which the water connection has been granted to him nor shall the water be wasted or permitted to be tapped by occupiers of other houses or hands. In case of infringement of this clause, the consumer shall be liable to pay such amounts as may be charged by the water works under the rules and the said authorities may also disconnect the connection.
3. Monthly bills for the water consumed shall be prepared and sent to the consumer for payment within the due date fixed therein. If the consumer fails to pay the charges including surcharge (the rebate allowed in the Bill) levied due to delay within the due date of payment the same shall be adjusted from the amount of security deposit held by the department the consumer shall have to make good the security deposit so adjusted within a further period of 10 days from the due date failing which supply shall be liable for disconnection without any further intimation.

4. (i) The authorised employees of the Department on giving short notice shall have the right to enter the premises and inspect all or any fitting and pipes and to check that no misuse of water is being made.
- (ii) If any obstruction is made by the consumer or his representative in the performing of the duties of a water works employee, the connection is liable to be disconnected after giving him show-cause notice.
5. (i) *Meters and meter readings.*—(a) All meters, indicators and special apparatus required for metering the supply of water shall be installed, sealed and maintained by the water works on the premises of the consumer shall be charged in accordance with the rules.
- (ii) In any case no meter or cut outs shall be affixed or connected to the system except by the Water Works Authority and such meters sealed by the Public Health Engineer or his representative. When any meter is

provided by the consumer or purchased by the consumer from water works the consumer shall be responsible for maintaining his meter and metering equipment in good order within the meaning of the rules.

- (iii) The reading of meters shall be taken once in each month or at such intervals or times as the Public Health Engineer or his representative may think expedient. Every reading so taken of each meter shall be entered by the Engineer immediately after being taken on a record to be attached on or near such meter and to be open at all times to the inspection of the consumer.
- (iv) If the Public Health Engineer or his representative, has reasons to believe that a meter or meters on the premises of a consumer is/are incorrect (which includes stopped, slow or fast meters) and in the absence of a check meter, the correct quantity shall be determined from the average of the readings of the last three months.
- (v) In case when a meter goes out of order or under repair, the water charge at the discretion of the officer shall be calculated as follows :—

- (i) On the actual consumption recorded if the meter on test is found to register not more than 5 per cent slow.
  - (ii) On the average of the immediately preceding and succeeding reliable readings.
  - (iii) On the reading for the corresponding period of the previous year, or on the average of last three months.
  - (iv) It shall be the duty of the consumer to keep the meter safe from all sorts of damages and if it is damaged the same shall be got repaired at the cost of the consumer.
  - (v) No consumer shall interfere with the meter nor shall he remove or get its position changed without the permission of the Department. In case of default, he shall be liable to a penalty, which may extend to Rs. 100.
6. (i) The Department shall not guarantee the supply and shall not be liable for any damage that may result on account of failure of water supply due to accident to the water mains, or machinery, etc., or any emergency arising which renders the stoppage of water supply. The Department shall be the sole judge of the sufficiency of the cause of the stoppage of the aforesaid supply.
- (ii) The Department reserves the full right to control the supply or the supply hours as the situation may be.
  - (iii) The supplier does not bind himself regarding quality, quantity and pressure of water supply.
  - (iv) The consumer shall not be entitled for any claim from the supplier in the event of stoppage or restricted supply.
7. If any dispute shall arise between the parties hereto in respect of this agreement or any of the provisions herein contained, or anything arising hereout, the same shall be referred to the Executive Engineer, Water Works, whose decision thereon shall be final, conclusive and binding on both the parties.
8. The Madhya Pradesh Water Supply Rules, 1968, shall form part of this agreement.

9. Any sum due from the consumer under this Agreement may be recovered from him as an arrear of land revenue.
10. The consumer shall at all times abide by and observe all rules, regulations and orders made and issued by the State Government for the purpose of regulating water supply and also binds himself to perform all acts and duties required to be done by him and to abstain from doing or performing any act forbidden by or under such rules, regulations or orders.

In witness whereof the parties hereto have signed this agreement on the date and year, respectively, mentioned against their signature.

Supplier

On behalf of the Governor of Madhya Pradesh

Dated .....

Consumer

Dated .....

Witnesses :

1. ....
2. ....
1. ....
2. ....

**PUBLIC HEALTH ENGINEERING DEPARTMENT**

WATER WORKS .....

Water Bill for the month of ..... 19...

**(THIS BILL MUST BE PRESENTED AT THE TIME OF PAYMENT)**

S.C. No. ....

Name .....

Address .....

Date of issue of Bill Due date.....

If the payment of this bill is not made on or before the date as shown above a surcharge of Rs. ..... is liable to be paid.

Gallons @ ..... P. Per %0 gallons Rs. ..... P. ....  
or minimum charges .....

Rental of Meter.....

Other charges.....

Surcharge.....

Total.....

Arrears or previous Bill.....

Less Misc. credit,, if any.....

Grand Total.....

E &amp; O.E.

Checked by .....

Station .....

**OFFICER-IN-CHARGE/AE/BA**  
**WATER WORKS.....**  
**FOR INFORMATION OF CONSUMERS**

(1) All payment should be tendered at the office of the Water Works the hours notified.

(2) Any complaint in regard to this bill may be the Water Works Office in writing within fifteen days of the receipt of this bill. Even if there be any discrepancy in the bill or classifications called for consumers are requested to pay the bill amount in full provisionally or under protest subject to subsequent adjustment so that the payment of surcharge as mentioned in para 3 below may be avoided.

(3) All bills not paid within ..... days of the issue of the bill will be subject to surcharge of Rs. .... If the bill is not paid within due date as mentioned above, the service connection is liable to be disconnected on the expiry of seven days period from the date of issue of notice.

(4) Consumers are requested to obtain receipts for all payments on PHED receipt Form No. 9. If other forms of receipts are taken for payments made, the consumers are warned that they do so at their own risk.

(5) The tender of the bill inclusive of previous bills, if any, shall not exonerate the consumer from the consequences of non-payment of the said arrears of the disconnection notice has already been issued.

(6) If the consumer fails to pay the charges including the surcharge the rebate allowed in the bill) levied due to delay within the due date of payment the same shall be adjusted from the amount of security deposit held by the Department the consumer shall have to make good the security deposit so adjusted within a further period of 10 days from the due date failing which supply shall be liable for disconnection without any further intimation.

**NOTE :**

(1) Non-receipt of this bill will not exonerate the consumer from the liability and the consequences mentioned in para 3 above.

(2) In all communications please refer S.C. No.....

Form Sale No.....

XL/PH-2.

**APPLICATION FOR GRANT FOR A NEW WATER CONNECTION**

To

The .....  
 Water Works .....

I, the applicant (Name) ..... son of ..... Caste ..... Mohalla ..... bearing Municipal House No. ...., hereby makes application for the grant of a metered water connection for Domestic/Non-domestic/Industrial purpose. In case of any complaint from any body, regarding any kind of loss on account of my above water connection the Water Works Authorities will be entitled to disconnect or stop my water supply. Necessary verification with regard to the flow of waste water is appended herewith. I will strictly abide by the Water Works Rules, 1968 and will deposit the Water Tax according to the prescribed rates. My approximate requirement of water will .....% liters p.m. It is, therefore, requested that sanction in the name of Licensed Plumber Shri ..... may kindly be issued.

House Tax Receipt No. ..... dated ..... in original/ True Copy of the sale-deed is appended herewith for your kind perusal. For the purpose of this connection, an amount of Rs. ..... deposited, *vide* Municipal/P.W.D. Receipt No. ..... dated ..... against road repairs is also attached herewith for information.

(Signature of the Applicant)

**WATER WORKS LINE DIMENSION**

Connection Size Ferrule ..... pipe ..... distance ..... from the Sluice Kay ..... Meter No. ..... Private/Government. I certify that Shri ..... who has signed this application is the House Owner.

### PROPOSAL

Arrangement for the draining of water have been made. Meter connection ..... Ferrule ..... pipe ..... with taps ..... can be sanctioned.

(Signature of the Overseer)

### ORDER

Connection size ..... is hereby sanctioned. Name be entered in the ledger and connection fee Rs. ..... may be deposited. Concerned to note and intimation of the sanction of connection be communicated. Overseer to note.

(Assistant Engineer/B.A.)

In case of Government, an agreement may be executed. Sanction shall be issued subject to the following conditions :—

- (1) In case of any complaint from any body relating to any kind of loss on account of water connection, the Water Works Authorities shall disconnect or stop the supply of water.
- (2) A sketch drawing of the site of connection may be produced with the application.
- (3) In the event of submission of incomplete or false information, the application is liable for rejection and the amount of registration fee will be forfeited.
- (4) Only last or current years' House Tax receipt will be accepted. For houses free from tax, newly purchased or for houses under construction, the applicant will have to submit such proof of ownership which may satisfy the Water Works Authorities for granting a water connection.
- (5) No changes to the place of a sanctioned water connection can be affected without the permission of the Water Works Authorities.
- (6) For obtaining water connection for places like Latrines, Lavatories, Urinals or Drains, etc. separate sanction of the Department will have to be produced.
- (7) If a water connection is required for a Government/Semi-Government or Society building then this application need only be signed by the person who is the authorised disbursing authority of that premises.

**VERIFICATION**

Name entered at Consumer No. .... Connection No. ....  
 Dated ..... (Connection Clerk)

Fee Rs. ..... deposited *vide* Receipt No. ...., dated .....

(Cashier)  
 Entered in Tax Register Page No. .... and Information Register  
 Page No. ....

(Connection Clerk)

**ORDER**

Advance amount be deposited. Account section be informed. Order for  
 supply of water be issued. Overseer be informed.

(Assistant Engineer/B.A.)

**VERIFICATION**

Advance amount of Rs. ..... deposited *vide* Receipt No. ....  
 Book No. ..... dated .....

(Cashier)

Water Supply Order No. ..... dated ..... issued and the water supply  
 commenced on dated ..... and inspection done on dated .....

(Overseer Water Works)

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**24.2      The Madhya Pradesh State  
Prevention and Control of Water Pollution  
Board and Its Committee (Meetings) Rules,  
1975**

# The Madhya Pradesh State Prevention and Control of Water Pollution Board and its Committee (Meetings) Rules, 1975

## **PREAMBLE**

*In exercise of the powers conferred by sub-section (1) and clause (b) of sub-section (2) of Section 64 of the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974), the State Government, after consulting the Madhya Pradesh State Prevention and Control of Water Pollution Board, hereby makes the following Rules, namely :-*

### **1. Short title.-**

These rules may be called the Madhya Pradesh State Prevention and Control of Water Pollution Board and its Committee (Meetings) Rules, 1975<sup>1</sup>.

### **2. Definitions.--**

In these rules, unless the context otherwise requires:-

- (a) "Act" means the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974);
- (b) "Board" means the Madhya Pradesh State Prevention and Control of Water Pollution Board constituted under sub-section (1) of Section 4 of the Act;
- (c) "Chairman" means the Chairman of the Board;
- (d) "Member-Secretary" means the Member-Secretary of the Board;
- (e) "Member" means the member of the Board;

### **3. Convening of Meetings of the Board.--**

- (1) A meeting of the Board shall be either ordinary or special.
- (2) The date of every meeting shall be fixed by the Chairman.

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<sup>1</sup> Vide Notification No. 1799-921-XXXIII-75, dated 11-7-1975. Published in M.P. Rajpatra Part IV(Ga), dated 29-8-1975 at pp. 523-525.

(3) Notice of every meeting specifying the time and place thereof and the business to be transacted thereat shall be sent to every member under certificate of posting and exhibited at the office of the Board seven clear days before an ordinary meeting and three clear days before a special meeting.

(4) No business other than that specified in the notice relating thereto shall be transacted at a meeting.

#### **4. Power of Chairman to call Special Meeting.--**

The Chairman may, whenever he thinks fit, call a special meeting for the transaction of the business of urgent nature.

#### **5. Place of Meeting.--**

Every meeting of the Board shall ordinarily be held in premises used as office by the Board but the Chairman may, if he thinks fit, hold a meeting at any place in Madhya Pradesh.

#### **6. Chairman of Meeting.--**

At every meeting of the Board, the Chairman if present or in his absence, such one of their members, as the members may elect, shall preside.

#### **7. Quorum---**

(1) No business shall be transacted at a meeting of the Board unless a quorum of six members be present throughout the meeting.

(2) If there be no quorum present at a meeting at any time, the presiding authority shall adjourn the meeting to such hour on the following or such other further day as he may reasonably fix. A notice of such adjournment shall be fixed up at the place of the meeting adjourned, and the business which would have been brought before the original meeting had there been a quorum thereat shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjourned meeting, whether there be a quorum present or not.

(3) A notice of adjournment exhibited at the place of the meeting adjourned on the day on which the meeting is adjourned shall be sufficient notice of the subsequent meeting.

#### **8. Minutes of Proceedings.--**

Minutes, of the proceedings at each meeting of the Board shall be recorded in a book to be kept for the purpose and shall be confirmed in the next

ensuing meeting. A copy of minutes of the proceedings shall also be circulated to all the members as far as possible before the next meeting.

**9. Decision of Questions by majority of votes.--**

All questions brought before any meeting of the Board shall be decided by a majority of the votes of the members present and in the case of equality of votes the presiding authority at the meeting shall have a second or a casting vote.

**10. Application of Rules to Meeting of Committee.--**

Rules 3 to 7 shall apply mutatis mutandis to the meeting of the committees constituted under Section 9 of the Act subject to the modification that the fixation of place of meeting shall be subject to the approval of the Chairman.

**24.3     The Water (Prevention and Control  
of Pollution) (Consent) Madhya Pradesh  
Rules, 1975**

# **The Water (Prevention and Control of Pollution) (Consent) Madhya Pradesh Rules, 1975**

## **1. Short title and commencement--**

- (1) These rules may be called the Water (Prevention and Control of Pollution) (Consent) Madhya Pradesh Rules, 1975<sup>1</sup>.
- (2) They shall come into force with effect from the date of their publication in the "Madhya Pradesh Gazette".

## **2. Definitions--**

In these rules, unless the context otherwise requires :-

- (a) "Act" means the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974);
- (b) "Board" means the Madhya Pradesh State Prevention and Control of Water Pollution Board, constituted under sub-section (1) of Section 4;
- (c) "Section" means the section of the Act;
- (d) "Chairman" means the Chairman of the Board;
- (e) "Member-Secretary" means the Member-Secretary of the Board;
- (f) "Member" means member of the Board nominated by the Government;
- (g) "Consent" means the sanction of the authority of the Board for the discharge of the effluent;
- (h) "Consent Fees" means the fees charged by the Board for the grant of consent by the Board;

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<sup>1</sup> Vide Notification No. 3881-XXXIII-75, dated 11-12-1975, Published in M.P Rajpatra, Part IV (Ga), dated 2-1-1976.

- (i) "Investment" means the amount of capital invested by the industry on capital works including land, machinery and equipment;
- (j) <sup>2</sup>["Consent renewal fee"] means the licensing fees required to be paid annually to the Board for the discharge of sewage or trade effluent into a stream or well.

**<sup>3</sup>[3. Procedures--**

Any person who is discharging sewage to trade effluent into the stream or well or sewer or on land shall apply in the form appended to these rules to the Member-Secretary, Madhya Pradesh State Prevention and Control of Water Pollution Board, Bhopal.]

**4. Prevention and Control by the Board--**

- (i) In the case of the existing industries, the person/persons will make the application giving all particulars of his premises producing effluent. The Act envisages such an application within 3 months of the constitution of the Board. This time limit may be extended by the Board from time to time according to exigencies.
- (ii) In the case of improvements to the existing facilities, the person/persons shall make an application for the consent of the Board which will be deemed as a new application,
- (iii) In the case of new discharges, the person/persons shall submit the application giving the details of the manufacturing processes etc. indicated in the Consent forms along with appliances and designs of Waste Treatment facilities that are to be provided.
- (iv) The application forms may be obtained from the office of the Madhya Pradesh State Prevention and Control of Water Pollution Board, Bhopal, on payment of Rs. 5/- as application form fee.

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<sup>2</sup> Substituted by Notification No. F-5-114-XXXII-90, dated 27-12-1997

<sup>3</sup> Substituted by Notification No. F-11-5-85-XXXII, dated 31-5-1991.

<sup>4</sup>[(v) The application form shall be duly accompanied by the consent fees as specified in the following Table I by industries and institutes, while for mines the application form shall be duly accompanied by the consent fees as specified in the Table II. The administrative fees chargeable by the State Board for the conduct of public hearing for projects or activities listed in the Schedule of the Environment Impact Assessment Notification, S.O. 1533 (E), dated 14th September, 2006 published in the Gazette of India, Extra-Ordinary, Part II, Section 3, sub-section (ii), shall be as per the following Table III :-

**Table I****Red**

S. No.	Investment in Rupees	Consent Fees in Rupees		
		Orange	Green	
(1)	(2)	(3)	(4)	(5)
(1)	Equal to or more than 1000 Crores	300000	250000	200000
(2)	Equal to or more than 500 Crores but less than 1000 Crores	200000	180000	175000
(3)	Equal to or more than 200 Crores but less than 500 Crores	175000	160000	150000
(4)	Equal to or more than 100 Crores but less than 200 Crores	150000	130000	120000
(5)	Equal to or more than 50	112500	97500	90000

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<sup>4</sup> Substituted by M.P. Notification No. F-5-5-09-XXXII, dated 7-10-2009.

	Crores but less than 100 Crores			
(6)	Equal to or more than 10 Crores but less than 50 Crores	90000	78000	72000
(7)	Equal to or more than 3 Crores but less than 10 Crores	60000	52000	48000
(8)	Equal to or more than 50 Lakhs but less than 3 Crores	15000	13000	12000
(9)	less than 50 Lacs	1500	1300	1200

*Explanation 1-* The Red, Orange and Green categories of industries and institutes shall be done on the basis of the list issued by Central Pollution Control Board, New Delhi.

*Explanation 2-* "Investment" as it appears in the above Table is clarified as being gross amount of capital invested by the industry or institute on land, machinery and equipment.

**Table II**

s. No.	Area of Mines	Consent Fee in Rupees
(1)	(2)	(3)
1.	Up to 5 Hectares	2500
2.	More than 5 Hectares and upto 25 Hectares	15000
3.	More than 25 Hectares and upto 50 Hectares	20000

4.	More than 50 Hectares and upto 100 Hectares	50000
5.	More than 100 Hectares and upto 500 Hectares	100000
6.	More than 500 Hectares and upto 1000 Hectares	200000
7.	More than 1000 Hectares	400000

*Explanation-* The consent fee in Table I and II includes fees for 'Consent to Establish', 'Consent to Operate' and 'Consent Renewal Fee' for the first year. If any applicant under any circumstances desires the refund to consent fees, then 80% of the consent fee shall only be refundable and 20% shall be deducted as administrative expenses provided that the industry is not established and no activity has been started at site.

**Table III**

s. No.	Investment in rupees	Administrative fee in Rupees
(1)	(2)	(3)
1.	Less than 50 Crores	25,000.00
2.	More than 50 Crores	50,000.00]

<sup>5</sup>[(v) The application form shall be duly accompanied by the consent fee as specified in the following Schedule: -

### **Schedule**

	Industries having an investment of	Rupees
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<sup>5</sup> Substituted by C.G. Notification No. 883/1018//2003, dated 31-5-2003

	(1)	(2)
1.	More than Rupees 1000 Crores	10,00,000
2.	More than Rupees 500 Crores but Upto Rupees 1000 Crores	5,00,000
3.	More than Rupees 200 Crores but Upto Rupees 500 Crores	2,50,000
4.	More than Rupees 100 Crores but Upto Rupees 200 Crores	1,50,000
5.	More than Rupees 50 Crores but Upto Rupees 100 Crores	1,00,000
6.	More than Rupees 10 Crores but Upto Rupees 50 Crores	80,000
7.	More than Rupees 3 Crores but Upto Rupees 10 Crores	60,000
8.	More than Rupees 2 Crores but Upto Rupees 3 Crores	3,000
9.	More than Rupees 1 Crores but Upto Rupees 2 Crores	2,000
10.	Upto Rupess 1 Crore	1,000

The above consent fee includes the consent renewal fee for the first year.]

(vi) On receipt of the application form by the Board, the Board will have a right to examine the proposed site or existing site and ask for any such details which may not have been elaborated in the application form.

(vii) The date on which complete information connected with application form has been received by the Board shall be the date of receipt of application form for calculating the period of 4 months for the purpose of sub-section (7) of Section 25.

- (viii) On examination by the Board, the consent will be granted to the applicant with or without any condition in the form set out in the schedule appended to these rules.
- (ix) The applicant shall conform to the Consent given by the Board and abide by instructions that are given in the Consent.
- (x) The applicant shall submit periodical information and other reports if so desired in the Consent of the Board.
- (xi) Where Consent is given subject to the conditions of providing measures by the applicant for treating the effluent to conform to the standard the applicant shall complete such requirements within the stipulated time.

### **5. Annual Renewal--**

- (1) The Board will have a right to revise its decision regarding the Consent.
- (2) The Board may alter, modify or include any particular conditions in the Consent which has to be implemented by the applicant.
- (3) In order to maintain a clean condition of natural streams, the Board will have right to inspect any premises and collect samples.
- (4) The Board may also make surprise checks of premises and the applicant shall render all assistance desired for such officers authorised by the Board in the performance of the inspections.

<sup>6</sup>[(5) (a) The applicant shall pay an annual consent renewal fees (except the fee for the first year) to the Board as specified in the following Table, namely:-

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<sup>6</sup> Substituted by M.P. Notification No. F-5-5-09-XXXII, dated 7-10-2009.

**Table (A) Industries and institutes having an investment of****Red**

S. No.	Investment in Rupees	Renewal Fees in Rupees		
		Orange	Green	
(1)	(2)	(3)	(4)	(5)
1.	Equal to or more than 1000 Crores	150000	125000	100000
2.	Equal to or more than 500 Crores but less than 1000 Crores	75000	60000	55000
3.	Equal to or more than 200 Crores but less than 500 Crores	65000	55000	50000
4.	Equal to or more than 100 Crores but less than 200 Crores	60000	52000	48000
5.	Equal to or more than 50 Crores but less than 100 Crores	45000	39000	36000
6.	Equal to or more than 10 Crores but less than 50 Crores	30000	26000	24000
7.	Equal to or more than 3 Crores but less than 10 Crores	22500	19500	18000
8.	Equal to or more than 50 Lacs but less than 3 Crores	5250	4550	4200

9.	Less than 50 Lacs	750	650	600
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Explanation- The Red, Orange and Green categorization of industries shall be done on the basis of the list issued by Central Pollution Control Board, New Delhi.

**(B) Consent Renewal Fees for mines :-**

s. No.	Area of Mines	Renewal Fee in Rupees
(1)	(2)	(3)
1.	Up to 5 Hectares	2000
2.	More than 5 Hectares and upto 25 Hectares	10000
3.	More than 25 Hectares and upto 50 Hectares	15000
4.	More than 50 Hectares and upto 100 Hectares	40000
5.	More than 100 Hectares and upto 500 Hectares	80000
6.	More than 500 Hectares and upto 1000 Hectares	150000
7.	More than 1000 Hectares	200000

(b) Consent fee and annual consent renewal fee charged from local bodies extracting water from natural resources and discharging effluents into streams shall be as under :-

(a)	Municipal Corporation	Rs.	3000
(b)	Class A.A. Municipalities	Rs.	2000
(c)	Class A. Municipalities	Rs.	1000

(d)	Class B. Municipalities	Rs.	500
(e)	Class C. Municipalities	Rs.	250
(f)	Minimum Fee	Rs.	250

(c) In case of any dispute in the categorization of any industry or institute as red, orange or green, based on the recommendations of three members committee headed by the Member Secretary of the State Board, the decision of the Chairman shall be final.]

#### **Sub-rule (5) of Rule 5 as applicable to the State of Chhattisgarh**

"(5) The applicant shall pay an annual "consent renewal fees" (except the fee for the first year) to the Board as specified in the following schedule namely: -

#### **Schedule**

(A)	<b>Industries having an investment of</b>	<b>Rs.</b>
	(1)	(2)
1.	More than Rupees 1000 Crores	2,50,000
2.	More than Rupees 500 Crores but upto Rupees 1000 Crores	1,50,000
3.	More than Rupees 200 Crores but upto Rupees 500 Crores	1,00,000
4.	More than Rupees 100 Crores but upto Rupees 200 Crores	75,000
5.	More than Rupees 50 Crores but upto Rupees 100 Crores	50,000
6.	More than Rupees 10 Crores but upto Rupees 50 Crores	35,000
7.	More than Rupees 3 Crores but upto Rupees	25,000

	10 Crores	
8.	More than Rupees 2 Crores but upto Rupees 3 Crores	2,000
9.	More than Rupees 1 Crore but upto Rupees 2 Crores	1,000
10.	Less than Rupees 1 Crore	500

B. Annual consent renewal fee and consent fee chargeable from local bodies extracting water from natural resources and discharging effluent into streams shall be as under : -

- |    |                       |           |
|----|-----------------------|-----------|
| 1. | Municipal Corporation | Rs. 3,000 |
| 2. | Municipal Council     | Rs. 2,000 |
| 3. | Nagar Panchayat       | Rs. 1,000 |
| 4. | Other                 | Rs. 500   |

The above Consent fee and Consent Renewal fee will be applicable from the date of publication of this notification in the Chhattisgarh Gazette:

Provided that the consent application and consent renewal application received prior to the publication of this notification, shall not be liable for the excess payment of difference of fees owing to pendency of application :

Provided further the renewal applications received prior to the publication of this notification, shall pay fees according to the existing schedule.

## **6. Inspections--**

With a view to keeping a constant check on the quality of effluents discharged into the natural streams, the Board would keep continuous monitoring of samples at fixed points in the streams.

They may also make such surprise checks and inspections and the applicant shall render all assistance for such inspections.

### **7. Emergencies--**

In case of emergencies when the water quality of the stream suddenly deteriorates the applicant shall co-operate with the Board and if necessary close down certain operations to prevent undue pollution in the streams as a temporary measure.

**SCHEDULE**

[See Rule 4 (viii)]

**OFFICE OF THE MADHYA PRADESH STATE PREVENTION  
AND CONTROL OF WATER POLLUTION BOARD**

**87, MALVIYA NAGAR, BHOPAL-3**

**CONSENT FORM**

No...../WPCB/..... Bhopal, dated the.....

Subject :- Consent to ..... for the discharge of effluent under Section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974.

Reference :- Application No..... of .....  
dated..... (expiry date .....

With reference to the above application for consent to discharge effluent into the natural water courses under the Water (Prevention and Control of Pollution) Act, 1974, hereinafter referred to as the Act, is authorised by the State Board to discharge its industrial and other effluents arising out of their premises into the local stream/river/well in accordance with the general and special conditions as mentioned in the Annexure.

2. This Consent shall be valid for a period of 12 months only commencing from.....

Dated this.....day of.....19.....

For and on behalf of the Madhya Pradesh State Prevention and Control of Water Pollution Board.

Seal

Secretary

Member-

Enclosure: Annexure

**ANNEXURE****ENCLOSURE TO REFERENCE LETTER ISSUED****TO****M/s**

Vide Consent No...../WPCB/75, Dated.....

**A-General Conditions:**

All discharges authorised shall be consistent with the terms and conditions of this Consent. Facility expansions, production increases, or process modification with result in new or increased discharge of pollutants must be reported by submission of a new Consent application or if such new or increased discharge does not violate the effluent limitations specified in this Consent, by submission to the Board details of such new or increased discharges of pollutants in which case the Consent may be modified to specify effluent limitations for any pollutants not identified and limited herein, the discharge of any pollutant more frequently than or at a level in excess of that identified and authorised by this Consent shall constitute a violation of the terms and conditions of this Consent.

2. After notice and opportunity for the hearing, this consent may be modified, suspended or revoked by the Board in whole or in part during its term for cause including, but not limited to the following :-

- (a) Violation of any terms and conditions of this Consent;
- (b) Obtaining this Consent by misrepresentation or failure to disclose fully all relevant facts;
- (c) A change in any condition that requires temporary or permanent reduction of elimination of the authorised discharge.

3. Notwithstanding para (2) above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established for a toxic pollutant which is present in the discharge

authorised herein and such standard or prohibition is more stringent than any limitation upon such pollutant in this consent, the Consent shall be revised or modified in accordance with the toxic effluent standard or prohibition that the Board may consider and the applicant shall be so notified.

4. The applicant shall allow the staff of the Madhya Pradesh State Prevention and Control of Water Pollution Board, and/or their authorised representatives, upon the representation of credentials:

(a) To enter upon the applicant's premises where an effluent source is located or in which any records are required to be kept under

the terms and conditions of this Consent;

(b) To have access to and copy at reasonable times, any records required to be kept under the terms and conditions of this Consent;

(c) To inspect at reasonable times any monitoring equipment or monitoring method required in this consent; or

(d) To sample at reasonable times any discharge pollutants.

5. The applicant shall at all times maintain in good working order and operate as efficiently as possible at all treatment or control facilities or systems installed or used by him to achieve compliance with the terms and conditions of this Consent.

6. The issuance of this Consent does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Central, State or local laws or regulations.

7. This Consent does not authorize or approve the construction of any physical structures or facilities or the undertaking of any work in any natural water course.

8. The specific effluent limitations and other pollution controls applicable to the discharge permitted herein are set forth below in specific conditions. Also set forth below are self monitoring and reporting requirements. Unless otherwise specified, the applicant shall submit duplicate original copies of all reports to the Madhya Pradesh State Prevention and Control of Water Pollution Board. Except for data

determined to be confidential, all such reports shall be available for public inspection at the office of the Madhya Pradesh State Prevention and Control of Water Pollution Board. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 42 of the Act.

### **B. Special Conditions:**

1. Initial effluent limitations-During the period beginning on the effective date of this Consent and lasting until.....discharge from outfalls shall be limited and monitored by the applicant as specified below:

- (a) The following shall be limited and monitored by the applicant as specified:

Effluent Characteristics	Discharge Average	Limitations Maximum	Monitoring Requirement	Frequency of measurement	Type of Sample
.	Mg/1	Kgs/day	Mg/1	Kgs./day	*

\*Daily/Weekly/Monthly/Trimonthly

\*\*Grab/24 hour, Composite.

In addition to Discharge Limitations Monitoring above, discharge Requirement shall be limited and monitored as specified below :

Effluent  
Characteristics

Average	Maximum	Frequency of measurement	Type of
---------	---------	--------------------------------	------------

Sample

Mg/l	Kgs/day	Mg/l	Kgs./day	*	**
------	---------	------	----------	---	----

\*Daily/Weekly/Monthly/Trimonthly

\*\*Grab/24 hour, Composite.

For the purpose of this sub-section, the daily average discharge is the total discharge by weight during the calendar month divided by the number of days in a month the production or commercial facility was operating. For the purpose of this sub-section the daily maximum discharge means the total discharge by weight during any calendar day.

(b) The pH shall not be less than 5.5 greater than 9.0.

**2. Final Effluent Limitation-** During the period beginning and lasting until the date of expiration of this Consent, discharge from the outfalls shall be limited and monitored by the applicant as specified below :-

(a) The following Discharge Limitations Monitoring  
shall be limited and Requirement  
monitored by the  
applicant as  
specified.  
Effluent  
Characteristics

Average	Maximum	Frequency	Type
		measurement	of
			Sample

Mg/l	Kgs/day	Mg/l	Kgs./day	*	**
------	---------	------	----------	---	----

\*Daily/Weekly/Monthly/Trimonthly

\*\*Grab/24 hour, Composite.

Additionally, outfalls shall be monitored as follows :-

(i) Flow, Temperature and Total solids-one per month;

Grab samples, Maximum discharges, Temperature above upstream receiving water shall be in accordance with the standard of ISI at 40 degree F.

Unit form as per ISI 40 degree F.

The temperature shall be monitored once per month on each outfall.

For the purposes of this sub-section, the daily average discharge is the total discharge by weight during the calendar month divided by the number of days of the month that the production or commercial facility was operating. For the purpose of this sub-section, the daily maximum discharge means the total discharge by weight during any calendar day.

(b) The pH shall not be less than 5.5 or greater than 9.0 for outfalls. The samples are taken as monthly, grab samples.

### **3. Schedule of Compliance for Effluent Limitations-**

The applicant shall achieve compliance with the effluent limitation specified above for discharge from outfalls in accordance with the following schedule:-

- (i) Report of Progress;
- (ii) Completion of final plans by;
- (iii) Award of contract or other commitment of financing;
- (iv) Commencement of construction by;
- (v) Report of construction progress;
- (vi) Completion of construction by;
- (vii) Attainment of operational level by:

(b) The applicant shall submit to the Consent Issuing Authority the required report of progress or where a specific action is required in

(a) above to be taken by a certain date, a written notice of compliance or non-compliance with each of the above scheduled dates, post marked not later than 14 days following each elapsed date. Each notice of non-compliance shall include the following information:-

- (1) A short description of the non-compliance;
- (2) A description of any action taken or proposed by the applicant to comply with the elapsed scheduled requirement without further delay;
- (3) A description of any factors which lend to explain or mitigate the non-compliance; and
- (4) An estimate of the date applicant will comply with the elapsed schedule requirement and assessment of the possibility that the applicant will meet the next schedule requirement in time.

#### **4. Compilation of Monitoring Data-**

- (a) Samples and measurement taken to meet the monitoring requirements specified above shall be representative of the volume and nature of monitored discharge.
- (b) Following promulgation of guidelines establishing test procedures for the analysis of pollutants, all sampling and analytical methods used to meet the monitoring requirements specified above shall conform to such guidelines, otherwise specified sampling and analytical methods used to meet the monitoring requirements specified above shall conform to such guidelines, otherwise specified sampling and analytical methods shall conform to the latest edition of the Indian Standard specifications and where it is not specified the guidelines as per standard methods for the examination of Water and Waste Waters 18th Edition of the American Public Health Association, New York, U.S.A. shall be used.

(c) The applicant shall take samples and measurement to meet the requirements specified above at the location indicated below:

### **POINT OF SAMPLING**

- (i) Outfalls of waste;
- (ii) 100 meter from point of confluence, down stream River or lake.

### **5. Recording of Monitoring Activities and Results-**

- (a) The applicant shall make and maintain records of all information resulting from motoring activities required by this Consent.
- (b) The applicant shall record for each measurement or samples taken pursuant to the requirements of this consent the following information:
  - (1) the date, exact place and time of sampling;
  - (2) the dates on which analysis were performed;
  - (3) who performed the analysis;
  - (4) the analytical techniques or methods used; and
  - (5) the result of all required analysis;
- (c) If the applicant monitors any pollutant more frequently as is required by this Consent he shall include the result of such monitoring in the calculation and reporting of values required in the discharge monitoring reports which may be prescribed by the Board. Such increased frequency shall be indicated on the Discharge Monitoring Report Form.
- (d) The applicant shall retain for a minimum of 3 years all records of monitoring activities and results including all records of calibration and maintenance of instrumentation and original strip chart recording from continuous monitoring instrumentation. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the applicant or when requested by the Central or State Board.

## **6. Reporting of Monitoring Results-**

(a) Monitoring information required by this Consent shall be summarized and reported by submitting a Discharge Monitoring Report Form duly filled in and signed, to the Board's office at the following address :-

"Madhya Pradesh State Prevention and Control of Water Pollution Board, 87, Malviya Nagar, Bhopal-3 (Pin No. 462 003)."

(b) Each submitted Discharge Monitoring Report shall be signed as follows:-

(i) If submitted by Corporation-by a Principal Executive Officer of at least the level of Vice-President or his duly authorised representative, if such representative is responsible for the overall operation of the facility from which discharge described in the discharge Monitoring Report originates.

(ii) If submitted by a partnership, by a general partner, (iii) If submitted by a sole proprietor, by the proprietor; (iv) If submitted by a Municipality State or Central Government or other public enterprise, by a Principal Executive Officer, ranking elected official, commanding officer, or other duly authorised employee.

(c) All information submitted on the Discharge Monitoring Form shall be based upon measurements and sampling carried out during the three previous calendar months. The First Discharge Monitoring Report shall be submitted for a period ending 60 days from issuance. Thereafter, reporting periods shall end on the last date of each month. The applicant shall submit a Discharge Monitoring Report post marked not later than 28th day of the month following each completed reporting period.

## **7. Limitation of Discharge of Oil and Hazardous Substance in harmful quantities-**

The applicant shall not discharge oil in quantities defined as harmful in regulations. In addition, the applicant shall not discharge hazardous substance into natural water course in quantities defined as harmful in regulations promulgated by the Board. Nothing in the Consent shall be deemed to preclude the institution of

any legal action nor relieve the applicant from any responsibilities, liabilities or penalties to which the applicant is or may be subject to clauses.

**8. Limitation of Visible Floating Solids and Foam-** During the period beginning 'date of issuance' and lasting until the date of expiration of this Consent the applicant shall not discharge floating solids or visible foam.

**9. Disposal of Collected Solids-** **(a) Intake Water Treatment-**Solids, sludges, dirt, silt or other pollutants separated from or resulting from treatment of intake or supply water period to use by the applicant shall be disposed of in such a manner as to prevent any pollutant from such materials from entering any such water. Any live fish, shell fish or other animals collected or trapped as a result of intake water screening or treatment may be returned to water body habitant.

**(b)** Waste Water Treatment-Solids, sludges, filter, backwash or other pollutants removed from or resulting from treatment or control of waste water shall be disposed of in such a manner as to prevent any pollution from such materials from entering natural water.

**10. Non-compliance with Effluent Limitations-**

(a) If for any reason the applicant does not comply with or will be unable to comply with any daily maximum effluent limitations specified in this Consent, the applicant shall immediately notify the Consent Issuing Authority or his designee by telephone No. Bhopal 62143 or 62167 and provide the Consent Issuing Authority with the following information in writing within 5 days of such notification :-

(a) Cause of non-compliance;

(b) A description of the non-complying discharge including its impact upon the receiving waters;

(c) Anticipated time the condition of non-compliance is. expected to continue or if such condition has been corrected, the duration of period of non-compliance;

- (d) Steps taken by the applicant to reduce and eliminate the non-complying discharge; and
- (e) Steps to be taken by the applicant to prevent recurrence of condition of non-compliance.
- (b) The applicant shall take all reasonable steps to minimize any adverse impact to natural waters resulting from non-compliance with any effluent limitation specified in his Consent including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.
- (c) Nothing in this Consent shall be construed to relieve the applicant from civil or criminal penalties for non-compliance, whether or not such non-compliance is due to factors beyond its control such as equipment breakdown, electric power failure, accident or natural disaster.

## **11. Limitation of Batch Discharges.**

### SPECIAL CONDITIONS

## **12. Provision for Electric Power Failure-**

The applicant shall either:-

- (a) no later than ..... certify in writing to the Consent Issuing Authority that the applicant has installed or provided for an alternative electric power sources sufficient to operate facilities utilized by the applicant to maintain compliance with the terms and conditions of the Consent; or
- (b) no later than 30 days after the effective date of this Consent, certify in writing to the Consent Issuing Authority that upon the reduction, loss, or failure of one or more of the primary sources of electric power to any facilities utilised by the applicant to maintain compliance with the terms and conditions of this consent, the applicant shall halt, reduce or otherwise control production

and/or all discharges in order to maintain compliance with the terms and conditions of this Consent.

### **13. Prohibition of By-pass of Treatment Facilities-**

The diversion or by pass of any discharge from facilities utilised by the applicant to maintain compliance with the terms and conditions of this Consent is prohibited except:-

- (i) where unavoidable to prevent loss of life or severe property damage; or
- (ii) where excessive storm drainage or run-off would damage any facilities necessary for compliance with terms and conditions of this Consent. The applicant shall immediately notify the Consent Issuing Authority in writing of each such diversion or by pass in accordance with the procedure specified above for reporting non-compliance.

### **14. Spill Prevention and Containment Plan-**

Within 90 days of the effective date of this Consent the applicant shall prepare and submit to the Consent Issuing Authority, a Spill Prevention, containment and Counter-measure Plan for the facility covered by this Consent. Such plan shall include the following information and procedures relating to the prevention of spills and unauthorised discharges of oil and hazardous substances:-

- (a) a description of a reporting system to be used to notify immediately persons responsible for management of the facility and appropriate State and Central authorities;
- (b) a description of equipment or facilities (including overall facility) for the prevention, containment, or treatment of spills and unauthorized discharges;
- (c) a list of all oil and hazardous materials used, processed or stored at the facility including the normal quantity maintained on the premises for each listed material;

- (d) a brief description of any spills or unauthorized discharges which occurred during the 36 months period preceding the effective date of this Consent and subsequent measures taken by the applicant to prevent or reduce the possibility of further spills or unauthorized discharges; and
- (e) an implementation schedule for additional equipment or facilities which might be required for sub-para (b) above but which are not yet operational.

**15. Interim Effluent Requirement-** This Consent and the authorization to discharge shall expire on midnight of..... the applicant shall not discharge after the date of expiration, the applicant shall submit such information forms and fees as required by the Board not later than 180 days prior to the above date of expiration.

<sup>1</sup>[FORM

[See Rule 3]

Application for consent for establishing or taking any steps for establishment of Industry/operation process/of any treatment/disposal system or discharge, continuation of discharge under Section 25 or Section 26 of the Water (Prevention and Control of Pollution) Act, 1974.

Dated .....

From

.....  
 .....  
 .....

To

The Member-Secretary,  
 Madhya Pradesh Pollution Control Board.

Sir,

I/we hereby apply for Consent/Renewal of Consent under Section 25 or Section 26 of the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974) for establishing or taking any steps for establishment of Industry/operation process/of any treatment/disposal system to bring into use any new/ altered outlet for discharge of \*sewage/trade effluent\*/to continue to discharge\* sewage trade effluent\* from land/premises owned by .....

The other relevant details are as below :—

1. Full name of the applicant .....
2. Nationality of the applicant .....
3. State of the applicant :
  - (a) Individual
  - (b) Proprietary concern
  - (c) Partnership firm  
 (whether registered or unregistered).
  - (d) Joint Family concern
  - (e) Private Limited Company
  - (f) Public Limited Company

<sup>1</sup> Subs. by Notfn. No. F-11-5-85-XXXII, dated 31-5-1991.

- (g) Government Company
    - (1) State Government
    - (2) Central Government
    - (3) Union Territory
  - (h) Foreign Company
    - (if a foreign company, the details of registration, in operation etc.)
  - (i) Any other Association or Body.
4. Name, Address and Telephone Nos. of the Applicant [the full list of individuals, partners, Chairman (full time or part-time), Managing Directors, Managing Partners/Directors (full time or part-time), other kinds of office bearers are to be furnished with their period of tenure in the respective office, with telephone Nos. and address].
5. Address of the Industry :  
 (Survey No., Khasra No., location as per the revenue record, Village Firka, Tahsil, District, Police Station or SHO, jurisdiction of the First-Class Magistrate).
6. Details of commissioning etc. :—
- (a) Approximate date of the proposed commissioning of work.
  - (b) Expected date of production.
7. Total number of employees expected to be employed.
8. Details of licence, if any obtained under the provisions of Industrial Development Regulation Act, 1951.
9. Name of the person authorised to sign this form (the original authorization except in the case of individual/proprietary concern is to be enclosed).
10. (a) Attach the list of all raw materials and chemicals used per month.
- (b) Licensed Annual Capacity of the Factory/Industry.
11. State daily quantity of Water in kilolitres utilised and its source (domestic/industrial/process/boiler/cooling/others).
12. (a) State the daily maximum quantity of effluent and mode of disposal (sewer or drains or river).  
 Also such analysis report of the effluents. Type of effluent, quantity in kilolitres, mode of disposal.
  - (i) Domestic.
  - (ii) Industrial.
- (b) Quality of effluent currently being discharged or expected to be discharged.

**Contd.....**

- (c) Water monitoring arrangement is currently there or proposed.
13. State whether you have any treatment plant for industrial, domestic or combined effluents.  
Yes/No  
If yes, attach a description of the process of treatment brief. Attach information on the quality of treated effluent *vis-a-vis* the standards.
14. State details of solid wastes generated in the process or during waste treatment.
- | Description | Quantity | Method of Collection | Method of disposal |
|-------------|----------|----------------------|--------------------|
|-------------|----------|----------------------|--------------------|
15. I/We further declare that the information furnished above is correct to the best of my/our knowledge.
16. I/We hereby submit that in case of change either of the point of discharge or quantity of discharge or its quality a fresh application for Consent shall be made and until such consent is granted no change shall be made.
17. I/We hereby agree to submit to the Central Board an application for renewal of consent one month in advance of the date of expiry of the consented period for outlet/discharge if to be continued thereafter.
18. I/We undertake to furnish any other information within one month of its being called by the Central Board.
19. I/We enclose herewith cash receipt No./bank draft No. .... dated ..... for Rs. ..... (Rupees ..... ) in favour of the Madhya Pradesh State Prevention and Control of Water Pollution Board, Bhopal, as fees payable under Section 25 of the Act.

Yours faithfully

.....  
Signature of the applicant



**24.4      The Madhya Pradesh Water  
(Prevention and Control of Pollution)  
Appeal Rules, 1976**

# The Madhya Pradesh Water (Prevention and Control of Pollution) Appeal Rules, 1976

## **PREAMBLE**

*In exercise of the powers conferred by sub-section (1) and clause (m) of sub-section (2) of Section 64 read with sub-section (3) of Section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974), the State Government, in consultation with the Madhya Pradesh State Prevention and Control of Water Pollution Board, hereby makes the following rules, namely:-*

### **1. Short title.--**

These rules may be called the Madhya Pradesh Water (Prevention and Control of Pollution) Appeal Rules, 1976<sup>1</sup>.

### **2. Definitions.--**

In these rules, unless the context otherwise requires,-

- (a) "Act" means the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974);
- (b) "Appellate Authority" means the appellate authority constituted under Section 28;
- (c) "Board" means the Madhya Pradesh State Prevention and Control of Water Pollution Board constituted under sub-section (1) of Section 4;
- (d) "Form" means a form appended to these rules;
- (e) "Member Secretary" means the Member-Secretary of the Board;
- (f) "Section" means a section of the Act.

### **3. Fee.--**

The fee payable for an appeal under Section 28 shall be <sup>2</sup>[Rs. 1000.00].

### **4. Memorandum of appeal.--**

Every appeal shall,-

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<sup>1</sup> Vide Notification No. 2332-5015-XXXII-76, dated 3-7-1976. Published in M.P. Rajpatra Part IV (Ga), dated 30-7-1976 at pp. 569-572.

<sup>2</sup> Substituted by Notification No. 3437-11-12-87-XXXII, dated 30-6-1989.

- (a) be in writing;
- (b) specify the name and address of the appellant;
- (c) specify the date of the order against which it is made;
- (d) specify the date on which the order was communicated to the appellant;
- (e) contain a clear statement of facts;
- (f) specify the grounds on which the appeal is preferred;
- (g) state precisely the relief prayed for; and
- (h) be signed and verified by the appellant or an agent duly authorised by him in writing in this behalf in the following form, namely:-

"I.....the appellant named in the above memorandum

of appeal/his authorised agent do hereby declare that what is stated therein is true to the best of my knowledge and belief."

Signature

(2) The memorandum of appeal shall be accompanied by:-

- (a) an authenticated copy of the order against which the appeal is preferred;
- (b) a copy of the application made under Section 25 or 26, as the case may be;
- (c) any document relevant to the appeal
- (d) a satisfactory proof of payment of the fee prescribed under Rule 3.

(3) As far as possible, the memorandum of appeal shall be-

- (a) In Form I, where the appeal relates to matters covered by sub-section (4) of Section 28; and
- (b) In Form II, where the appeal relates to matter not covered by sub-section (5) of Section 28.

(4) the memorandum of appeal shall be in quadruplicate and shall either be presented to the appellate authority by the appellant or his authorised agent or sent to such authority by registered post. When the memorandum of appeal is presented by an agent duly authorised by the appellant it shall be accompanied by a duly stamped letter of authority appointing him as such.

(5) On receiving the memorandum of appeal, the appellate authority shall endorse thereon the date of its presentation and the name of the appellant or his duly authorised agent, as the case may be, presenting it.

#### **5. Fixing the date of hearing and power to call for the record.--**

(1) The appellate authority shall as soon as may be after the memorandum of appeal is filed, fix a date for hearing of the appeal and give intimation of the same to the appellant and the Member-Secretary in such manner as it deems fit. A copy of the memorandum of appeal along with its enclosures shall also be sent to the Member-Secretary.

(2) The appellate authority shall call for the record of the case from the Member-Secretary, if necessary.

(3) Where the material on record is insufficient to enable the appellate authority to have a definite conclusion may take additional evidence or call for such further material from the appellant or the Member-Secretary as it thinks fit. Such material shall form part of the record.

(4) Where on the date fixed for hearing or any date to which hearing of the appeal may be adjourned, the appellant or his duly authorised agent does not appear when the appeal is called for hearing, the appeal may be dismissed or may be decided ex parte.

(5) Where an appeal is dismissed under sub-rule (4), the appellant may within 30 days from the date of dismissal of the appeal, apply to the appellate authority for the restoration of the appeal and if it is shown to the satisfaction of the appellate authority that the appellant had not received intimation of the date of hearing of the appeal or was prevented by any sufficient cause from appearing when the appeal was called for hearing, the appellate authority may restore the appeal on such terms as it thinks fit.

#### **6. Order to be in writing.--**

The order for the appellate authority shall be in writing and shall state the points for the determination, the decision thereon and the reasons for the decision.

#### **7. Supply of copy of order to the appellant and the Board.--**

Copy of the order passed in appeal shall be supplied free of cost to the appellant. Copy of the order shall also be sent to the Member-Secretary.

**FORM-I**

[See sub-rule 4 (3) (a)]

**FORM OF APPEAL**

**Under Section 28 of the Water (Prevention and Control of Pollution)  
Act, 1974**

To,

The President,

Appellate Authority,

Constituted under Section 28 of the Water (Prevention and Control of Pollution) Act, 1974

The appeal of ..... resident of .....  
Ward No. ..... Tahsil ..... District .....  
showeth as follows :—

(I) Under Section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 (No. 6 of 1974), the appellant has been granted consent subject to the conditions mentioned in the consent order in respect of the Plant/Corporation/Municipality/Notified Area Committee noted below :—

- (a) Name of Plant/Corporation/  
Municipality/Notified Area Committee
- (b) Place-
- (c) Ward No.-
- (d) Name of the Street-
- (e) Urban Area-
- (f) District :—

A copy of the consent order in question is attached hereto.

(II) The grounds on which the appellant relies for the purposes of this appeal are as follows :

(III) The appellant, therefore, prays that :—

\*The unreasonable condition No. ..... Conditions Nos. .... imposed should be treated as annulled or it/they should be substituted by such other condition/conditions as appears to be reasonable.

OR

The unreasonable condition No. ..... Conditions Nos. .... should be varied in the following manner.

Dated .....

Signature .....

Occupation .....

Address.....

**FORM OF VERIFICATION**

I, ..... the appellant named in the above memorandum of

appeal/his authorised agent do hereby declare that what is stated therein is true to the best of my knowledge and belief.

Dated .....

Signature .....

Occupation .....

Address.....

**FORM-II**

[See sub-rule 4 (3) (b)]

**FORM OF APPEAL**Under Section 28 of the Water (Prevention and Control of Pollution)  
Act, 1974

To,

The President,  
 Appellate Authority,  
 Constituted under Section 24 of the Water (Prevention and Control of  
 Pollution) Act, 1974.

The appeal of ..... resident of .....  
 Ward No. ..... Tahsil ..... District ..... Showeth as follows :—  
 (I) Under Section 27 of the Water (Prevention and Control of  
 Pollution) Act, 1974 (No. 6 of 1974).

\*The appellant has been refused consent.

**OR**\*The consent has been withdrawn by the Board in respect of the  
 Plant/Corporation/Municipality/Notified Area Committee noted below :—

- (a) Name of the Plant/Corporation/  
 Municipality/Notified Area Committee
- (b) Place-
- (c) Ward No.-
- (d) Name of the Street-
- (e) Urban Area-
- (f) District—

A copy of the order in question is attached hereby.

(II) The appellant being aggrieved by the aforesaid order prays that the  
 said order be set-aside on, amongst others, the following ground/grounds,  
 namely :—

\*Strike out which is not applicable.

Dated .....

Signature .....

Occupation .....

Address .....

**FORM OF VERIFICATION**I, ..... the appellant named in the above memorandum of  
 appeal/his authorised agent do hereby declare that what is stated therein is  
 true to the best of my knowledge and belief.

Dated .....

Signature .....

Occupation .....

Address .....

**25.The Air (Prevention and Control of  
Pollution) Madhya Pradesh Rules,  
1983 (For Air Act 1981, See Central  
Volume-III)**

# The Air (Prevention and Control of Pollution) Madhya Pradesh Rules, 1983

[Notification No. 3368-XAXII. dated 24th September, 1983. published in M.P. Rajpatra, Ext. dated 24-9-1983. p. 2501- 25201 And as amended subsequently by the following:

1. Notfn. No. F. -11-12-87-XXXI I, dt. 30-6-1989, pub. in M.P. Rajpatra (Asadharan), dt. 5-7-1989, p. 1183;
2. Notfn. No. F. 11-8-86-XXXII, dt. 29-7-1991, pub. in M.P.Rajpat:a (Asadharan), dt. 2-8-1991, pp. 1376(4)1376(8);
3. Notfn. No. F. 11-8-XXXII-91, dt. 14-10-1991, pub. in M.P. Rajpatra Pt. I. dt. 9-11-91, p. 1933.

**Note:-** In the foot-notes appearing hereinafter, the amending notifications are referred to by serial No. as given to them above.

In exercise of the powers conferred by section 54 of the Air (Prevention and Control of Pollution) Act, 1981 (Plo. 14 of 1981), the State Government in consultation with the Madhya Pradesh Pradushan Nivaran Mandal, hereby makes the following rules, namely:

**1. Short title and commencement.**-(1) These rules may be called the Air (Prevention and Control of Pollution) Madhya Pradesh Rules, 1983.

(2) They shall come into force on the date of their publication in the Madhya Pradesh Gazette.

**2. Definitions.**-In these rules unless the context otherwise requires:

(a) "Act" means the Air (Prevention and Control of Pollution) Act, 1981 (No. 14 of 1981);

(b) "Appellant" means any person aggrieved by and appealing against an order made by the State Board under section 20, section 21, or section 22 of the Act:

(c.) "Appellate Authority" means the Appellate Authority constituted by the Government of Madhya Pradesh under sub-section (1) of section 31 of the Act:

(d) "Consultant" means and includes any person whose services, technical or otherwise, may be obtained by the Chairman to conduct the affairs of the Board;

(e) "Form" means a form appended to these rules;

(f) "Furnace" means any structure or installation where any form or type of fuel is burnt or otherwise a high temperature higher than ambient is maintained;

(g) "Premises" means any building structure or property used for Industrial or trade purposes where pollution occurs;

(h) "State Air Laboratory" means a Laboratory established or specified as such under sub-section (1) of section 28;

(i) "Section" means a section of the Act;

(j) "State Board Laboratory" means a Laboratory established or recognised as such under sub-section (2) of section 17;

(k) Words and expressions used but not defined in these rules shall have the meaning as defined in the Air (Prevention and Control of Pollution) Act, 1981 (No. 14 of 1981).

**3. Salaries allowance and other conditions of service of the Chairman and members of the Board under sub-section (7) of section 7.**-Salaries, allowances and other conditions of the service of the Chairman and other members shall be the same as provided in rules 3 and 5 of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975. In addition, the Chairman of the Board shall be paid Rs. 500 per month as special pay for the additional responsibility imposed on him.

**4. Procedure for Transaction of Business.**-Procedure for transaction of business of the Board and its Committees shall be the same as provided in the Madhya Pradesh

State Prevention and Control of Water Pollution Board and its Committees (Meeting) Rules, 1975.

**5. Fees and allowances to be paid to such members of the Committee of the Board who are not members of the Board under sub-section (3) of section 11.-**(1) A member of the Committee constituted under sub-section (3) of section 11, who is not a member of the Board shall be entitled to such fees and allowances as provided in rules 5 and 6 of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975.

(2) Notwithstanding anything in sub-rule (1) if such person is a Government servant or employee in a Government undertaking, he shall be entitled to travelling and daily allowances, only at the rates provided under the relevant rules applicable to him.

**6. Fees and allowances to be paid for temporary association of persons under sub-section (3) of section 11-** (1) If the person associated with the Board, under sub-section 11) of section 12 happens to be a non-official he shall be entitled to get fees and allowances at the rates mentioned in rule 6 of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975.

(2) Notwithstanding anything in sub-Hale (1) if such person is a Government servant or employee in a Government undertaking, he shall be entitled to travelling and daily allowances only at the rates provided under the relevant rules, applicable to him.

**7. Terms and conditions of service of the member Secretary of the State Board.-** The salaries, allowances and other conditions of service of the Member Secretary shall be the same as provided under rule 4 of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975.

In addition, the Member Secretary of the Board shall be paid Rs. 300 per month as special pay for the additional responsibility imposed on him.

**8. Powers and Duties of the Member-Secretary.-**Powers and duties of the Member-Secretary shall be the same as provided under rule 9 of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975.

**9. Appointment of Consultant under sub-section (5) of section 14.**-For the purpose of assisting the Board in the performance of its functions, the Board may appoint a consultant for a period not exceeding 6 months:

Provided that the Board may extend the period of appointment from time to time up to one year:

Provided further that the Board may with the prior approval of State Government make appointment of consultant for a period exceeding one year.

**10. Power to terminate appointment.**-Notwithstanding the appointment of the consultant for a period, under rule 9, Board shall have the right to terminate appointment of the consultant before the expiry of the period of appointment if in the opinion of the Board this becomes desirable subject to the payment of salary and allowance for the unexpired term of his appointment.

**11. Consultant not to disclose information.**-The consultant shall not disclose any information either given by the Board or obtained during the performance of the duties assigned to him, either by the Board or otherwise to any person other than the Board without written permission of the Board.

**12. Duties and functions of the consultant.**-The consultant shall discharge such duties and perform such functions as are assigned to him by the Board/Chairman.

**13. Application for consent under sub-section (2) of the section 21.**-(1) An application for obtaining the consent of the Board for bringing into use any new or altered chimney for emission into atmosphere or for continuing an existing emission from chimney into atmosphere shall be made to the Board in Form 1.

(2) Application as provided in the proviso to sub-section (2) of section 21 shall be made within a period of four months from the date of publication of these rules in the "Madhya Pradesh Gazette".

(3) Such application should be accompanied by a fee as provided for industries in Rule 4 of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975.

(4) Any application not accompanied by the prescribed fees shall not be entertained by the Board.

(5) The prescribed fees shall be paid through Bank Draft in favour of the Board as may be specified by the Board.

**14. Procedure for making enquiry into application for consent under sub-section**

**(3) of section 21.**-On receipt of an application for consent under section 21 the Board may depute any of its officers accompanied by as many assistants as may be necessary to visit and inspect any place or premises under the control of the applicant or the occupier, to which such application relates for the purpose of verifying the correctness or otherwise of the particulars furnished in the application or for obtaining such further particulars or information as such Officer may consider necessary. Such Officer may, for that purpose, inspect any place or premises, where emission from the chimney or fugitive emission from any location from the premises of the industry as also any control devices installed in the said premises. Such Officers may, for that purpose, inspect any place or premises under the control of the applicant or occupier, and may require the applicant to furnish to him any plans, specifications or other data relating to control equipment or systems of any part thereof that he considers necessary.

(2) Such Officer shall before visiting any premises of the applicant for the purpose of inspection under sub-rule (1) give notice to the applicant of his intention to do so in Form II. The applicant shall furnish to such officer all information and provide all facilities to conduct the inspection.

(3) An officer of the Board may, before or after carrying out an inspection under sub-rule (1), require the applicant to furnish to him orally or in writing such additional information or clarification, or to produce before him such documents, as the may consider necessary for the purpose of investigation of the application and may for that purpose summon the applicant or his authorised agent to the office of the Board.

**15. Submission of information by the occupier under subsection (1) of section**

**23.**-An officer in-charge of industrial Plant or occupier of the premises from where due to an accidental breakdown of some processes or installations or otherwise, an emission occurs or is apprehended to occur in excess of the standard laid down by the

Board shall forthwith intimate the fact of such occurrence to all or any one of the Board, District Collector, Sub-Divisional Magistrate, nearest Police Authority and the nearest Officer of the Local Authority including Panchayat, Public Health Department and Department of Industry.

**16. Manner of taking samples under sub-section (1) of section 26.**-(1) The Board or any officer empowered by it in this behalf shall have the power to take for the purpose of analysis samples of air or emission from any chimney, flue or duct, plant or vessel or any other sources and outlets, stationary or mobile under sub-section (1) of section 26. The occupier of the premises shall provide all necessary facilities for sampling of air or emission from any chimney, flue or duct, plant or vessel or any other sources and outlets, stationary or mobile as may be specified by the Board or any Officer empowered by it in this behalf. The occupier of the premises shall provide all necessary facilities for access to the sampling places as may be specified by the Board or any officer empowered by it in this behalf.

(2) The procedure used for sampling air or emission from any chimney, flue or duct, plant or vessel or any other sources and outlet, stationary or mobile, the instruments used for sampling and the methods of measuring air pollutants shall be such as may be specified by the Board to suit the situation.

**17. Form of notice under sub-section (3) of section 26.**-A notice under sub-section (3) of section 26 shall be in Form III.

**18. Form of report of Board analyst under sub-section (1) of section 27.**-The Board analyst shall submit to the Board a report of the result of analysis in triplicate in form IV.

**19. Functions of the State Board Laboratory under sub-section (3) of section 27 and under sub-section (2) of section 28.**-The State Air Laboratory shall cause to be analysed any samples of air or emission received by it from any officer authorised by the Board for the purpose and the findings shall be recorded in triplicate in Form V.

**20. Qualifications of Government/State Board Analyst under section 29.**-The qualification for the Government/State Board Analyst shall be atleast II class M.Sc. in Basic Sciences/Life Sciences/Earth Sciences with three years experience in Environmental Quality Management.

**21. Memorandum of Appeal under sub-section (3) of section 31.**-(1) Every appeal against an order passed by the State Board under section 20, section 21 or section 22 shall be filed by the aggrieved party in Form VI.

(2) Every aggrieved person preferring an appeal shall do so separately in his, own name and no joint appeal made on behalf of more than one person shall be entertained by the Appellate Authority.

(3) (a) Every appeal shall:

(i) be in writing;

(ii) Specify the name and address of the applicant and the date of the order appealed against;

(iii) Specify the date on which the order appealed against was communicated to the appellant;

(iv) Contain a clear statement of facts of the case and grounds relied upon by the aggrieved person in support of the appeal;

(v) State precisely the relief prayed for, and

(vi) be signed and verified by the appellant or an agent duly authorised by the appellant in writing in this behalf.

(b) Every appeal shall be accompanied by:

(i) An authenticated copy of the order against which appeal is made;

(ii) a copy of the application made under section 20, 21, or under section 22 as the case may be;

(iii) any document related to the appeal; and

(iv) a satisfactory proof of the payment of the fee prescribed.

<sup>1</sup>[(c) A fee of Rupees one thousand shall be deposited by every appellant in the office of the appellate authority and an authenticated copy of the receipt

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<sup>1</sup> Subs. by S. No. 1.

obtained therefor shall be annexed to every appeal. No appeal which is not accompanied with the aforesaid copy of the receipt shall be entertained by the appellate authority.]

- (d) Every Memorandum of Appeal shall be submitted in quadruplicate and shall either be presented to the Appellate Authority by the appellant or his authorised agent in person or sent to such authority by registered post. When the Memorandum of Appeal is presented by agent duly authorised by the appellant, it shall be accompanied by a letter of authority written on a stamped paper of the value as required by law, appointing him as such an agent.
- (e) On receipt of the Memorandum of Appeal, the appellate authority shall endorse thereon the date of its presentation or receipt by post and the name of the appellant or his duly authorised agent presenting it, as the case may be.

**22. Procedure to be followed by the Appellate Authority in dealing with and disposal of the Appeal under sub-section (3) of section 31.-**

(1) The Appellate Authority shall, as soon as may be after the Memorandum of Appeal is filed before it, fix a date for hearing of the Appeal and give intimation of the same to the appellant and the Member-Secretary in Form VII. While giving such intimation to the Member-Secretary, a copy of the Memorandum of Appeal together with its enclosures shall also be sent to the Member-Secretary and he shall be called upon to send to the Appellate Authority all the relevant records connected with the matter relating to the appeal.

(2) Where the material on record is insufficient to enable the Appellate Authority to come to a definite decision it may take additional evidence and call for such further material from the appellant or the member-secretary as it deem fit. Such material shall form part of the record, but not before the party other than that from whom such record has been received, has been given an opportunity to peruse such record, itself against anything contained therein which is detrimental to the interests of that party.

(3) Where on the date fixed for hearing or any date to which the hearing of the appeal may be adjourned, the appellant or his duly authorised agent does not appear when appeal is called for hearing the appeal shall be liable to be dismissed.

(4) Where an appeal is dismissed under sub-rule (3) the appellant may, within 30 days from the dismissal of the appeal, apply to the appellate authority for the restoration of the appeal apply and if it is shown to the satisfaction of the appellate authority that the appellant had not received intimation of the date of hearing of the appeal or was prevented by any cause, sufficient in the opinion of the appellate authority, from appearing when the appeal was called for hearing, the appellate authority may restore the appeal on such terms as it thinks fit.

(5) The order passed by the appellate authority on the appeal shall be in writing shall state clearly the points it for determination of the decision thereon, and the reasons for the decision.

(6) A copy of the order passed in appeal shall be supplied by the authority free of cost to the appellant and a copy thereof shall also be sent to the Member Secretary.

**23. Form of Budget estimates under sections 34 and 36.** The form in-which and time within which the budget and accounts may be prepared and forwarded to the Government shall be the same as specified in rules 20 and 21 of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975.

**24. Form of annual report under section 35.**-The report in respect of the year last ended giving a true and full account of the activities of the Board during the previous financial year will be as provided in Rule 29 of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975.

**25. Consent Register.**-The Board will maintain a register containing particulars of Industrial Plant to which consent has been granted under section 21 in Form VIII.

**26.** It is hereby declared that for any item not specifically dealt with in these rules, the corresponding provisions of the Water (Prevention and Control of Pollution) Madhya Pradesh Rules, 1975 shall apply.

<sup>2</sup>**[27. Direction.]**-(1) Any direction issued under Section 31-A shall be in writing.

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<sup>2</sup> Rules 27 and 28 added by S. No. 2.

(2) The direction shall specify the nature of action to be taken and the time within which it shall be complied with by the person, officer or authority to whom such direction is given.

(3) The person, officer or an authority to whom any direction is, sought to be issued, shall be served with a copy of the proposed direction and shall be given an opportunity of not less than 15 days from the date of service of a notice to file with an officer designated in this behalf the objections, if any, to the issue of the proposed direction.

(4) Where the proposed direction is for the stoppage or regulation of electricity or water or any other service affecting the carrying on of any industry, operation or process and is sought to be issued to an officer or an authority, a copy of the proposed direction shall also be endorsed to the occupier of the industry, operation or process as the case may be, and objections, if any, filed by the occupier with an officer designated under sub-rule (3) and (5) of this rule.

(5) The State Board shall within a period of 45 days from the date of receipt of the objections if any, or from the date upto which an opportunity is given to the person, officer or authority to file objections, whichever is earlier, consider the objections, and for reasons to be recorded in writing, confirm, modify or decide not to issue the proposed direction.

(6) In case where the State Board is of the opinion that there is likelihood of a grave injury to the environment and it is not expedient to provide an opportunity to file objections against the proposed direction, it may for reasons to be recorded in writing, issue directions without providing such an opportunity.

(7) Every notice or direction required to be issued under this rule shall be deemed to be duly served:

(a) where the person to be served is a Company, the document is addressed in the name of the Company at its registered office or at its principal office or place of business and is either-

(i) sent by registered post: or

- (ii) delivered at its registered office or at the principal office or place of business;
- (b) where the person to be served is an officer serving Government, if the document is addressed to the person and a copy thereof is endorsed to his Head of the Department and also to the Secretary to the Government, in-charge of the Department in which, for the time being the business relating to the Department in which the officer is employed is transacted, and is either-
  - (i) sent by registered post: or
  - (ii) is given or tendered to him.
- (c) in any other case, if the document is addressed to the person to be served and
  - (i) is given or tendered to him: or
  - (ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land, or building, if any, to which it relates: or
  - (iii) is sent by registered post to that person.

**Explanation.-**For the purposes of this sub-rule-

- (a) "Company" means any body corporate and includes a firm or other association of individuals;
- (b) "a servant" is not a member of the family:

**28. Manner of giving notice.-**The manner of giving notice under clause (b) of sub-section (1) of Section 43 shall be as follows, namely

- (i) The notice shall be in writing in Form IX.
- (ii) The person giving notice may send it to
  - (a) Board, and

- (b) <sup>3</sup>[Housing and Environment Department] represented by the Secretary, Government of Madhya Pradesh).
- (iii) Notice shall be sent by registered post with acknowledgment due: and
- (iv) Period of sixty days mentioned in clause (b) of sub-section (1) of Section 43 shall be reckoned from the date of its first receipt by one of the authorities mentioned above.]

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<sup>3</sup> Subs. by S. No. 3.