



The Gujarat Khar Lands Act, 1963

Act 17 of 1964

Keyword(s):

Embankment, Khar, Sea, Tidal, Tidal Water

Amendments appended: 16 of 2000

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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the
 President on the 7th May 1964, is hereby published for general information.

SUMANT M. VIDYARTHI,
 Secretary to Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 17 OF 1964

(First published, after having received the assent of the President in the
Gujarat Government Gazette on the 14th May 1964).

An Act to provide for the protection and improvement of khar lands and the recla-
 mation of tidal lands in the State of Gujarat by the construction and
 maintenance of embankments and for certain other matters.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Khar Lands Act, 1963.
- (2) It shall extend to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may
 by notification in the *Official Gazette*, direct.

2. In this Act, unless the context otherwise requires—

- (a) "Board" means the Khar Lands Development Board established under
 section 3;

Short title
 extent and
 commence-
 ment.

Definition:

(b) "Chairman" means the chairman of the Board;

(c) "embankment" includes—

(i) every bank, dam, wall and dyke made or used for excluding water from, or retaining water upon, any tidal or khar land or for excluding salt water from entering into any adjoining sweet water nallas;

(ii) every sluice, spur, groyne, training-wall, berm or other work annexed to, or portion of, any such embankment;

(iii) every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any tidal or khar land from erosion or overflow by or of tides, waves or waters; and

(iv) all buildings intended for inspection and supervision;

(d) "khar land" means such tidal land as is made cultivable by protecting it by means of an embankment from the sea or tidal river, and includes all such land in whatever manner described, whether as *khar*, *khajun*, *khorepat*, *gazni* or otherwise;

(e) "member" means a member of the Board;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "sea" includes bay, inlet, creek or an arm of the sea;

(h) "tidal land" means such parts of the bed or shore of the tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides together with the adjoining bed or shore not exceeding two furlongs in distance from the spring tide mark;

(i) "tidal water" means any part of the sea or river within the flow and ebb of the tide at ordinary spring tides;

(j) "unit" means a unit formed by the Board under sub-section (2) of section 9.

3. (1) The State Government shall establish a Board to be called the Khar Lands Development Board.

(2) The Board shall consist of a Chairman and ten other members out of whom five shall be such officials and five shall be such non-officials as the State Government may nominate.

(3) The Chairman of the Board shall be appointed by the State Government and shall hold office for a period of three years from the date of his appointment.

(4) The members other than *ex-officio* members shall hold office for a period of three years from the date of the publication of their names under this section.

(5) The names of the Chairman appointed and members nominated under this section shall be published in the *Official Gazette*.

(6) The Chairman and the members shall be entitled to such allowances at such scales as the State Government may by general or special order determine. The allowances shall be paid by the Board from its fund.

4. (1) If any member of the Board—

(a) dies; or

(b) is absent from the meetings of the Board for more than three consecutive meetings of the Board; or

Khar Lands
Development
Board,
Office
of members,
their allowan-
ces etc.

small
scales.

(c) leaves the State of Gujarat with the intention of being absent therefrom for more than three consecutive months; or

(d) resigns; or

(e) refuses to act or becomes incapable of acting;

his office shall thereupon become vacant.

(2) Any vacancy in the office of a member other than an *ex-officio* member occurring otherwise than by reason of the completion of the member's term of office shall be filled up as soon as it conveniently may be by nomination under section 3; and the person nominated to a casual vacancy shall hold office so long as the member in whose place he is nominated would have held it had the vacancy not occurred.

(3) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

5. The Board shall be a body corporate and have perpetual succession and a common seal and may sue and be sued and shall be competent to acquire and hold property both moveable and immovable and to contract and to do all things necessary for the purposes of this Act. Incorporation of Board.

6. (1) The Board may with the previous sanction of the State Government, make by-laws consistent with this Act and the rules made thereunder, for all or any of the following matters:— Power of Board to make by-laws

(a) the manner in which its business shall be transacted;

(b) the definition of its power to enter into contracts, which shall be binding on it and the manner in which such contracts shall be executed;

(c) any other matter for which provision is required to be made for the efficient discharge of its duties or business.

(2) The Board may also make regulations for carrying out the objects of a scheme which has come into force under this Act.

7. (1) The State Government may appoint the Secretary and such other officers and servants as may be required to enable the Board to discharge its functions under this Act. Appointment of officers and servants.

(2) The Board may, with the previous sanction of the State Government, consult such technical advisers as it thinks necessary for the purpose of carrying out the objects of this Act, and they shall be paid such remuneration as may be determined by the Board with the previous sanction of the State Government.

(3) The officers and servants appointed under sub-section (1) shall be the servants of the State Government and they shall draw their pay, pension, gratuity and allowances from the Consolidated Fund of the State.

8. The Board shall pay every year out of its fund to the State Government such cost as the State Government may determine on account of the pay, pension, gratuity, leave and other allowances of the officers and servants appointed under this Act. Board to pay cost on account of pay, pension of officer and servant

Powers and
duties of
Board.

9. (1) It shall be the duty of the Board to promote the development of khar lands in the most efficient and economical manner.

(2) Without prejudice to the generality of the foregoing power, the Board may-

(a) have a survey made of the khar and tidal lands in the State to which this Act applies;

(b) prepare a list of—

(i) all embankments,

(ii) the lands benefited or to be protected by each such embankment, and

(iii) the names of landlords and tenants of such lands;

(c) form units having regard to the contours of embankments constructed or to be constructed for the protection of lands and the homogeneity of the plots of lands protected or to be protected thereby;

(d) prepare schemes for the construction, maintenance and preservation of embankments and other prescribed objects;

(e) with the sanction of and on such terms as may be approved by the State Government, take over for maintenance or reconstruction any work pertaining to the development of khar lands done by the State Government or any public body;

(f) remove encroachments on inland waterways;

(g) supervise all work in connection with the better cultivation of khar lands;

(h) reclaim tidal lands for the purpose of bringing them under cultivation; and

(i) generally do all that is necessary for carrying out the objects of the Act.

10. (1) The Board may prepare a scheme for each unit for the purpose of carrying out its duties under section 9.

power of Board to prepare scheme.

(2) A scheme prepared under sub-section (1) shall contain the following particulars, namely:—

(i) the objects of the scheme;

(ii) the approximate area of the lands likely to be included in or affected by the scheme;

(iii) a plan showing the approximate area included in or affected by the scheme;

(iv) the persons affected by the scheme;

(v) whether Government is affected by the scheme;

(vi) the kind of embankment to be constructed or maintained under the scheme;

(vii) a detailed estimate of the cost of the scheme;

(viii) such other particulars as may be prescribed.

11. (1) Any scheme prepared under section 10 shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands proposed to be included in the scheme are situate. Publication of scheme.

(2) The Board shall, on publication of a scheme, require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to such person as the Board may authorize in this behalf or appear before him, within one month of the publication of the scheme in the *Official Gazette* under sub-section (1) or within fifteen days from the date of the publication of the scheme in the village under sub-section (1) whichever period expires later.

12. (1) The person authorised under sub-section (2) of section 11 shall hear the persons who appear before him, consider all objections made to him during such hearing or duly submitted to him in writing under the said sub-section (2) and submit his report together with the objections to the Board. Report of authorized person.

(2) He may, while submitting his report under sub-section (1), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme prepared by the Board under section 10.

13. (1) The Board shall consider the objections and the report submitted to it under sub-section (1) of section 12 and within the prescribed period submit the draft scheme with any modifications which it may have made therein together with the objections forwarded to it, to the State Government and at the same time apply for its sanction. Power of State Government to sanction scheme with or without modification.

(2) After receiving such application the State Government after making such inquiry, as it may think fit, may, within the prescribed period either refuse to sanction the scheme or sanction it with or without modification and subject to such conditions as it may think fit to impose.

(3) If the scheme is sanctioned, it shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in the scheme are situate.

(4) In considering the objections, the decision of the Board on the question whether or not any land included in the scheme is benefited by, or will be protected under the scheme shall be conclusive evidence on the question.

14. A scheme published in the *Official Gazette* under sub-section (3) of section 13 shall come into force forthwith and shall have effect as if it were enacted in this Act and the Board shall execute it in the prescribed manner. Effect of scheme.

15. (1) (a) If after the scheme has come into force, the Board considers that the scheme is defective on account of an error, irregularity or informality, the Board may apply to the State Government for variation of the scheme, in the manner specified in the application. Power to vary scheme.

(b) If the State Government is satisfied that the variation proposed by the Board is on account of an error, irregularity or informality, which does not vary the scheme in any material particulars, the State Government may, by a notification in the *Official Gazette*, sanction the variation and it shall thereupon take effect as if it were incorporated in the scheme.

(2) If the State Government is of opinion that the variation proposed by the Board varies the scheme in any material particulars, the State Government shall require the Board to follow the provisions of sections 11, 12 and 13 in respect of such variation, and the provisions of section 11, 12, 13 and 14 shall apply *mutatis mutandis* in relation to such variation.

Power to
revoke
scheme.

16. Notwithstanding anything hereinbefore contained on an application made by the Board for the purpose, the State Government if satisfied that it is necessary so to do, the State Government may at any time, by notification in the *Official Gazette*, revoke the scheme.

Refund of
contribution
and payment
of compensa-
tion when
scheme is
revoked.

17. If any scheme which has come into force is revoked, any person who has paid any contribution as required under section 25, shall be entitled to the refund of the amount of the contribution. Every person who has incurred any expenditure for the purpose of complying with any regulation made under section 18, shall be entitled to receive such compensation as the Board may determine.

Power of
Board to
make
regulations.

18. For the purpose of carrying out the objects of a scheme which has come into force under this Act the Board may make regulations requiring any person or class of persons who in the opinion of the Board is interested in or affected by the scheme 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.

Committees
for units.

19. The Board shall for each unit appoint a Committee to be constituted in the prescribed manner and it shall be the duty of the Committee so appointed to maintain and repair embankments included in the unit to which the scheme relates. The Committee shall exercise such powers and perform such other duties as the Board may determine.

Acquisition
of land,
rights or
interest.

20. If at any time, on an application of the Board, it appears to the State Government that any land or the right or interest of any person in any land should for the purposes of any scheme under the Act be compulsorily acquired, it shall be lawful for the State Government to publish a notification to that effect in the *Official Gazette*. The notification so published shall be deemed to be a declaration under section 6 of the Land Acquisition Act, 1894, as in force I of 1894. in the area in which such land is situate and shall be conclusive as if it was made under the said provision and the land, right or interest in the land shall be deemed to be needed for a public purpose within the meaning of the said Act. On the publication of the notification, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the said Act shall *mutatis mutandis* apply to the determination of the amount of compensation, the apportionment of the compensation and other matters relating to the acquisition of the said land, right or interest. The State Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land, right or interest :

21. Subject to the provisions of section 23, whenever any land other than land acquired for the purposes of this Act, or any right of fishery, right of drainage, right of the use of water or other right of property shall have been injuriously affected by any act done, or any scheme executed, under the provisions of this Act, the person in whom such property or right is vested, may prefer a claim in writing to the Collector for compensation and thereupon the provisions of the Land Acquisition Act, 1894 as in force in the area in which such land or property is situate, shall, so far as may be, *mutatis mutandis*, apply for the determination of the compensation, apportionment and payment thereof.

Claim for compensation for consequential damage.

I of 1894.

22. No claim under section 21 shall be entertained if it is made later than two years next after the completion of the work by which such right is injuriously affected.

Limitation to claim for compensation.

23. (1) Any land which, before the commencement of this Act, has been used for the purpose of obtaining earth or other materials for the construction or repair of any embankment shall be deemed to be at the disposal of the Board for such purpose for the use or removal of such earth or other materials.

Certain lands to be at the disposal of the Board and compensation therefor.

(2) If any person is aggrieved by the provisions of sub-section (1) as abolishing, extinguishing or modifying any of his rights to or interest in property, such person may apply in the prescribed manner and within the prescribed period to the Collector for compensation.

Bom. V of 1879. I of 1894. (3) The Collector shall, after holding a formal inquiry in the manner provided in the Bombay Land Revenue Code, 1879, make an award determining the amount of compensation in the manner and according to the method provided for in section 23 and section 24 of the Land Acquisition Act, 1894 as in force in the area in which the property is situated.

I of 1894. (4) Subject to the provisions of sub-sections (2) and (3) the provisions of the said Land Acquisition Act, 1894 shall *mutatis mutandis* apply to such award

Bom. LXXI of 1948. (5) Nothing in the foregoing provisions of this section shall apply to the abolition, extinguishment or modification of any right to or interest in property which is deemed to be at the disposal of the Board under section 23 of the Bombay Khar Lands Act, 1948.

24. (1) Notwithstanding any custom, usage, law or contract to the contrary no person shall fish or exercise the right of fishery in any water on any tidal or khar land to which the provisions of this Act apply except under a licence granted by the Board in this behalf.

Power of Board to regulate fishing rights.

(2) The licence granted under sub-section (1) shall be granted on the payment of such fees and subject to such restrictions and on such conditions and shall be in such form and contain such particulars as may be prescribed.

Power to vary scheme.

Contribution
towards
cost of
scheme

25. (1). The cost of the scheme which has come into force under section 14 shall be met by contribution between the State Government and the landlords and the tenants thereof in accordance with the following rules:—

Rule 1.—The State Government shall contribute 40 per cent of the cost and if no lands included in the scheme are leased, the rest of the cost shall be borne by the landlords :

Provided that if in the opinion of the State Government the cost of the scheme is so high that it is necessary to give concession in respect of the contribution payable by the landlords, intermediate tenure holders and tenants, the State Government may contribute more than 40 per cent but not more than 50 percent of the cost.

Rule 2.—If all or any of the lands included in the scheme are leased, 1/6th of the rest of the cost shall be borne by the landlords, notwithstanding anything to the contrary contained in any agreement, custom or usage relating to the liability of the tenants to pay such cost, and 5/6th of the rest of the cost shall be borne by the tenants.

Rule 3.—If any land included in a scheme is held on any kind of permanent tenancy, the contribution payable by landlords and tenants shall be as follows:—

(i) If the landlord or any intermediate tenure holder receives a fixed rent in respect of such land payable in cash or in kind, the amount or quantity of rent not being variable in proportion to the yield of the land—

(a) the landlord or any of the intermediate tenure holders who receives such fixed rent shall not be liable to pay any part of the contribution;

(b) if neither the landlord nor any of the intermediate tenure holders is liable to pay any part of the contribution under sub-clause (a), the tenant shall pay rest of the cost.

(ii) If the landlord and any intermediate tenure holder do not receive a fixed rent as specified in clause (i)—

(a) the 1/6th of the rest of the cost payable by the landlord shall be paid by the landlord and the intermediate tenure holder, who do not receive a fixed rent in proportion to the amount of rent received by each of them in respect of the land;

(b) the tenant in actual occupation shall pay 5/6th of the rest of the cost.

Rule 4.—Where lands included in a scheme, consist of lands which are submerged with tidal waters and those which are not so submerged, the contribution payable by the landlords, intermediate tenure holders and tenants of lands which are not sub-merged shall be so fixed as it shall be one half of the contribution payable by the landlords, intermediate tenure holders and tenants of lands which are submerged.

Rule 5.—If the lands included in a scheme are held by more than one landlord, intermediate tenure holder or tenant and if any question arises as to the amount of contribution to be paid by such landlord, intermediate tenure holder

or tenant, the question shall be referred to the decision of such officer as the State Government may appoint in this behalf and the decision of such officer shall be final. *

(2) The State Government may prescribe by rules made in this behalf the manner in which and the extent to which the contribution payable by landlords, intermediate tenure holders and tenants under this section may be levied in lieu of cash payment.

(3) The contribution payable by the landlords, intermediate tenure holders and tenants in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on such land or the interest in such land, as the case may be, held by the person liable to pay such contribution.

26. The landlords and tenants of lands who are not able to pay their share of the contribution towards the cost of the scheme under section 25 may within the prescribed period apply to the State Government for the grant of a loan for the purpose of paying their share of such contribution. Application for loan.

27. When an application for a loan is made under section 26, the State Government may grant the loan in accordance with the rules from time to time made in this behalf. Power of State Government to grant loans.

28. Every loan made in accordance with such rules, any interest chargeable thereon and the costs incurred in making or recovering the same shall subject to the prior payment of land revenue, be a first charge on the land or any interest therein held by the person to whom the loan is made and shall, when they become due, be recoverable by sale of the land or the interest therein, as the case may be, and also from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety. Recovery of loans.

29. When a loan is granted under section 27 to persons on such terms that all of them are jointly and severally bound to the State Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute. Liability of joint borrowers as among themselves.

30. If any person holding any land on lease from the State Government fails to pay his share of the contribution under section 25 in respect of such land, within such time as the State Government may fix to the State Government, the Collector may dispose of the land in the prescribed manner. Such lease shall be determined by forfeiture to the State Government, notwithstanding anything contained in any law for the time being in force and unless the Collector otherwise directs, be freed from all rights, incumbrances and equities theretofore created in favour of any person other than the Government in respect of such land. Forfeiture of lease of land for failure to pay contribution.

Levy of
annual Con-
tribution.

31. (1) All landlords, intermediate tenure holders and tenants and all owners of lands benefited or protected by embankments included in a scheme under this Act shall pay to the Board an annual contribution which shall be levied and paid in such manner and at such rate and subject to such conditions, if any, as may be prescribed:

Provided that in the case of lands included in a scheme which consists of lands which are submerged with tidal waters and those which are not so submerged, the contribution payable by the landlords, intermediate tenure holders and tenants of lands which are not submerged shall be so fixed as it shall be one half of the contribution payable by the landlords, intermediate tenure holders and tenants of lands which are submerged.

(2) The decision of the Board on the question whether any land is benefited or protected by an embankment under this Act shall be conclusive evidence on such question.

(3) Notwithstanding anything contained in sub-section (1), the Board may, in such circumstances as may be prescribed, suspend or remit wholly or partially the payment of the annual contribution by such landlords, intermediate tenure holders, tenants or owners as it may specify in this behalf.

(4) The contribution payable under this section shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon be a first charge on such land or the interest in such land, as the case may be held by the person liable to pay such contribution.

Liability of
person in
possession of
land to pay
contribution
or loan.

32. When any person primarily liable to pay any contribution under section 25 or 31 or any loan made under section 27 makes a default, the amount of such contribution or loan, which may be due, shall be recoverable from any person in possession of the land:

Provided that where any amount is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable and shall be entitled to credit for the amount recovered from him, in account with the person who is primarily liable.

Presentation
of budget
estimates.

33. The budget estimates of the Board for each financial year shall be presented to the Board before the 1st day of March in the preceding financial year by the Chairman and the Budget as finally passed shall be subject to the approval of the State Government which shall have power to reduce any item in the estimates of expenditure and to restore any provision which it considers to be essential for the safe and efficient conduct of the business of the Board.

Restriction on
budgeted
expenditure.

34. (1) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding Rs. 25,000 shall be expended by the Board unless such sum has been included in the Budget approved by the State Government under section 33.

(2) Where any such sum is expended under circumstances of extreme urgency a report thereon shall be made as soon as practicable to the State Government.

35. (1) All moneys received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury. Custody and disbursement of moneys.

(2) All funds for disbursement shall be drawn by means of cheques which shall be signed by the Chairman of the Board, or such other member or officer of the Board as the Chairman may, with the approval of the Board, authorize in this behalf.

36. The accounts of the Board shall be maintained in such form and shall be subject to such audit, by such agency and on such terms and conditions as may be prescribed. Provisions for audit.

37. The Board shall furnish each financial year to the State Government a copy of its budget and of the accounts of the preceding financial year. Supply of copies of budget and accounts.

38. (1) The Board shall have its own fund and the following moneys shall be placed to the credit thereof— Fund.

(a) the fees received under section 24;

(b) all contributions paid to the Board under section 25; and

(c) seventy-five per cent of the annual contributions paid to the Board under section 31.

(2) The balances of the fund and the interest accruing thereon shall be expended by the Board in such manner and for such purposes as may be prescribed.

39. The Board shall have also a maintenance fund to which shall be credited twenty-five per cent of the annual contributions paid to the Board under section 31. The Board may apply the maintenance fund to the repair of breaches in embankments included in any scheme caused by tempest, flood or other irresistible force and to such other purposes as may be prescribed. Maintenance fund.

40. (1) Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 14 or any of the regulations made under section 18 or does any act which causes damage to any of the works carried out under the scheme or obstructs any person in the due exercise of his powers or execution of his duties under this Act or contravenes the provisions of any rules made, or fails to comply with the conditions of a licence granted, under this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both. Penalty.

(2) An offence under this section shall be cognisable.

41. Save as otherwise expressly provided in section 30, all amounts due under this Act shall be recoverable as arrears of land revenue. Recovery of amounts due.

42. For the purpose of preparing, sanctioning or executing any scheme or otherwise for carrying out the objects of this Act, any person duly authorized by the Board or the Committee appointed by the Board under this Act may, after giving such notice as may be prescribed, to the owner or occupier or other person interested in any land enter upon, survey and mark out such land and do all acts necessary for such purposes. Right of entry.

Inquiries to be held summarily.

43. (1) The person authorized under sub-section (2) of section 11 shall, if he desires to make any inquiry, make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of a summary inquiry shall, so far as may be, apply. Bom. V of 1879.

(2) Such person as well as the Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay Land Revenue Code, 1879. Bom. V of 1879.

Registration of document, plan or map in connection with scheme not required.

44. (1) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force. XVI of 1908.

(2) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act: XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Certain persons to be public servants.

45. The Chairman, members and Secretary of the Board, the members of any committee or officers appointed by the Board and the person authorized under sub-section (2) of section 11 shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith.

46. (1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or person duly authorized under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Rules.

47. (1) The State Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters:—

(a) the other objects for which a scheme may be prepared by the Board under clause (d) of sub-section (2) of section 9;

(b) the other particulars to be prescribed under clause (viii) of sub-section (2) of section 10;

(c) the period within which the Board shall submit the draft scheme, and the period within which the State Government may sanction the draft scheme under section 13;

- (d) execution of a scheme under section 14;
- (e) the manner of constituting a committee for each unit under section 19;
- (f) matters connected with the acquisition of land, right or interest under section 20;
- (g) the fees for the grant of a licence, the restriction subject to which and the conditions on which a licence shall be granted, the form of the licence and the particulars to be contained therein, under section 24;
- (h) the manner in which and the extent to which the contribution payable under section 25 may be levied in lieu of cash payment;
- (i) the period within which an application for a loan may be made under section 26;
- (j) grant of a loan under section 27;
- (k) disposal of land under section 30;
- (l) the manner in which, the rate at which, and the conditions subject to which the annual contribution shall be levied and paid under sub-section (1) of section 31, and the circumstances in which the payment of the annual contribution may be suspended or remitted by the Board under sub-section (3) of the said section;
- (m) the form of accounts to be maintained, the agency of audit and the terms and conditions of audit, under section 36;
- (n) the manner in which and the purposes for which balances of the fund and the interest accruing thereon shall be expended under sub-section (2) of section 38;
- (o) the other purposes for which maintenance fund may be applied under section 39;
- (p) the notice to be given under section 42;
- (q) the manner in which the documents, plans and maps relating to the sanctioned scheme shall be accessible to the public under the proviso to sub-section (2) of section 44;
- (r) any other matter required or allowed to be prescribed under this Act
- (3) All rules made under this section shall be subject to the condition of previous publication.
- (4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid, or the session immediately following.
- (5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

23. (1) On the date of commencement of this Act (hereinafter referred to as "the appointed day"), the provisions of the Bombay Khar Lands Act, 1948 (hereinafter referred to as "the said Act") except the long title, preamble and sections 1 and 23 shall be repealed.

Repeal, saving and dissolution of existing Board.

(2) Notwithstanding the repeal of such provisions of the said Act,—

(a) anything done or any action taken (including appointments, applications for sanctions, inquiries, regulations and surveys made, notifications issued, lists prepared, schemes prepared, sanctioned, published, executed, varied or revoked, reports submitted, licences and loans granted, contributions towards cost of schemes and annual contributions levied, units formed and acquisitions of land, right or interest made) under the said Act shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken, made, issued, prepared, sanctioned, published, executed, varied, revoked, submitted, granted, levied and formed under the corresponding provisions of this Act and the provisions of this Act shall apply thereto accordingly;

(b) the rules made under the said Act and in force immediately before the appointed day shall in so far as they are not inconsistent with the provisions of this Act, be deemed to be made under this Act in relation to the whole of the State and shall continue in force accordingly unless and until they are superseded under this Act;

(c) the Khar Lands Development Board for the Gujarat region shall stand dissolved and all the members thereof shall vacate office; and on such dissolution the following consequences shall ensue, that is to say,—

(i) all rights of the dissolved Board shall vest in the Board established under section 3 of this Act (hereinafter referred to as "the Board");

(ii) all property moveable or immovable which immediately before the appointed day vested in the dissolved Board shall, subject to all limitations and conditions as were in force immediately before such day, vest in the Board;

(iii) all sums due to the dissolved Board on any account shall be recoverable by the Board which shall be competent to take any measure or institute any proceedings which it would have been open to the dissolved Board to take or institute, had this Act not come into operation;

(iv) all debts, liabilities and obligations incurred by or on behalf of the dissolved Board before the appointed day and subsisting on that day, shall be deemed to be debts, liabilities and obligations incurred by the Board under this Act;

(v) all the securities (including cash balances) comprising the Fund and the Sinking Fund of the dissolved Board shall stand transferred to and form part of the Fund or, as the case may be, the maintenance Fund of the Board;

(vi) all proceedings under the repealed Act pending before any authority or officer immediately before the appointed day shall stand transferred to the corresponding authority or officer competent to entertain such proceedings under this Act and shall be disposed of by such authority or officer under this Act;

(vii) all prosecutions instituted by or on behalf of the dissolved Board and all suits and other legal proceedings instituted by or against the dissolved Board or any officer thereof pending immediately before the appointed day, shall be continued by, on behalf of, or against the Board or corresponding officer thereof and shall be disposed of accordingly;

(viii) all officers and servants in the employ of the dissolved Board shall be officers and servants in the employ of the Board and shall, until provision is otherwise made in accordance with the provisions of this Act, receive pay and allowances, and be subject to the conditions of service or retirement benefits, which they were entitled to, or subject to, before the appointed day;

(ix) all proceedings pending immediately before the appointed day for the acquisition of land or right or interest in any land for the purposes of any scheme under the said Act shall be deemed to be proceedings for acquisition of such land or right or interest for the purposes of such scheme under this Act;

(3) Save as expressly provided in sub-section (2), the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply to the repeal of the said Act.

om.
1 of
1904.

49. To section 23 of the Bombay Khar Lands Act, 1948, the following Explanation shall be added, namely:—

Amendment
of section 23
of Bom.
LXXII of
1948.

Explanation.— For the purposes of this section “the Board” means—

Guj. 17
of
1964.

(1) before the commencement of the Gujarat Khar Lands Act, 1963, the Khar Lands Development Board constituted for the Gujarat region under this Act, and

Guj. 17
of
1964.

(2) on and after such commencement, the Khar Lands Development Board constituted under section 3 of the Gujarat Khar Lands Act, 1963.”



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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 5TH October, 2000 is hereby published for general information.

B. L. MEHTA

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 16 OF 2000.

(First published, after having received the assent of the Governor in the Gujarat Government Gazette, on the 6th October, 2000).

AN ACT

to repeal the Gujarat Khar Lands Act, 1963 and to provide for certain matters incidental thereto.

It is hereby enacted in the Fifty-first Year of the Republic of India as follows :-

- | | | |
|-------------------------|---|---|
| <p>Guj. 17 of 1964.</p> | <p>1. (1) This Act may be called the Gujarat Khar Lands (Repeal) Act, 2000.
(2) It shall be deemed to have come into force on the 7th June, 2000.</p> | <p>Short title and commencement.
Definitions.</p> |
| <p>Guj. 17 of 1964.</p> | <p>2. In this Act, unless the context otherwise requires,—
(a) "Act" means the Gujarat Khar Lands Act, 1963;
(b) "appointed day" means the date on which this Act comes into force.</p> | |
| <p>Guj. 17 of 1964.</p> | <p>3. (1) On the appointed day, the Gujarat Khar Lands Act, 1963 shall stand repealed and the Gujarat Khar Lands Development Board established under section 3 of the Act shall stand dissolved and the Chairman and all members thereof shall vacate office; and on such dissolution, the following consequences shall ensue, that is to say,—</p> | <p>Repeal of Guj. 17 of 1964 and dissolution of Khar Lands Development Board.</p> |

(a) the Committee appointed by the Board under section 19 of the Act shall stand dissolved and the Chairman and all members thereof shall vacate office;

(b) all the rights of the dissolved Board shall be the rights of the State Government and any proceeding or cause of action pending or existing immediately before the appointed day by or against the dissolved Board in relation to such right may, as from the appointed day, be continued or enforced by or against the State Government;

(c) all property, movable and immovable (including all moneys received by the dissolved Board and all moneys in its own fund and in its maintenance fund) which immediately before the appointed day vested in the dissolved Board shall, subject to all limitations and conditions as were in force immediately before such day, stand transferred to and vest in the State Government;

(d) all sums due to the dissolved Board on any account shall be recoverable by the State Government which shall be competent to take any measure or institute any proceedings which it would have been open to the dissolved Board to take or institute had this Act had not come into force;

(e) all debts, liabilities and obligations incurred by or on behalf of the dissolved Board before the appointed day and subsisting on that day, shall be deemed to be debts, liabilities and obligations of the State Government, and any proceedings or cause of action pending or existing immediately before the appointed day by or against the dissolved Board in relation to such debt, liability or obligation may, as from the appointed day, be continued or enforced by or against the State Government ;

(2) The repeal of the Act by sub-section (1) shall not affect—

- (a) (i) any right of the State Government to recover under section 28, the loans granted under section 27 of the Act,
- (ii) any liability of a person whether jointly or severally to pay the amount of loan or a portion thereof to the State Government under section 29 of the Act,
- (iii) liability of forfeiture of lease of land under section 30 of the Act,
- (iv) any penalty incurred in respect of an offence punishable under section 40 of the Act,
- (v) any investigation or legal proceeding in respect of any such recovery or such forfeiture or such penalty,

and any such investigation or legal proceeding may be instituted or continued and any such recovery may be made or lease of land may be forfeited or any such penalty may be imposed as if the Act were not repealed;

(b) such of the schemes published under sub-section (3) of section 13 of the Act which are under execution by the Board on the date immediately before the appointed day and their execution shall be continued and completed by the State Government.

(3) The State Government may, by an order published in the *Official Gazette*, entrust the execution of schemes referred to in clause (b) of sub-section (2) to any body or corporation owned or controlled by the State Government and confer by a like order on such body or corporation, any of its powers as may be necessary for such execution.

Guj. Ord.1
of 2000.

4. (1) The Gujarat Khar Lands (Repeal) Ordinance, 2000 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.