



The Bombay Prevention of Fragmentation and Consolidation of Holdings Act,
1947

Act 62 of 1947

Keyword(s):

Consolidation of Holdings, Consolidation Officer, Fragment, Land, Owner,
Standard Area

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THE BOMBAY PREVENTION OF FRAGMENTATION AND
CONSOLIDATION OF HOLDINGS ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

DETERMINATION OF LOCAL AND STANDARD AREAS AND TREATMENT
OF FRAGMENTS.

3. Determination of local area.
4. Settlement of standard areas.
5. Determination and revision of standard areas.
6. Entry in the Record of Rights.
7. Transfer and lease of fragments.
8. Fragmentation prohibited.
- 8AA. Restriction on partition of land.
- 8A. Sections 7 and 8 not to apply to transfer for public purpose.
9. Penalty for transfer or partition contrary to provisions of Act.
10. Transfer of fragment to Government.
11. [*Deleted.*]
12. Determination of compensation for purposes of section 10.
13. Amendment of sections 117A and 117B of Bom. V of 1879.
14. Fragment not to be sold at Court sale or created by such sale.

CHAPTER III.

PROCEDURE FOR CONSOLIDATION.

15. Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.
- 15A. Preparation of scheme and principles to be followed in its preparation.
16. Schemes to provide for compensation.
17. Amalgamation of public road, etc., within scheme for consolidation of holdings.
18. Land reserved for public purpose.
19. Publication of draft scheme and of amended draft scheme.
20. Confirmation of draft scheme or amended draft scheme.
21. Enforcement of scheme.
22. Coming into force of scheme.
23. Certain laws no ban on transfer of holdings.
24. Certificate to transfer.
25. Loans to assist consolidation.

SECTIONS.

CHAPTER IV.

EFFECT OF CONSOLIDATION PROCEEDINGS AND OF CONSOLIDATION OF HOLDINGS.

26. Exercise by consolidation officer of powers under certain Acts.
27. Stay of certain proceedings; ban on transfer of land during continuance of consolidation proceedings.
28. Rights in holdings.
29. Transfer of encumbrances.
- 29A. Consolidation officer to decide whether lease should be transferred or not.
30. Apportionment of compensation or net value in case of dispute.
31. Restrictions on alienation and sub-division of consolidated holdings.
- 31AA. Validation of certain transfers, partitions and sub-divisions made before 15th November 1965.
- 31AB. Validation of certain transfers of sub-divisions made on or after 15th November 1965 and before commencement of Mah. XLI of 1977.
- 31A. Correction of clerical and arithmetical mistakes in scheme.
32. Power to vary scheme on ground of error, irregularity, informality.
33. Power to vary or revoke scheme.
- 33A. Power of State Government to revoke confirmed scheme.

CHAPTER IV-A.

POWERS AND PROCEDURE OF CONSOLIDATION OFFICERS

- 33B. Right of entry.
- 33C. Power to summon persons to give evidence and produce documents.
- 33D. Form of summons and mode of serving it.
- 33E. Penalty for not complying with summons.

CHAPTER V.

GENERAL

34. Vesting of powers of Settlement Commissioner.
- 34A. Constitution of village committees.
35. Power of State Government or Commissioner to call for proceedings.
36. Appeal and revision.
- 36A. Bar of jurisdiction.
- 36B. Suits involving issues required to be decided under this Act.
- 36C. Indemnity.
37. Rules.
38. Repeals and Savings.

BOMBAY ACT No. LXII OF 1947.¹

[THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS ACT, 1947.]*

[29th January 1948]

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 31 of 1951.

" " " 69 of 1953.

" " " 33 of 1956.

Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

Amended by Bom. 8 of 1958.

" " " 61 of 1958.

" " " 63 of 1959.

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Mah. 31 of 1964.

" " " 19 of 1966.

" " " 41 of 1977.

An Act to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof: It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. Short title, extent and commencement.

²[(2) It extends to the whole of the ³[State of Maharashtra].

(3) It shall come into force in such areas and on such date as the ⁴[State] Government may by notification in the *Official Gazette* direct.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(1) " agricultural year " means the year commencing on the first day of April ;

(2) " consolidation of holdings " means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings ;

(3) " Consolidation Officer " means an officer appointed as such under section 15 by the ⁴[State] Government and includes any person authorised by the ⁴[State] Government to perform all or any of the functions of the Consolidation Officer under this Act ;

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1946, Part V, page 139 ; for Report of the Select Committee, see *ibid.*, 1947 Part V, page 195 ; for Proceedings in Assembly see *Bombay Legislative Assembly Debates*, 1947, Vol. X and Vol. XI ; and for Proceedings in Council see *Bombay Legislative Council Debates*, 1947, Vol. XIII.

² This sub-section was substituted for the original by Bom. 61 of 1958, s. 3(1).

³ These words were substituted for the words " State of Bombay " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁴ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

* The Act was extended to that part of the State of Bombay to which immediately before the commencement of Bom. 61 of 1958 it did not extend (*vide* Bom. 61 of 1958, s. 2.).

¹[(3A) "Co-operative Society" means a co-operative society registered or deemed to be registered under the ²[Maharashtra Co-operative Societies Act, 1960];

3* * * * * of 1961.

(4) "Fragment" means a plot of land of less extent than the appropriate standard area determined under this Act :

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion ;

(5) "land" means agricultural land whether alienated or unalienated ;

(6) "local area" means any area notified as such in the *Official Gazette* under section 3 ;

4* * * * *

(8) "Owner" means in the case of unalienated land the occupant⁵ [or tenure holder] and when such land has been mortgaged owner means the mortgagor ; in the case of alienated land owner means the superior holder ; ⁶* *

⁷[Provided that in the Hyderabad area of the ⁸[State of Maharashtra], "owner" means a person who has permanent and heritable right of possession of land, and when unalienated land has been mortgaged, owner means the mortgagor ;

9* * * * *

(9) "prescribed" means prescribed by rules made under this Act :

¹⁰[(9a) "relevant Code" means—

¹¹(a) in the Bombay area of the State of Maharashtra, the * Bombay Land Revenue Code, 1879 ;

(b) in the Vidarbha region of the ⁸[State of Maharashtra], the Madhya Pradesh Land Revenue Code, 1954 ; and

(c) in the Hyderabad area of the ⁸[State of Maharashtra], the Hyderabad Land Revenue Act, 1317 Fasli ;

(9b) "relevant tenancy law" means—

¹¹[(a) in the Bombay area of the State of Maharashtra, the Bombay Tenancy and Agricultural Lands Act, 1948 ;]

Bom.

V of

1879.

M. P.

II of

1955.

Hyd.

Act

VIII

of

1317F

Bom.

LXVI

of

1948.

¹ This clause was inserted by Bom. 69 of 1953, s. 2.

² These words and figures were substituted for the words and figures "Bombay Co-operative Societies Act, 1925" by Mah. 19 of 1966, s. 2(a).

³ The portion from "or that Act" to "region of the State;" was omitted by the Maharashtra Adaption of Laws (State and Concurrent Subjects) Order, 1960.

⁴ Clause (7) was deleted by Bom. 61 of 1958, s. 3(2)(b).

⁵ These words were inserted, *ibid.*, s. 3(2)(c).

⁶ The words "or Girasdar" were omitted by the Maharashtra Adaption of Laws (State and Concurrent Subjects) Order, 1960.

⁷ This proviso was added by Bom. 61 of 1958, s. 3(2)(c).

⁸ These words were substituted for the words "State of Bombay" by the Maharashtra Adaption of Laws (State and Concurrent Subjects) Order, 1960.

⁹ The Explanation was omitted, *ibid.*

¹⁰ Clauses (9a) to (9c) were inserted by Bom. 61 of 1958, s. 3(2)(d).

¹¹ Sub-clause (a) was substituted by the Maharashtra Adaption of Laws (State and Concurrent Subjects) Order, 1960.

* See now the Maharashtra Land Revenue Code, 1966 (Mah. 41 of 1966).

(b) in the Hyderabad area of the ¹[State of Maharashtra] the Hyderabad Tenancy and Agricultural Lands Act, 1950 ;

²[(c) in the Vidarbha region of the State of Maharashtra, the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 ;]

3*

*

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*

(9c) "Settlement Commissioner" includes a Commissioner of Survey, Settlement;]

(10) "standard area" in respect of any class of land means the area which the ⁴[State] Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section ;

⁵[(10a) "village committee" means a village committee constituted under section 34A ;]

(11) words and expressions used in this Act, but not defined have the meaning assigned to them in the ⁶[relevant Code];

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CHAPTER II.

DETERMINATION OF LOCAL AND STANDARD AREAS AND TREATMENT OF FRAGMENTS.

3. The ⁴[State] Government may, after such inquiry as it deems fit, by notification in the *Official Gazette*, specify a village, mahal or taluka ⁵[or tahsil] or any part thereof as a local area for the purposes of this Act. Determination of local area.

4. (1) The ⁴[State] Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee ⁶[or any other body,] appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot. Settlement of standard areas.

(2) The ⁴[State] Government shall by notification in the *Official Gazette*, and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

¹ These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

² Sub-clause (c) was substituted by Mah. 19 of 1966, s. 2 (b).

³ Sub-clause (d) was omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁴ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1960.

⁵ This clause was inserted by Bom. 61 of 1958, s. 3(2) (e).

⁶ These words were substituted for the words and figures "Bombay Land Revenue Code, 1879", *ibid.*, s. 3 (2) (f).

⁷ Clause (12) was omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁸ These words were inserted, by Bom. 61 of 1958, s. 3 (4).

⁹ These words were inserted, *ibid.* s. 3(4).

Determina-
tion and revi-
sion of stand-
ard areas.

5. (1) The ¹[State] Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(2) The ¹[State] Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in section 4 and sub-section (1).

(3) The ¹[State] Government shall, by notification in the *Official Gazette*, and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

Entry in
the Record
of Rights.

6. (1) On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights or where there is no Record of Rights in such village record as the ¹[State] Government may prescribe.

(2) Notice of every entry made under sub-section (1) shall be given in the manner prescribed for the giving of notice ²[in the Hyderabad area of the State, under the Hyderabad Record of Rights in Land Regulation, 1358 Fasli and elsewhere, under the relevant Code,] of an entry in the register of mutations.

LVIII
of
1358F.

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

² These words were substituted for the words and figures "under the Bombay Land Revenue Code, 1879", *ibid.*, s. 3(5).

7. (1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 ¹[except to the owner of] a contiguous survey number or recognised sub-division of a survey number :

Transfer and lease of fragments.

²[Provided that the holder of such fragment may mortgage or transfer it to the State Government or a land mortgage bank or any other co-operative society as security for any loan advanced to him by the State Government or such bank or society, as the case may be.]

(2) Notwithstanding anything contained in ³[any law for the time being in force or in any instrument or agreement], no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

8. No land in any local area shall be transferred or partitioned so as to create a fragment.

Fragmentation prohibited.

⁴[8AA. (1) Where, by transfer, decree, succession or otherwise, two or more persons are entitled to shares in an undivided agricultural land in any local area for which standard areas have been fixed, and the land has to be partitioned among them, such partition shall be effected so as not to create a fragment.

Restriction on partition of land.

(2) Where such partition is made by the Court or the Collector, the following procedure shall be adopted :—

(a) If, in effecting a partition among several co-sharers, it is found that a co-sharer is entitled to a specific share in the land and cannot be given that share without creating a fragment, he shall be compensated in money for that share. The amount of compensation shall be determined so far as practicable in accordance with the provisions of section 23 of the Land Acquisition Act, 1894

* * * * *

(b) If, in effecting a partition, it is found that there is not enough land to provide for the shares of all the co-sharers in accordance with the provisions of sub-section (1), the co-sharers may agree among themselves as to the particular co-sharer or co-sharers who should get the share of land and which of them should be compensated in money. In the absence of any such agreement, the co-sharers to whom a share of land can be provided and those to whom money compensation should be given shall be chosen by lot in the manner prescribed.

¹ These words were substituted for the words " unless thereby the fragment becomes merged in " by Bom. 69 of 1953, s. 3(1).

² This proviso was added, *ibid.*, s. 3 (2).

³ These words were substituted for the words and figures " the Bombay Tenancy Act, 1939 " by Bom. 61 of 1958, s. 3 (6).

⁴ Section 8AA was inserted, *ibid.*, s. 3 (7).

⁵ The words " or of that section in its application to the Saurashtra area of the State of Bombay under the Land Acquisition Act, 1894 (Adaptation and Application Ordinance, 1948 " were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁶ The words " or as the case may be, section 18 of the Hyderabad Land Acquisition Act, 1909, Faali " were deleted by Mah. 19 of 1966, s. 3.

I of 1894.

(c) The compensation shall be payable by each co-sharer in proportion to the excess value of land he gets over the share of land legally due to him, and such co-sharer shall deposit the proportionate amount of compensation in the manner prescribed before taking possession of the share allotted to him. On his failure to do so, his share shall be allotted to any other co-sharer to whom land has not been previously allotted and who is chosen in the manner provided in clause (b) subject to the payment of similar compensation to the co-sharers not getting shares of land.

(d) If none of the co-sharers to whom land has been allotted under clause (c) pays the compensation and takes the share, the share shall be sold in auction to the highest bidder, and the purchase money shall be paid to the co-sharers not getting land in proportion to their respective shares.

(e) Where the parties agree upon any other method of partition which will not result in the creation of a fragment, that method shall be followed in effecting partition.

(3) Where a partition is effected in execution of a decree all questions relating to the partition of the land and apportionment of compensation shall be decided by the Court executing the decree or by the Collector effecting the partition, as the case may be, in accordance with the provisions of sub-section (2).]

Sections 7
and 8 not to
apply to
transfer for
public
purpose.

[8A. Nothing in sections 7, [8 and 8AA] shall apply to a transfer of any land for such public purpose as may be specified in this behalf by the State Government by notification in the *Official Gazette*.

Penalty for
transfer or
partition
contrary to
provisions
of Act.

9. (1) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(2) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the [State] Government, direct. [Such fine shall be recoverable as an arrear of land revenue.]

[3] Any person unauthorizedly occupying, or wrongfully in possession of, any land, the transfer or partition of which, either by the act of parties or by the operation of law, is void under the provisions of this Act, may be summarily evicted by the Collector.]

Transfer
of frag-
ment to
[Govern-
ment.]

10. (1) Any owner of a fragment may transfer it to the [State Government] on [payment by the State Government] of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the [State Government] free from all encumbrances [but no

¹ Section 8A was inserted by Bom. 69 of 1953, s. 4.

² The figures, word and letter were substituted for the word and figure "and 8" by Bom. 61 of 1958, s. 3(8).

³ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁴ These words were added by Bom. 69 of 1953, s. 5(1).

⁵ This sub-section was added, *ibid.*, s. 5 (2).

⁶ These words were substituted for the words "Crown for the purposes of the Province" by the Adaptation of Laws Order, 1950.

⁷ These words were substituted for the words "payment by the Crown," *ibid.*

⁸ This portion was added by Bom. 61 of 1958, s. 3 (9) (a).

⁹ This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

such fragment shall be transferred to the State Government unless it is first offered to the owner of a contiguous survey number or recognised sub-division of a survey number on payment of the compensation determined by the Collector as aforesaid and such owner has refused to purchase the fragment on payment of such compensation].

(2) Any such fragment may be disposed of in accordance with the provisions of section 117B of the Bombay Land Revenue Code, 1879 [or section 158 of the Madhya Pradesh Land Revenue Code, 1954, or as the case may be, may be disposed of as unoccupied land under the provisions of the Hyderabad Land Revenue Act, 1317 Fasli].

11. [Partition of estate assessed to payment of revenue to Government or separation of share thereof]. Deleted by Bom. LXI of 1958, s. 3 (10).

12. In determining the compensation for the purposes of section 10 the Collector shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.

Determination of compensation for purposes of section 10.

13. (1) In sections 117A and 117B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely:—

Amendment of sections 117A and 117B of Bom. V of 1879.

“ Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947,”

(2) In the Hyderabad Land Revenue Act, 1317 Fasli, in section 76, after the words “ Taluqdar may ” and in sub-section (2) of section 89B, after the words “ assessment of plot numbers shall ” the words and figures “ subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ” shall be inserted.

(3) In the Madhya Pradesh Land Revenue Code, 1954, the following shall be inserted at the commencement of sub-section (1) of section 67, sub-section (1) of section 140, and section 158, namely:—

“ Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947,”

14. Notwithstanding anything contained in any law for the time being in force, no fragment, in respect of which a notice has been given under sub-section (2) of section 6, shall be sold at any sale held under the orders of any Court except to the owner of a contiguous survey number or recognized sub-division of a survey number and no land shall be sold at such sale so as to leave a fragment.]

Fragment not to be sold at Court sale or created by such sale.

¹ This portion was added by Bom. 61 of 1958, s. 3 (9) (b).
² The words “ or of sub-section (1) of that section in its application to the Saurashtra Area of the State of Bombay under the Land Acquisition Act, 1894 (Adaptation and Application) Ordinance, 1948 ” were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
³ The words “ or as the case may be, section 18 (including the last paragraph) of the Hyderabad Land Acquisition Act, 1309 Fasli ” were deleted by Mah. 19 of 1966, s. 4.
⁴ Section 13 was renumbered as sub-section (1) and sub-sections (2) and (3) were added by Bom. 61 of 1958, s. 3 (12).
⁵ This section was substituted for the original by Bom. 69 of 1953, s. 6.

CHAPTER III.

PROCEDURE FOR CONSOLIDATION.

Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

15. With the object of consolidating holdings in any village, mahal, ¹[taluka or tehsil] or any part thereof for the purpose of better cultivation of lands therein, the ²[State] Government may ³[of its own motion or on an application made in that behalf] declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the ⁴[State] Government may appoint a Consolidation Officer who shall proceed to prepare ⁵* * * a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be ⁶[in the manner hereinafter provided].

Preparation of scheme and principles to be followed in its preparation.

⁶[15A. (1) The Consolidation Officer shall, after giving due notice to the land owners concerned and the village committee, visit each of the concerned villages, and shall, in consultation with the village committee, proceed to prepare a scheme for the consolidation of holdings which shall include such statements, records and maps as may be prescribed.

(2) In preparing the scheme, the Consolidation Officer shall have regard to the procedure which the State Government may from time to time prescribe in regard to the number of blocks in which the village lands are to be grouped, the manner of allotting new plots to each owner, the recommendations of the village committee and such other matters as may be prescribed.]

Scheme to provide for compensation.

16. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. * * * * *

Amalgamation of public roads etc., within scheme for consolidation of holdings.

17. (1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

¹ These words were substituted for the words " or taluka " by Bom. 61 of 1958, s. 3 (13).

² This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

³ These words were inserted by Bom. 61 of 1958, s. 3 (13).

⁴ The words " in the prescribed manner " were deleted, *ibid.*

⁵ These words were added, *ibid.*

⁶ Section 15A was inserted, *ibid.*

⁷ The words " or of sub-section (1) of that section in its application to the Saurashtra area of the State of Bombay under the Land Acquisition Act, 1894 (Adaptation and Application) Ordinance, 1948 " were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁸ The words " or as the case may be, section 18 (including the last paragraph) of the Hyderabad Land Acquisition Act, 1309 Fasli " were deleted by Mah. 19 of 1966, s. 5.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (1) state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right :

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(4) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the [State] Government, be final.

*[18. (1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer, in consultation with the village committee,—

Land reserved for public purpose.

(a) to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place ;

(b) if in any area under consolidation no land is reserved for any public purpose including extension of the village sites, or if the land so reserved is inadequate, to assign other land for such requirements and for that purpose to effect a proportionate cut in all the holdings of the village.

(2) Where a proportionate cut in all the holdings of a village has been effected under sub-section (1), the State Government shall pay to every person affected thereby compensation in respect of the land covered by such cut at the market value of the land at the date of the publication of the notification under section 15.

(3) Save as provided in sub-section (2), the amount of such compensation shall be determined by the Consolidation Officer, so far as practicable in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.]

I of
1894.

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
² Section 18 was substituted for the original by Bom. 61 of 1958, s. 3(15).

Publication
of draft
scheme and
of amended
draft
scheme.

19. (1) When a scheme of consolidation is ready for publication, the Consolidation Officer shall publish a draft thereof in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, may, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the draft scheme.

(2) If any objections are received and after considering them, the Consolidation Officer considers it necessary to amend the draft scheme, he shall amend the draft scheme and publish the amended draft scheme as provided in sub-section (1). Any person likely to be affected by such amended draft scheme, may, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the amended draft scheme.

(3) (a) Where no objections are received to the draft scheme published under sub-section (1) or to the amended draft scheme published under sub-section (2), such draft scheme or amended draft scheme,

(b) where objections are received to the said draft scheme or amended draft scheme but the Consolidation Officer does not consider it necessary to amend the said draft scheme or amended draft scheme, such draft scheme or amended draft scheme, together with the objections and his remarks thereon,

(c) where objections are received to the said amended draft scheme and after considering the objections, the Consolidation Officer considers it necessary to amend further the amended draft scheme, such amended draft scheme as further amended, together with the objections and his remarks thereon, shall be forwarded by the Consolidation Officer to the Settlement Commissioner for confirmation.

Confirmation
of draft
scheme or
amended
draft
scheme.

20. (1) If on receipt of a draft scheme or an amended draft scheme under sub-section (3) of section 19, the Settlement Commissioner, after considering the objections, if any, and the remarks of the Consolidation Officer thereon and after being otherwise satisfied about the correctness of procedure followed by the Consolidation Officer and the allotment of holdings and compensation or about there being no clerical or arithmetical mistake or error arising from accidental slip or omission, approves of the draft scheme or, as the case may be, amended draft scheme, he shall confirm it.

(2) If the Settlement Commissioner does not approve of the draft scheme or the amended draft scheme forwarded by the Consolidation Officer and considers it necessary to amend it, he shall further amend it and publish it as amended in the prescribed manner in the village or villages concerned. Any person likely to be affected by the draft scheme as so published may, within thirty days of the date of such publication, communicate his objections in writing to the Settlement Commissioner.

(3) If no objections are received within the period specified in sub-section (2), the Settlement Commissioner shall confirm the draft scheme as published under that sub-section. If any objections are received within the said period, the Settlement Commissioner shall after considering the objections confirm the draft scheme as published under sub-section (2) without any modifications therein or with such modifications therein as he may consider necessary.

¹ Sections 19, 20 and 21 were substituted for the original by Mah. 19 of 1966, s. 6.

21. (1) Upon the confirmation of any scheme under section 20, a notification stating that the scheme has been confirmed shall be published by the Settlement Commissioner in the *Official Gazette*, and the scheme as confirmed shall be published in the prescribed manner in the village or villages concerned. Enforcement of scheme.

(2) Within one year from the date of publication of the notification in the *Official Gazette* under sub-section (1), the owners from whom compensation is recoverable under the scheme shall deposit the amount of compensation in the prescribed manner.

(3) The Consolidation Officer shall, from the commencement of the agricultural year next following the date of publication of the notification in the *Official Gazette* under sub-section (1) and in the prescribed manner, put the owners in possession of the holdings to which they are entitled under the scheme and for doing so may, in the prescribed manner, evict any person from any land which he is not entitled to occupy under the scheme :

Provided that, if two-thirds or more of the owners affected by the scheme agree to enter into possession of the holdings to which they are entitled under the scheme, the Consolidation Officer may put them in possession of such holdings from such earlier date as may be decided upon by such owners.

(4) If the Consolidation Officer is satisfied that any standing crops, trees, embankments or similar other improvements which were not taken into consideration at the time of determining the compensation payable by an owner of any holding under the scheme are found on such holding at the time of putting the owner in possession of such holding, or that any such standing crops, trees, embankments or similar other improvements which were taken into consideration at the time of determining the compensation payable by an owner of any holding have ceased to exist or are substantially damaged at the time of putting the owner in possession of such holding, he shall by order determine in the prescribed manner the additional compensation payable by the owner or, as the case may be, the reduction to be made in the compensation payable to the original owner of such holding. Where additional compensation is to be paid, it shall be deposited in the prescribed manner by the owner from whom it is recoverable, within one year from the date of the order passed by the Consolidation Officer for determining the additional compensation.

(5) If the owner from whom the compensation is recoverable fails to deposit it within the period specified in sub-section (2) or (4) or within such further period not exceeding one year as may be extended by the Consolidation Officer, it shall be recovered from him as an arrear of land revenue.

(6) If an owner refuses to accept possession of the holding to which he is entitled under the scheme, his rights in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called "the net value") shall be paid to the owner and any other person having an interest in the holding.

(7) If no person is forthcoming to pay the value of the holding, the State Government may recover from the owner the compensation recoverable from him under the scheme as an arrear of land revenue or the State Government may itself purchase the holding after paying the net value of the holding to the owner and any other person having interest in the holding.]

Coming into
force of
scheme.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Certain laws
no ban on
transfer
of holdings.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

Certificate
of transfer.

24. (1) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under [sub-section (6)] of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme.

XVI
of
1908.

[The Consolidation Officer may, thereupon, cause to be prepared a new record of rights in respect of the holdings so transferred and the record of rights so prepared shall be deemed to have been prepared in the Hyderabad area of the State, under the Hyderabad Record of Rights in Land Regulation, 1358 Fasli, and elsewhere, under the relevant Code.]

Hyd.
Act
LVIII

(2) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

of
1358F.

Loans to
assist con-
solidation.

25. For carrying out any of the purposes of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884.

XIX
of
1883.
XII of
1884.

CHAPTER IV.

EFFECT OF CONSOLIDATION PROCEEDINGS AND OF CONSOLIDATION OF HOLDINGS.

Exercise
by Consoli-
dation Officer
of powers
under certain
Acts.

26. (1) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, [or under Chapter X of the Madhya Pradesh Land Revenue Code, 1954, or as the case may be, under Chapter VIII of the Hyderabad Land Revenue Act, 1317 Fasli], the Mamlatdars' Courts Act, 1906, and the [relevant tenancy law]; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land [for which a notice under section 15A has been given].

Bom.
V of
1879
M.P.
Act II
of
1955.
Hyd.
Act
VIII of
1317F
Bom.
II of
1906.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

(a) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, [or under Chapter X of the Madhya Pradesh Land Revenue Code, 1954, or as the case may be, under Chapter VIII of the Hyderabad Land Revenue Act, 1317 Fasli], the Mamlatdars' Courts Act, 1906, and the [relevant tenancy law], in respect of any holding or land [for which a notice under section 15A has been given] shall be transferred to the Consolidation Officer; and

Bom.
V of
1879
M.P.
Act II
of
1955.
Hyd.
Act
VIII
of
1317F

¹ The word, brackets and figure were substituted for the word, brackets and figure "sub-section (4)" of Mah. 19 of 1966, s. 7.

² This portion was added by Bom. 61 of 1958, s. 3 (16).

³ This portion was inserted, *ibid.*, s. 3 (1).

⁴ These words were substituted for the words and figures "Bombay Tenancy Act, 1939" *ibid.*

⁵ This portion was substituted for the words and figures "for the consolidation of which a notification has been issued under section 15" by Mah. 19 of 1966, s. 5.

Bom.
II of
1906.

(b) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts, of any holding [for which a notice under section 15A has been given] to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it :

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(3) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

27. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

¶(a) no proceedings,—

(i) under section 153 or 155 of the Bombay Land Revenue Code, 1879 ;

¶(ia) under section 120 or section 124 of the Hyderabad Land Revenue Act, 1317 Fasli ;

(ib) under section 135 of the Madhya Pradesh Land Revenue Code, 1954 ;]

¶(ii) for execution of any award made or deemed to be made under the [Maharashtra Co-operative Societies Act, 1960];

(iii) for execution of any award made under the Bombay Agricultural Debtors' Relief Act, 1947 or [under the Hyderabad Agricultural Debtors' Relief Act, 1956 * * *];

¶(iia) for the recovery of a sum due under an agreement registered under the Central Provinces and Berar Debt Conciliation Act, 1933 ;]

¹ This portion was substituted for the words and figures " for the consolidation of which a notification has been issued under section 15 " by Mah. 19 of 1966, s. 8.

² These words were substituted for the words and figures " proceedings under sections 153 and 155 of Bom. V of 1879 ", by Bom. 69 of 1953, s. 8 (2).

³ This clause was substituted for the original, *ibid.*, s. 8 (1).

⁴ Clauses (ia) and (ib) were inserted by Bom. 61 of 1958, s. 3 (18).

⁵ Sub-clause (ii) was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁶ These words and figures were substituted for the words and figures " Bombay Co-operative Societies Act, 1925 ", by Mah. 19 of 1966, s. 9. (a).

⁷ This portion was inserted by Bom. 61 of 1958, s. 3 (18).

⁸ The words " or under the Saurashtra Agricultural Debtors Relief Act, 1954 " were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁹ Clause (iia) was inserted by Bom. 61 of 1958, s. 3 (18).

Stay of
[certain
proceedings];
ban on trans-
fer of land
during con-
tinuance of
consolidation
proceedings.

Bom.
V of
1879.
Hyd.
Act
VIII
of
1317F.

M.P.
Act II
of
1955.

Mah.
XXIV
of
1961

Bom.
XXV-
III of
1947.

Hyd.
Act
XVI
of
1956.

C.P.
Act II
of
1933.

(iv) for execution of any decree passed by a Civil Court;

4(v) for partitioning or sub-dividing in any manner,]

in respect of any land 2[for which a notice under section 15A has been given] shall be commenced ; and all such proceedings if commenced shall be stayed] ;

3(b) no person shall transfer any land in respect of which a notice under section 15A has been given, except with the previous permission in writing of the Consolidation Officer. Such permission may be given in such circumstances and subject to such conditions as may be prescribed.]

Rights in
holdings.

28. Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall 4[, save as otherwise provided in section 29A], have the same rights in such holding as he had in his original holding :

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of 5[sub-section (6)] of section 21.

Transfer of
encum-
brances.

29. (1) If the holding of an owner included in a scheme of consolidation which has come into force under section 22 is burdened with a 6* * * mortgage, debt or other encumbrance 7[other than a lease] such 6* mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint ; and the 8* * * mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

(2) If the holding to which a 6* * * mortgage, debt or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred the 8* * * mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any 6* * * mortgagee or other encumbrancer entitled to possession into possession of the holding to which his 6* * * mortgage or other encumbrance has been transferred under sub-section (1).

Consolidation
Officer to
decide
whether lease
should be
transferred
or not.

9[29A. (1) If the holding of an owner included in a scheme of consolidation which has come into force under section 22 is burdened with a lease, the Consolidation Officer shall by an order in writing determine whether such lease shall or shall not be transferred therefrom. A copy of the order passed by the Consolidation Officer under this sub-section shall be affixed to a place near the holding and shall also be published in the prescribed manner.

¹ Clause (v) was inserted by Bom. 61 of 1958, s. 3 (18).

² These words, figures and letters were substituted for the words and figures " in respect of which a notification has been issued" under section 15-A by Mah. 19 of 1966, s. 9 (b).

³ Clause (b) was substituted by Mah. 31 of 1964, s. 2.

⁴ These words, figures and letter were inserted by Bom. 69 of 1953, s. 9.

⁵ These word, brackets and figure were substituted for the word, brackets and figure "sub-section (4)" by Mah. 19 of 1966, s. 10.

⁶ The word "lease" was deleted by Bom. 69 of 1953, s. 10(1).

⁷ These words were inserted, *ibid.*, s. 10 (2).

⁸ The word "lessee" was deleted, *ibid.*, s. 10(1).

⁹ Section 29A was inserted, *ibid.*, s. 11.

(2) If the Consolidation Officer determines that such lease shall be transferred from the original holding it shall attach itself to the holding allotted to the owner under the scheme or such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint and the lessee shall exercise his rights accordingly. The provisions of sub-sections (2) and (3) of section 29 shall apply to such lease as if the lease were a mortgage or other encumbrance.

(3) If the Consolidation Officer determines that such lease shall not be transferred from the original holding it shall remain attached thereto, and the owner to whom such holding is allotted under the scheme shall hold it subject to such lease ; and the provisions of the ¹[relevant tenancy law], shall, so far as may be, notwithstanding the change in the ownership, apply to such lease ; and the rights and liabilities of such owner and the lessee shall be governed by the provisions of the ²[said law] as between the landlord and his tenant :

Provided that such owners shall not be entitled to arrears of rent due under such lease immediately before the allotment of the holding as aforesaid.

(4) An appeal against the decision of the Consolidation Officer under this section shall lie to the Settlement Commissioner within the prescribed time.]

30. Where there is a dispute in respect of the apportionment of—

Apportionment of compensation or net value in case of dispute

(a) the amount of compensation determined under sub-section (2) of section 16 or sub-section (4) of section 17 ;

³[(aa) the amount of compensation determined under section 18 ;]

⁴[(b) the amount of additional compensation or reduction in compensation determined under sub-section (4), or the net value realised or payable under sub-section (6) or (7) of section 21 ;]

(c) the total amount of compensation determined under sub-section (2) of section 29,

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, ⁵* * * shall, so far as may, apply.

I of 894.

⁷[31. (1) Notwithstanding anything contained in any law for the time being in force, no holding allotted under this Act, nor any part thereof, shall save as otherwise provided in this section—

Restrictions on alienation and sub-division of consolidated holdings.

(a) be transferred, whether by way of sale (including sale in execution of a decree of a Civil Court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue) or by way of gift, exchange, lease, or otherwise ; or

(b) be sub-divided, whether under a decree or order of a Civil Court or any other competent authority, or otherwise, so as to create a fragment,

without the previous sanction of the Collector. Such sanction shall be given by the Collector in such circumstances and subject to such conditions, as may be prescribed.

¹ These words were substituted for the words and figures "Bombay Tenancy and Agricultural Lands Act, 1948" by Bom. 61 of 1958, s. 3(19).

² These words were substituted for the words "said Act", *ibid.*

³ This clause was inserted, *ibid.*, s. 3(20).

⁴ This clause was substituted by Mah. 19 of 1966, s. 11(a).

⁵ The words "or the said provisions of that Act as applied to the Saurashtra area by the Land Acquisition Act, 1894 (Adaptation and Application) Ordinance, 1948" were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁶ The words and figures "or, as the case may be, of section 28 or section 43 of the Hyderabad Land Acquisition Act, 1309, Fasli" were deleted by Mah. 19 of 1966, s. 11(b).

⁷ This section was substituted for the original by Mah. 41 of 1977, s. 2.

(2) Nothing in sub-section (1) shall apply to any land—

(a) which is situated in any area for which—

(i) a municipal corporation is constituted under the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, or the City of Nagpur Corporation Act, 1948; or

Bom.
III of
1888.
Bom.
LIX
of
1949.
C.P.
and
Berar
Act)
of
1950.

(ii) a municipal council is constituted under the Maharashtra Municipalities Act, 1965; or

Mah.
XL of
1965.

(iii) a cantonment is constituted under the Cantonments Act, 1924; or

II of
1924.

(b) which is situated in a notified area for which a Special Planning Authority is constituted or appointed under section 40 of the Maharashtra Regional and Town Planning Act, 1966; or

Mah.
XXX-
VII of
1966.

(c) which is situated in an area designated as a site for a new town for which a Development Authority is constituted under section 113 of the Maharashtra Regional and Town Planning Act, 1966; or

Mah.
XXX-
VII
of
1966.

(d) which is situated in any area specified by the State Government, by notification in the *Official Gazette*, as being reserved for non-agricultural or industrial development.

(3) Nothing in sub-section (1) shall also apply to any land which is to be transferred—

(i) to the tenant of the holding or his heir; or

(ii) to the owner of the adjoining holding who cultivates his land personally;

or

(iii) to an agriculturist or agricultural labourer, in its entirety; or

(iv) to a person who is rendered landless by reason of acquisition of his land for a public purpose; or

(v) to a co-operative society; or

(vi) by way of gift (whether by way of trust or otherwise) *bona fide* made by the owner in favour of a member of his family; or

(vii) by way of exchange, where such land is cultivated personally by the holder, for any other land allotted under this Act, which is also likewise cultivated personally by its holder:

Provided that, no such transfer shall be made so as to create a fragment.]

¹[31AA. The transfers or partitions or sub-divisions of any land in contravention of the provisions of this Act made before the 15th day of November 1965, shall, notwithstanding the provisions of section 9 or of section 31, not be deemed void merely on the ground of the contravention of any of the provisions of this Act, if the person in possession of the land at the aforesaid date by virtue of any transfers or partitions or sub-divisions or purported transfers or partitions or sub-divisions, pays to the State Government within the prescribed period a penalty equal to one per cent of the consideration of the land transferred, partitioned or sub-divided, or Rs. 100, whichever is less :

Validation of certain transfers, partitions and sub-divisions made before 15th November 1965.

Provided that, if such transfer is made in favour of a tenant in actual possession of the land transferred or of a person in actual possession of a contiguous holding the penalty payable in respect thereof shall be one rupee.]

²[31AB. (1) No transfer or sub-division of any land in contravention of section 31 as it stood immediately before the date of commencement of the Bombay Prevention of Fragmentation and Consolidation of Holdings (Amendment) Act, 1977, made on or after the 15th day of November 1965 and before the date of such commencement shall be deemed to be void or ever to have become void merely on the ground that such transfer or sub-division is effected in contravention of the provisions of that section as it stood before such commencement and shall be deemed to be valid if such transfer or sub-division is in accordance with the provisions of section 31 as substituted by the said Act.

Validation of certain transfers or sub-divisions made on or after 15th November 1965 and before commencement of Mah. XLI of 1977.

(2) For the purposes of this section, a certificate granted by the Collector, after holding such inquiry as he deems fit, that any transfer or sub-division of any land is valid under this section shall be final and conclusive evidence in that behalf. Any holder may apply to the Collector for such certificate.]

³[31A. If, after a scheme has come into force, it appears to the Settlement Commissioner that the scheme is defective on account of any clerical or arithmetical mistake or error arising therein from any accidental slip or omission, and he is satisfied that the correction of such mistake or error would not vary the scheme in any material particular, he may by order in writing correct such mistake or error and publish his order in the prescribed manner.]

Correction of clerical and arithmetical mistakes in scheme.

¹ Section 31AA was inserted by Mah. 19 of 1966, s. 13.

² This section was inserted by Mah. 41 of 1977, s. 3.

³ This section was inserted by Bom. 33 of 1956, s. 5.

32. (1) If after a scheme has come into force it appears to the ¹[Settlement Commissioner] that the scheme is defective on account of an error ²[(other than that referred to in section 31A)], irregularity or informality the ¹[Settlement Commissioner] shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme. Power to vary scheme on ground of error, irregularity, informality.

(2) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the ²[Settlement Commissioner].

(3) After receiving the objections under sub-section (2) the ¹[Settlement Commissioner] may, after making such enquiry as ⁴[he may] think fit, ⁵* * * * * make the variation with or without modification or may not make any variation.

⁶[(3A) If the scheme is varied under sub-section (3), a notification stating that the scheme has been varied shall be published in the *Official Gazette* and the scheme so varied shall be published in the prescribed manner in the village or villages concerned.]

(4) From the date of the notification ⁷[stating that the scheme has been varied] the variation shall take effect as if it were incorporated in the scheme.

33. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act. Power to vary or revoke scheme.

⁸33A. (1) The State Government may at any time, by notification in the *Official Gazette*, revoke a scheme which has been confirmed, if no person has entered into possession of any holding allotted to him under the scheme and thereupon, the amount of compensation paid or received, if any, by any person in respect of such scheme shall be refunded within such reasonable period as may be prescribed. Power of State Government to revoke confirmed scheme.

(2) If any person fails to refund the amount in accordance with sub-section (1), it shall be recovered from him as an arrear of land revenue.]

[CHAPTER IV-A.

POWERS AND PROCEDURE OF CONSOLIDATION OFFICERS.

33B. For the purpose of preparing or enforcing any scheme or otherwise for carrying out the objects of this Act, a Consolidation Officer or any person duly authorized by him may, after giving such notice as may be prescribed, to the owner or occupier or other person interested in any land, enter upon and survey such land or erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for such purposes. Right of entry.

¹ These words were substituted for the words "State Government" by Mah. 19 of 1966, s. 14 (a) and (c)(i).

² These brackets, words, figures and letter were inserted by Bom. 33 of 1966, s. 6(1).

³ These words were substituted for the words "State Government through the Settlement Commissioner" by Mah. 19 of 1966, s. 14(b).

⁴ These words were substituted for the words "it may" *ibid.*, s. 14(c) (ii).

⁵ The words "by notification in the *Official Gazette*" were deleted, by Bom. 33 of 1966, s. 6(2).

⁶ This sub-section was inserted *ibid.*, s. 6(3).

⁷ These words were substituted for the words "making the variation", *ibid.*, s. 6(4).

⁸ Section 33A was inserted by Mah. 31 of 1964, s. 4.

⁹ Chapter IV-A was inserted by Mah. 19 of 1966, s. 15.

¹⁰ Section 34 was substituted for the original, *ibid.* s. 16.

Power to
summon
persons to
give evidence
and produce
documents.

33C. (1) The Consolidation Officer shall have power to summon any person whose attendance he considers necessary either to be examined as a party or to give evidence as a witness, or to produce documents for the purpose of any inquiry connected with the preparation or enforcement of any scheme under this Act.

(2) All persons so summoned shall be bound,—

(a) to attend, either in person or by an authorised agent, as the Consolidation Officer may direct in the summons;

(b) to state the truth upon any subject respecting which they are examined or make statements; and

(c) to produce such documents and other things as may be required by the Consolidation Officer in connection with the inquiry.

Form of
summons and
mode of
serving it.

33D. (1) Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the Consolidation Officer issuing it, and if he have a seal, shall also bear his seal.

(2) Such summons shall be served by tendering or delivering a copy of it to the person summoned or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence. If his usual residence is in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served as aforesaid.

Penalty for
not comply-
ing with
summons.

33E. The Consolidation Officer shall have power to impose a fine not exceeding twenty-five rupees on any person who, without sufficient cause, fails to comply with the directions given in the summons issued by him :

Provided that, no fine shall be imposed under this section unless such person was summoned to attend or produce any documents within the limits of the village in which such person ordinarily resides or holds or cultivates land.

Such fine shall be recoverable as an arrear of land revenue.]

CHAPTER V.

GENERAL.

Vesting of
powers of
Settlement
Commissioner

[34. The State Government may, by notification in the *Official Gazette*, invest the Collector within the limits of his jurisdiction, or an officer above the rank of a Consolidation Officer either generally or in respect of any specified local area, with all or any of the powers of the Settlement Commissioner under this Act.]

Constitution
of village
committees.

[34A. (1) The village committee shall be constituted by the Consolidation Officer in the prescribed manner and it shall discharge and perform, in addition to the duties and functions imposed or assigned by this Act, such other duties and functions as may be prescribed for the purposes of this Act.

¹ Section 34 was substituted for the original by Mah. 19 of 1966, s. 16

² Section 34A was inserted by Bom. 61 of 1958, s. 3(21).

(2) Where at any time the Collector is satisfied that the village committee has refused or failed without reasonable cause or excuse to discharge the duties or perform the functions imposed or assigned by or under this Act or circumstances have so arisen that the committee has been rendered unable to discharge the duties or perform the functions aforesaid or it is otherwise expedient or necessary to do so he may by notification in the *Official Gazette* either reconstitute, for the purposes of this Act, the village committee in accordance with the provisions of sub-section (1), or appoint some other authority to perform the functions or discharge the duties of the village committee under this Act ; and thereupon all references to the village committee under this Act shall be deemed to include references to the village committee so reconstituted or the authority so appointed, as the case may be.]

35. The ²[State] Government ³[or the Commissioner in respect of such matters as the State Government may by general or special order specify in this behalf] may at any time for the purpose of satisfying itself ⁴[or himself, as the case may be,] as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it ⁵[or he, as the case may be,] thinks fit :

Power of
²[State]
Government
³[or Com-
missioner]
to call for
proceedings.

⁴[Provided that no order shall be varied or revised until the parties interested have been given a reasonable opportunity of showing cause against the proposed variation or revision of the order.]

36. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Appeal and
revision.

⁵36A. (1) No Civil Court or Mamlatdar's Court shall have jurisdiction 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 State Government or any officer or authority.

Bar of
jurisdiction.

(2) No order of the State Government or any such officer or authority made under this Act shall be questioned in any Civil, Criminal or Mamlatdar's Court.

36B. (1) If any suit instituted in any Civil Court or Mamlatdar's Court involves any issues which are required to be settled, decided or dealt with by any authority competent to settle, decide or deal with such issues under this Act (hereinafter referred to as the 'competent authority') the Civil Court or Mamlatdar's Court shall stay the suit and refer such issues to such competent authority for determination.

Suits involv-
ing issues
required to
be decided
under this
Act.

(2) On receipt of such reference from the Civil Court or Mamlatdar's Court, the competent authority shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate its decision to the Civil Court or Mamlatdar's Court and such Court shall thereupon dispose of the suit in accordance with the procedure applicable thereto.

¹ Section 34A was inserted by Bom. 61 of 1958, s. 3 (27).

² This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1960.

³ These words were inserted by Bom. 8 of 1958, Sch.

⁴ This proviso was added by Bom. 61 of 1958, s. 3(27).

⁵ Sections 36A, 36B and 36C were inserted, 1947, s. 3 (23).

36C. No suit or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act. ^{Indemnity.}

37. (1) The ¹[State] Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act. ^{Rules.}

(2) In particular and without prejudice to the generality of the foregoing power, the ¹[State] Government may make rules, providing for—

(a) the manner of publication under sub-section (2) of section 4;

(b) the manner of giving public notice under sub-section (3) of section 5;

(c) village records in which fragments shall be entered under sub-section (1) of section 6;

²[(cc) the manner of choosing by lot under clause (b) of sub-section (2) of section 8AA;]

(d) the manner in which the intention to make a scheme shall be published ³* * * * * under section 15;

⁴[(dd) the statements, records and maps to be included in the scheme of consolidation and the procedure and other matters to be observed in the preparation of the scheme under section 16A;]

(e) the manner of publication under sub-section (2) of section 17 of a declaration made under sub-section (1) of the said section;

⁵[(f) the manner in which a draft scheme or amended draft scheme of consolidation shall be published under section 19 in the village or villages concerned];

⁶[(ff) the manner of publication of further amended scheme under ⁷* * * sub-section (2) of section 20;]

(g) the manner of publication of a scheme under sub-section (1) of section 21, on its being confirmed;

⁸[(h) the manner in which compensation recoverable from any owner shall be deposited by him under sub-section (2) or (4) of section 21;

(i) the manner in which owners may be put in possession of holdings to which they are entitled under sub-section (3) of section 21 and the manner in which persons may be evicted under that sub-section;

(ii) the manner of determining the additional compensation payable by an owner in respect of any holding allotted to him under a scheme or reduced compensation payable to the original owner of such holding, under sub-section (4) of section 21;]

(j) the manner in which right of holding may be allotted under ⁹[sub-section (6)] of section 21;

(k) the form in which a certificate shall be granted under section 24;

(l) the period within which an application shall be made under clause (b) of sub-section (2) of section 26;

¹⁰[(ll) the circumstances in which and conditions subject to which permission to transfer land may be given under clause (b) of section 27;]

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

² Clause (cc) was inserted by Bom. 61 of 1958, s. 3(24).

³ The words "and the manner of preparation of the scheme" were deleted, *ibid.*

⁴ Clause (dd) was inserted, *ibid.*

⁵ Clause (f) was substituted for the original by Mah. 19 of 1966, s. 17(a)(i).

⁶ This clause was inserted by Bom. 33 of 1966, s. 7(1).

⁷ The words, brackets and letters "clause (b) of" were deleted by Mah. 19 of 1966, s. 17(a)(ii).

⁸ Clauses (h), (i) and (ii) were substituted for the original clauses (h) and (i), *ibid.* s. 17(a)(iii).

⁹ This was substituted for the word, brackets and figure "sub-section (4)", *ibid.*, s. 17(a)(iv).

¹⁰ Clause (ll) was inserted by Mah. 31 of 1964, s. 5(a).

(m) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a ^{1*} * mortgage, debt or other encumbrance under sub-section (1) of section 29 ;

²[(n) the circumstances in which and the conditions subject to which holdings may be transferred or sub-divided under sub-section (1) of section 31 ;]

³[(nn) the manner of publication of an order under section 31A ;]

(o) the manner of publication of a draft variation under sub-section (1) of section 32 ⁴[or of a varied scheme under sub-section (3A) thereof] ;

⁵[o-1) the period within which the amount of compensation shall be refunded under sub-section (1) of section 33-A ;]

⁶[(o-2) the notice to be given under section 33-B ;]

⁷[(oo) the manner in which village committees shall be constituted, and the duties and functions to be discharged by them, under section 34A ;]

(p) the manner in which the area and assessment (including water-rate, if any) of each reconstituted holding or part of such holding shall be determined ;

(q) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation ;

(r) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act ;

(s) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication.

⁸[(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the *Official Gazette* of such decision, have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

Repeals and savings. ⁹[38. On the commencement of this Act in that part of the ¹⁰[State of Bombay] to which it is extended by the Bombay Prevention of Fragmentation and Consolidation of Holdings (Extension and Amendment) Act, 1958, the following provisions shall be repealed, namely :—

(i) the Hyderabad Prevention of Fragmentation and Consolidation of Holdings Act, 1956 ;

¹ The word " lease," was deleted by Bom. 69 of 1953, s. 13(2).

² Clause (n) was substituted by Mah. 41 of 1977, s. 4.

³ This clause was inserted by Bom. 33 of 1956, s. 7(2).

⁴ This portion was added, *ibid.*, s. 7(3).

⁵ Clause (o-1) was inserted by Mah. 31 of 1964, s. 5(b).

⁶ Clause (o-2) was inserted by Mah. 19 of 1966, s. 17(x)(v).

⁷ Clause (oo) was inserted by Bom. 61 of 1958, s. 3(24).

⁸ Sub-section (4) was substituted for the original by Mah. 19 of 1966, s. 17(b).

⁹ Section 38 was added by Bom. 61 of 1958, s. 3(25).

¹⁰ These words were substituted for the word " State " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Sau.
Act
XII of
1954.

(ii) Chapter II of the Saurashtra Fragmentation and Regulation of Holdings Act, 1954 ;

M. P.
Act II
of
1955.

(iii) Chapter XVI of the Madhya Pradesh Land Revenue Code, 1954 :

Provided that such repeal shall not affect,—

(a) the previous operation of any law so repealed, or anything duly done or suffered thereunder ; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed ; or

(c) any penalty incurred in respect of anything done against any law so repealed ;

and any investigation, proceedings or remedy in respect of any such right, privilege, obligation, liability or penalty as aforesaid may be instituted, continued or enforced, and any such penalty may be imposed as if the Bombay Prevention of Fragmentation and Consolidation of Holdings (Extension and Amendment) Act, 1958, had not been passed :

Bom.
LXI
of
1958.

Provided further that subject to the preceding proviso anything done or any action taken (including any appointment or delegation made, notification, order or notices issued, rule, regulation or form framed, scheme framed or confirmed, standard areas laid down, fixed or revised, transfer, or lease of fragment, valuation thereof, partition of an undivided estate, or entry in the record of rights made, amount of compensation determined, certificate granted, consolidated holdings duly transferred, alienated or sub-divided) under any such repealed law shall be deemed to have been done or taken under the corresponding provision of this Act, and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.]