



## The Bombay Khar Lands Act, 1948

Act 72 of 1948

**Keyword(s):**

Board, Chairman, Embankment, Khar Land, Sea, Tidal Land, Tidal Water, Unit

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THE BOMBAY KHAR LANDS ACT, 1948.

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BOMBAY ACT NO. LXXII OF 1948<sup>1</sup>

[THE BOMBAY KHAR LANDS ACT, 1948]

[31st December 1948.]

Amended by Bom. 18 of 1949.

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

Amended by Bom. 3 of 1951.

" " " 54 of 1953.

" " " 21 of 1954.

" " " 8 of 1955.

Adapted and modified by the Bombay Khar Lands Development Board (Reconstitution) Order, 1959.\*

Adapted and modified by the Bombay Khar Lands Development Board (Regional Reorganisation) Order, 1960.

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

Amended by Mah. 44 of 1962.

" " " 28 of 1963.†

" " " 39 of 1966.

" " " 31 of 1970.

**An Act to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters.**

WHEREAS it is expedient to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Khar Lands Act, 1948.

²[(2) It extends to the Bombay area of the State of Maharashtra.]

(3) It shall come into force in such area and on such date as the ³[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.**

⁴[(a) " Board " means the Board established under section 3 ;]

\* \* \* \* \*

⁵[(b) " Chairman " means the Chairman of the Board ⁶\* \* ;]

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1948, Part V, page 354.

<sup>2</sup> This sub-section was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

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

<sup>4</sup> Clause (a) was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>5</sup> Clause (a) was omitted, *ibid.*

<sup>6</sup> Clause (b) was substituted for the original by the Bombay Khar Lands Development Board (Reconstitution) Order, 1960.

<sup>7</sup> This words " or where the Board consists of one member only, that member " were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>8</sup> The Order was published in Government of India, Ministry of Home Affairs, Notification No. 8/9-8-SR (R)-4, dated 23rd March 1959.

<sup>†</sup> The amendments made by section 2 of this Act [except by sub-clause (1) of clause (c) and by clause (d) thereof] shall apply and shall be deemed to have applied to all schemes which came into force under section 16 of the principal Act on or after the 1st day of April 1963 (see s. 3 of Mah. 28 of 1963).

Short title,  
extent and  
commence-  
ment.

(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 ;

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(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, khajan, kharepat, gazni or otherwise;

1\*

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\*

\*

(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 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 11.

2A. [Construction of certain references in the Act.] Omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>1</sup> Clauses (cc) and (da) were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

1 3. (1) The State Government shall by notification in the *Official Gazette* establish a Board to be called the Maharashtra Khar Lands Development Board. The Board shall consist of a Chairman and members as specified in sub-section (2). Establishment of Khar Lands Development Board.

(2) The Board shall consist of four *ex-officio* members and five other members as follows :—

(a) the *ex-officio* members shall be—

- (i) Secretary to the Government of Maharashtra, Revenue Department ;
- (ii) Secretary to the Government of Maharashtra, Agriculture and Forests Department ;
- (iii) Director of Agriculture, Maharashtra State ;
- (iv) Director of Minor Irrigation ;,

(b) the members other than *ex-officio* members shall be nominated by the State Government, two each representing the Thana and Kolaba districts, and one representing the Ratnagiri district.

(3) The names of members nominated under sub-section (2) shall be published in the *Official Gazette*.

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

(5) Until a Board is duly constituted under sub-section (2), the existing Board constituted for the Maharashtra region shall continue to function and operate in the Bombay area of the State of Maharashtra and shall be deemed to be the Board for the purposes of this Act, established under sub-section (1)].

4. (1) 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 section 3. Term of office :  
vacancies.

\* \* \* \* \*

(2) If any such member—

- (a) dies ; or
- (b) is absent from the meetings of the Board for more than three consecutive meetings of the Board ; or
- (c) leaves the [State] 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.

<sup>1</sup> Section 3 was substituted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> The words, brackets and figures "sub-section (4) of" were deleted by Bom. 21 of 1954, s. 3 (1).

<sup>3</sup> The proviso was deleted by the Bombay Khar Lands Development Board (Reconstitution) Order 1959.

<sup>4</sup> This word was substituted for the words "State of Bombay", *ibid.*

(3) All casual vacancies among the members other than the *ex-officio* members shall be filled up as soon as it conveniently may be <sup>1</sup>[by nomination under] section 3; and the person <sup>2</sup>[nominated] to a casual vacancy shall hold office so long as the member in whose place he is <sup>2</sup>[nominated] would have held it if the vacancy had not occurred.

(4) 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. [Power of State Government to nominate members in certain circumstances.] Deleted by Bom. 54 of 1953, s. 4.

Incorporation of Board.

6. The Board constituted under section 3 shall be a body corporate by the name of " <sup>3</sup>[The Maharashtra Khar Lands Development Board]" and shall have perpetual succession and a common seal and may sue and be sued in its corporate name 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.

Power of Board to make by-laws.

7. (1) The Board may with the previous sanction of the <sup>4</sup>[State] Government make by-laws consistent with this Act and the rules made thereunder for all or any of the following matters :—

(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 contract 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.

8. [Appointment of Chairman]. Omitted by the Bombay Khar Lands Development Board (Reconstitution) Order, 1959.

Appointment of officers and servants.

9. (1) The <sup>4</sup>[State] Government may appoint <sup>5</sup>[the Secretary and] such other officers and servants as may be required to enable the Board to discharge its functions under this Act.

(2) The Board may, with the previous sanction of the <sup>4</sup>[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 <sup>4</sup>[State] Government.

<sup>1</sup> These words were substituted for the words, brackets and figure "by selection in the manner specified in sub-section (3) of" by Bom. 54 of 1953, s. 3 (2) (a).

<sup>2</sup> This word was substituted for the word "selected", *ibid.* s. 3 (2) (b).

<sup>3</sup> These words were substituted for the words "The Khar Lands Development Board for....." by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

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

<sup>5</sup> These words were inserted by Bom. 18 of 1949, s. 4.

<sup>6</sup> The word "other" was omitted, *ibid.*

(3) The officers and servants <sup>1</sup>[appointed under sub-section (1)] shall be the servants of the <sup>2</sup>[State] Government and they shall draw their pay and allowances from the <sup>2</sup>[State] revenues.

10. <sup>3</sup>[(1)] The Board shall pay every year out of its fund to the <sup>4</sup>[State] Government such cost as the <sup>2</sup>[State] Government may determine on account of the pay, pension, leave and other allowances of the officers and servants appointed under this Act. Board to pay costs on account of pay, pension, etc., of officers and servants.

<sup>3</sup>[(2)] Notwithstanding anything contained in sub-section (1), the State Government may, having regard to the financial position of the Board, by order, exempt the Board, wholly or partially, from the payment of the cost referred to in that sub-section during any year or years as may be specified in the order.]

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

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

(a) cause survey to be made of all the khar and tidal lands in the <sup>4</sup>[State] to which this Act applies ;

(b) prepare a list of—

(i) all embankments,

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

(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) remove encroachments on inland waterways ;

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

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

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

12. (1) The Board may prepare scheme for each unit for the purpose of carrying out its duties under section 11. 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, including the <sup>5</sup>[Government] affected by the scheme ;

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

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

(vii) such other particulars as may be prescribed.

<sup>1</sup> This portion was inserted by Bom. 18 of 1949, s. 3.

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

<sup>3</sup> Section 10 was renumbered as sub-section (1) and sub-section (2) was added by Mah. 39 of 1966, s. 2.

<sup>4</sup> This word was substituted for the word " Province ", *ibid.*

<sup>5</sup> This word was substituted for the word " Crown ", *ibid.*



Publication of scheme.

13. (1) The schemes prepared under section 12 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.

(2) The Board shall, on publication of the 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.

Report of authorised person.

14. (1) The person authorized under sub-section (2) of section 13 shall hear such objections as are made to him in person, consider all objections duly submitted under the said sub-section (2) and submit his report together with the objections to the Board.

(2) Such person 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 12.

Power of [State] Government to sanction scheme with or without modification.

15. (1) After consideration of the objections and the report submitted to it under sub-section (1) of section 14, the Board shall within the period prescribed 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 shall at the same time apply for its sanction.

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

(3) If the scheme is sanctioned under sub-section (2), 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.

Effect of scheme.

16. On the date on which the scheme is published in the *Official Gazette* under sub-section (3) of section 15 it shall come into force and shall have effect as if it were enacted in this Act.

Execution of scheme.

17. After the scheme has come into force under [this Act] the Board shall execute the scheme in accordance with the rules prescribed in that behalf.

Power to vary scheme.

<sup>3</sup>[17A. (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 the variation of the scheme, in the manner specified in the application.

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

<sup>2</sup> These words were substituted for the word and figures "section 16" by Bom. 3 of 1951, s. 3.

<sup>3</sup> These sections were inserted, *ibid.*, s. 2.

(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.

(2) If the State Government is satisfied 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 13, 14 and 15 in respect of such variation, and the provisions of sections 13, 14 and 15 shall apply in relation to such variation, as if such variation was itself a scheme.

17B. The variation sanctioned under section 17A shall take effect on the date on which the notification is published in the *Official Gazette* under clause (b) of sub-section (1) of section 17A or on the date on which the variation is published under sub-section (3) of section 15, as the case may be, as if it were incorporated in the scheme.] Variation to form part of the scheme.

[17C. If upon an application made by the Board for the purpose, the State Government is satisfied that it is necessary so to do, the State Government may at any time, by notification in the *Official Gazette*, revoke the scheme, notwithstanding anything hereinbefore contained.] Power to revoke scheme.

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

[17E. Notwithstanding anything in this Act, if upon an application made by the Board, the State Government is satisfied that landlords, intermediate tenure-holders or tenants or owners of lands benefitted or protected by embankments included in a scheme which has come into force, do not co-operate with the Board in the proper maintenance and repairs thereof, or such maintenance and repairs are no longer economical or technically feasible on account of heavy floods, tempests, high tides, change of the course of a river, stream, *nalla* or creek, or any natural calamity, [or that such landlords, intermediate tenure-holders and tenants have agreed to change the user of such land for any non-agricultural purpose, or that such lands have been acquired under any law for the time being in force for any public purpose rendering the continuance of the scheme unnecessary], the State Government may, by notification in the *Official Gazette*, revoke the scheme and upon such revocation the provisions of this Act (except section 40) shall cease to apply to such scheme. No person shall be entitled to the refund of any amount of the contribution or to any compensation upon such revocation:] Further power to revoke scheme in other cases.

[Provided that, where any scheme is revoked for the reason that the landlords, intermediate tenure-holders and tenants have agreed to change, the user of such land for any non-agricultural purpose, all such landlords, intermediate tenure-holders and tenants shall, within sixty days from the date of revocation of the scheme, pay to the State Government the cost of such scheme contributed by the State Government under section 25 in the same proportion in which such landlords, intermediate tenure-holders and tenants have contributed their share of the cost of the scheme under that section. If such payment is not made within such sixty days by any such person, he shall be liable to pay interest at such rate as may be

<sup>1</sup> Sections 17C and 17D were inserted by B. m. 54 of 1953, s. 5.

<sup>2</sup> This portion was inserted by Mah. 44 of 196, s. 2.

<sup>3</sup> Section 17E was inserted, *ibid.*, s. 3.

<sup>4</sup> These words were inserted by Mah. 31 of 1970, s. 2(a).

<sup>5</sup> This proviso was added, *ibid.*, s. 2(b).

prescribed, from time to time on the amount due from him from the date immediately following the date of expiry of the period of such sixty days to the date of making the payment.]

Power of Board to incur expenditure in circumstances of emergency.

¶17F. (1) Where in the opinion of the Board any scheme, whether completed or under execution, needs any immediate additional works or repairs due to damage caused by heavy floods, tempests, high tides, change of the course of a river, stream, *nalla* or creek, or any natural calamity, the Board may, in order to check further deterioration of or damage to such scheme, take immediate steps to carry out such additional works or repairs without following the provisions of sections 13, 14 and 15, subject to the condition that no sum exceeding Rs. 15,000 in respect of any completed scheme, or 20 per cent of the estimated cost of any scheme which is under execution, shall be so expended :

Provided that, the total expenditure to be incurred in any financial year under this sub-section shall not exceed such limit as the State Government may fix in this behalf.

(2) Where any sum is expended under sub-section (1), the Board shall, as soon as practicable, obtain the sanction of the State Government in respect of the additional works or repairs carried out and the expenditure incurred.

(3) The State Government may, by notification in the *Official Gazette*, sanction the said works or repairs and expenditure, and on the date of publication of such notification the scheme shall be deemed to have been varied and the variation shall be deemed to have been incorporated in the scheme.]

Power of Board to make regulations.

18. For the purpose of carrying out the objects of the 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 or are 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 appoint a Committee for each unit 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, right 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, 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 :

Provided that where any land which is acquired has remained fallow for three successive years immediately preceding the date of the notification, the market value of such land shall not be assessed to be more than twice the amount of annual assessment payable in respect thereof.

<sup>1</sup> Section 17F was inserted by Mah. 39 of 1966, s. 3.

<sup>2</sup> These words were substituted for the word and figures " section 16 " by Bom. 3 of 1951, s. 3.

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

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, 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.

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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. 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 without payment of compensation for the use or removal of such earth or other materials.

No compensation in certain cases for use or removal of earth.

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.

25. (1) The cost of the scheme which has come into force under section 16 shall be met by contribution between the State Government and the landlords and the tenants thereof in accordance with the following rules :—

Contribution towards cost of scheme.

*Rule 1.*—The State Government shall contribute <sup>2</sup>[50 per cent.] of the cost and if lands included in the scheme are not leased, <sup>3</sup>[50 per cent.] of the cost shall be borne by the landlords.

\**Rule 2.*—If all or any of the lands included in the scheme are leased, <sup>4</sup>[8 per cent.] 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 <sup>5</sup>[42 per cent.] of the cost shall be borne by the tenants.

*Rule 3.*—If any land included in a scheme is held on \* \* \* permanent tenancy, the contribution payable by landlords or 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 ;

<sup>1</sup> Section 25 was substituted for the original by Bom. 54 of 1953, s. 6.

<sup>2</sup> These figures and words were substituted for the figures and words " 40 per cent. " by Mah. 28 of 1953, s. 2.

<sup>3</sup> These figures and words were substituted for the figures and words " 60 per cent. ", *ibid.*

<sup>4</sup> These figures and words were substituted for the figures and words " 10 per cent. ", *ibid.*

<sup>5</sup> These figures and words were substituted for the figures and words " 50 per cent. ", *ibid.*

<sup>6</sup> The words " a mulgeni or any other kind of " were deleted, *ibid.*, s. 2 (c).

\* The provisions of Rule 2 shall apply and shall be applied in respect of all schemes sanctioned by the State Government under sub-section (2) of section 15 of the said Act on or after the 11th day of December 1952 (*vide* s. 9 of Bom. 54 of 1953).

(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 <sup>1</sup>[50 per cent.] 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 <sup>2</sup>[8 per cent.] of the contribution 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 <sup>3</sup>[42 per cent.] of the cost.

**Rule 4.**—If the lands included in a scheme are held by more than one landlord, intermediate tenure holder or a 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.]

<sup>4</sup>(3) The contribution payable by the landlords, intermediate tenure holders and the 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.]

Application  
for loan.

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 make an application to the <sup>5</sup>[State] Government for the grant of a loan for the purpose of paying their share of such contribution.

Power of  
<sup>6</sup>[State]  
Government  
to grant  
loans.

27. When an application for a loan is made under section 26, the <sup>7</sup>[State] Government may grant the loan in accordance with the rules from time to time made in this behalf.

Recovery of  
loans.

28. Every loan made in accordance with such rules, all interest (if any) chargeable thereon and the costs (if any) incurred in making or recovering the same <sup>8</sup>[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 <sup>9</sup>[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.

<sup>1</sup> These figures and words were substituted for the figures and words " 60 per cent. " by Mah. 28 of 1963, s. 2.

<sup>2</sup> These figures and words were substituted for the figures and words " 10 per cent. ", *ibid.*

<sup>3</sup> These figures and words were substituted for the figures and words " 50 per cent. ", *ibid.*

<sup>4</sup> The Explanation was deleted, *ibid.*, s. 2 (d).

<sup>5</sup> This sub-section was added by Bom. 8 of 1955, s. 2.

<sup>6</sup> This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

<sup>7</sup> These words were inserted by Bom. 8 of 1955, s. 3 (f).

<sup>8</sup> These words were inserted, *ibid.*, s. 3(2).

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 <sup>Liability of</sup> ~~the~~ <sup>joint bor-</sup> ~~State~~ <sup>rowers as</sup> 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.

30. If any person holding any land on lease from the <sup>Forfeiture of</sup> ~~the~~ <sup>lease of land</sup> ~~State~~ Government fails to pay his share of the contribution under section 25 in respect of such land, within such time as the <sup>for future</sup> ~~State~~ Government may fix to the <sup>to pay</sup> ~~State~~ Government, the Collector may dispose of the land in accordance with the rules made in this behalf under section 46. Such lease shall be determined by forfeiture to the <sup>contribution.</sup> ~~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 <sup>to the</sup> ~~Government~~ in respect of such land.

31. (1) All <sup>Levy of</sup> ~~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 <sup>annual</sup> ~~an annual maintenance contribution (which shall include~~ supervision charges) and also an annual sinking fund contribution. The two contributions shall be levied and paid in such manner and at such rates and subject to such conditions, if any, as may be prescribed.] <sup>and sinking fund contributions.</sup>

(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 <sup>both or either of the contributions]</sup> ~~both or either of the contributions] by such landlords, [intermediate tenure holders, tenants or] owners as it may specify in this behalf.]~~

[(4) <sup>Any contribution]</sup> ~~Any 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.]~~

11\*

<sup>Liability of</sup> ~~31A. When any person primarily liable to pay any contribution under section~~ 25 or 31 or any loan made under section 28 makes a default, the amount of such <sup>person in</sup> ~~contribution or loan, which may be due, shall be recoverable from any person in~~ possession of the land : <sup>possession of</sup> ~~land to say~~ contribution or loan.

<sup>1</sup> This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1960.

<sup>2</sup> This word was substituted for the word " Crown ", *ibid.*

<sup>3</sup> These words were substituted for the words " landlords and " by Bom. 8 of 1955, s. 4 (1).

<sup>4</sup> This portion was substituted for the portion beginning with " an annual contribution " and ending with " as may be prescribed " by Mah. 44 of 1962, s. 4 (1).

<sup>5</sup> This sub-section was added by Bom. 56 of 1953, s. 7.

<sup>6</sup> These words were substituted for the words " the annual contribution " by Mah. 44 of 1962, s. 4 (2).

<sup>7</sup> These words were substituted for the words " tenants or " by Bom. 8 of 1955, s. 4 (2).

<sup>8</sup> Sub-section (d) was added, *ibid.*, s. 4 (3).

<sup>9</sup> These words were substituted for the words " The contribution " by Mah. 44 of 1962, s. 4 (3).

<sup>10</sup> This marginal note was substituted, *ibid.*, s. 4 (4).

<sup>11</sup> The Explanation was deleted by Mah. 29 of 1960, s. 4.

<sup>12</sup> This section was inserted by Bom. 8 of 1955, s. 5.

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.

32. 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 <sup>1\*</sup> \* \* \* \* \* and the budget as finally passed shall be subject to the approval of the <sup>2</sup>[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 unbudgeted expenditure.

33. (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 <sup>2</sup>[State] Government under section 32.

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

Custody and disbursement of monies.

34. (1) All monies received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury.

(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 of the Board as the Chairman may, with the approval of the Board, authorize in this behalf <sup>3\*</sup> \* \* \* \* \*

Provisions for audit.

35. 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 the <sup>2</sup>[State] Government may prescribe.

Supply of copies of budget and accounts.

36. The Board shall furnish each financial year to the <sup>2</sup>[State] Government a copy of its budget and of the accounts of the preceding financial year.

Annual report.

36A. The Board shall, after the end of each financial year, submit to the State Government a report before such date as may be prescribed giving a true and full account of its activities and programme during the previous financial year. A copy of such report and of the accounts of the preceding financial year furnished by the Board to the State Government under section 36 shall be laid before each House of the State Legislature as soon as may be after it is received by the State Government.]

<sup>1</sup> The words "or where the Board consists of one member only, the budget shall be prepared by that member" were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

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

<sup>3</sup> The words "or where the Board consists of one member only, by that member" were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Section 36A was inserted by Mah. 59 of 1966, s. 6.

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

(a) the fees received under section 24 ;

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

(c) <sup>1</sup>[the annual maintenance 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 :

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

38. The Board shall have also a sinking fund to which shall be credited <sup>2</sup>[the Sinking annual sinking fund contributions] paid to the Board under section 31. The Board fund. may apply the sinking fund to the repair of breaches in embankments included in a scheme caused by tempest, flood or other irresistible force and to such other purposes as may be prescribed.

39. Any person who contravenes or causes any contravention of any of the Penalty. provisions of a scheme which has come into force under section 16 or any of the regulations made under section 18 or does any act which causes damages to any of the works carried out under the scheme <sup>3</sup>[or contravenes the provisions of sub-section (1) of section 24 or fails to comply with the conditions of a licence granted under sub-section (2) of that section] or obstructs any person in the due exercise of his powers or execution of his duties under this Act or contravenes the provisions of <sup>4</sup>[any rules made 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.

40. Save as otherwise expressly provided in section 30, all amounts due under Recovery of this Act <sup>5</sup>[(including the proviso to section 17-E)] shall be recoverable as arrears of amounts due. land revenue.

41. For the purpose of preparing, sanctioning or executing any scheme or Right of 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.

42. (1) The person authorized under sub-section (2) of section 13 shall, if he Inquiries desires to make any inquiry, make the inquiry in the manner provided for holding to be held a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of summary inquiry shall, so far as may be, apply.

(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.

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

(2) All such documents, plans and maps shall, for the purposes of sections 48 and scheme not 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance required. with the provisions of that Act :

<sup>1</sup> These words were substituted for the words "Seventy-five per cent. of the annual contributions" by Mah. 44 of 19 2, s.5.

<sup>2</sup> These words were substituted for the words "twenty-five per cent. of the annual contributions" *ibid.*, s.6.

<sup>3</sup> This portion was inserted, *ibid.*, s.7(1).

<sup>4</sup> These words were substituted for the words "any rules made or fails to comply with the conditions of a license granted under this Act." *ibid.*, s.7(2).

<sup>5</sup> This portion was inserted by Mah. 31 of 1970 s.3.



44. 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 13 shall be deemed to be public servants within the meaning of the Indian Penal Code.

Certain persons to be public servants.

XLV  
of  
1860.

45. (1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorized 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.

Protection of persons acting in good faith.

(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.

46. (1) The [State] Government may, by notification in the *Official Gazette*, Rules, 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 :—

\* \* \* \* \*

(b) the other objects for which a scheme may be prepared by the Board under clause (d) of sub-section (2) of section 11 ;

(c) the other particulars to be prescribed under clause (vii) of sub-section (2) of section 12 ;

(d) 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 15 ;

(e) execution of a scheme under section 17 ;

(f) the manner of constituting a committee for each unit under section 19 ;

(g) matters connected with the acquisition of land, right or interest under section 20 ;

<sup>1</sup> The words "or where the Board consists of one member only, that member" were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

<sup>2</sup> This word was substituted or the word "Provincial" by the Adaptation of Laws Order, 11950

<sup>3</sup> Clause (a) was deleted by Bom. 54 of 1953, s. 8(J).

(h) the fees for the grant of a licence, the restrictions 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 ;

<sup>1</sup>[(i) the manner in which and the extent to which the contribution payable under section 25 may be levied in lieu of cash payment ;]

(j) the period within which an application for a loan may be made under section 26 ;

(k) grant of a loan under section 27 ;

(l) disposal of land under section 30 ;

(m) the manner in which, the rate at which and the conditions subject to which <sup>2</sup>[the annual maintenance contribution and the annual sinking fund contribution] shall be levied and paid under sub-section (1) of section 31, <sup>3</sup>[and the circumstances in which the <sup>4</sup>payment of any annual contribution] may be suspended or remitted by the Board under sub-section (3) of the said section] ;

(n) the form of accounts to be maintained, the agency of audit and the terms and conditions of audit, under section 35 ;

<sup>5</sup>[(nn) the date before which the annual report shall be submitted to the State Government under section 36A. ;]

(o) 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 37 ;

(p) the other purposes for which sinking fund may be applied under section 38 ;

(q) the notice to be given under section 41 ;

(r) 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 43 ;

(s) any other matter which is or may be prescribed under this Act.

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

<sup>6</sup>[(4) Every rule made under this section 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.]

<sup>1</sup> Clause (i) was substituted for the original by Bom. 54 of 1953, s. 8 (2).

<sup>2</sup> These words were substituted for the words "the annual contribution" by Mah. 44 of 1962, s. 8 (1)(a).

<sup>3</sup> This portion was added by Bom. 54 of 1953, s. 8 (3).

<sup>4</sup> These words were substituted for the words "payment of the annual contribution" by Mah. 44 of 1962, s. 8 (1)(b).

<sup>5</sup> Clause (nn) was inserted by Mah. 39 of 1966, s. 6.

<sup>6</sup> Sub-section (4) was added by Mah. 44 of 1962, s. 8 (2).