



The Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974

Act 14 of 1975

Keyword(s):

Code, Improvements, Non-Tribal, Relevant Tenancy Law, Successor-in-Interest, Tribal, Tribal Transferor, Non-Tribal Transferee

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**THE MAHARASHTRA RESTORATION OF LANDS TO SCHEDULED
TRIBES ACT, 1974.**

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MAHARASHTRA ACT No. XIV OF 1975.¹

[THE MAHARASHTRA RESTORATION OF LANDS TO SCHEDULED TRIBES
ACT, 1974.]

[28th May 1975]

Amended by Mah. 12 of 1977 (19-3-1977)*
" " " 30 of 1977 (16-8-1977)*
" " " 57 of 1977

An Act to provide for the restoration of certain lands to persons belonging to the Scheduled Tribes.

WHEREAS by Government Resolution in the Revenue and Forests Department, No. REV. 1070/62448-C, dated the 15th March 1971, the Government of Maharashtra appointed a Committee to inquire into and report to the State Government *inter alia* on how far the provisions of the Maharashtra Land Revenue Code, 1966, and the relevant tenancy laws have been effective in giving protection to persons belonging to Scheduled Tribes, and to suggest among other things suitable amendments therein, if any of the existing provisions are found to be inadequate;

Mah. XLI of 1966.

AND WHEREAS the said Committee submitted its report to Government on the 7th April 1972;

AND WHEREAS the said Committee *inter-alia* recommended that provisions should be made for restoring to persons belonging to Scheduled Tribes the lands which have been duly transferred to other persons;

AND WHEREAS after considering the aforesaid recommendation of the said Committee, the Government of Maharashtra is of the opinion that steps should be taken forthwith for restoring certain lands to persons belonging to Scheduled Tribes; It is hereby enacted in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974.

(2) It shall extend to the whole of the State of Maharashtra.

(3) It shall come into force on such date² as the State Government may, by notification in the *Official Gazette*, appoint:

Short title, extent and commencement.

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

Definitions.

(a) "Code" means the Maharashtra Land Revenue Code, 1966;

(b) "Collector" includes an Additional Collector, and an Assistant or Deputy Collector exercising the powers or discharging the duties of a Collector under the Code and also any other officer not below the rank of ³[a Tahasildar] especially empowered by the State Government to exercise the powers and perform the duties of the Collector under this Act;

(c) "Commissioner" includes an Additional Commissioner;

(d) "improvements" in relation to land means any drainage works, embankments, *Bandharas*, wells or any other works appurtenant to such land constructed or maintained thereon for the purposes of agriculture, and all structures, permanent fixtures and trees on such land;

(e) "non-Tribal" means a person who is not a Tribal and includes his successor-in-interest;

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

(g) "relevant tenancy law" means—

(i) in relation to the Vidarbha region of the State, the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958,

Mah. XLI of 1966.

Bom. XCIX of 1958.

¹For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1974, Part V, page 960.

²1st November 1975 (*vide* G. N., R. & F. D., No. REV. 1074/62448(II)-L-9, dated 1st November 1975).

³These words were substituted for the words "an Assistant or Deputy Collector" by Mah. 12 of 1977, s. 3.

*This indicates the date of commencement of Act.

(ii) in relation to the Hyderabad area of the State, the Hyderabad Tenancy and Agricultural Lands Act, 1950, and

Hyd.
XXI
of
1950.

(iii) in relation to the rest of the State, the Bombay Tenancy and Agricultural Lands Act, 1948 ;

Bom.
LX-
VII
of
1948.

(h) "successor-in-interest" means a person who acquires interest in land by testamentary disposition or devolution on death ;

(i) "transfer" in relation to land means the transfer of land belonging to a tribal made in favour of a non-tribal during the period commencing on the 1st day of April 1957 and ending on the 6th day of July 1974, either—

(a) by act of parties, whether by way of sale, gift, exchange, mortgage or lease or any other disposition made *inter-vivos*, or

(b) under a decree or order of a court, or

(c) for recovering any amount of land revenue due from such Tribal, or for recovering any other amount due from him as an arrear of land revenue, or otherwise under the Maharashtra Co-operative Societies Act, 1960 or any other law for the time being in force but does not include a transfer of land falling under the proviso to sub-section (3) of section 36 of the Code; and the expressions, "Tribal-transferor" and "non-Tribal-transferee" shall be constructed, accordingly ;

Mah.
XXIV
of
1961.

(j) "Tribal" means a person belonging to a Scheduled Tribe within the meaning of the Explanation to section 36 of the Code, and includes his successor-in-interests ;

(k) "Tribal-transferor" includes his successor-in-interest ;

(l) "non-Tribal-transferee" includes his successor-in-interest ; and if he or his successor has, on or after the 15th day of March 1971, transferred land in favour of any person, whether a Tribal or non-Tribal, includes also such person.

(2) Words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the Code or, as the case may be, in the relevant tenancy law.

Restoration
or transfer
of lands to
Tribals in
certain
cases.

3. (1) Where due to transfer—

(a) the land of a Tribal-transferor is held by a non-Tribal-transferee, or

(b) the land acquired in exchange by a Tribal-transferor is less in value than the value of the land given in exchange,

and the land so transferred is in possession of the non-Tribal-transferee, and has not been put to any non-agricultural use on or before the 6th day of July 1974, then, notwithstanding anything contained in any other law for the time being in force, or any judgment, decree or order of any Court, Tribunal or authority, the Collector either *suo motu* at any time, or on the application of a Tribal-transferor made within three years from the commencement of this Act shall, after making such inquiry as he thinks fit, direct that—

(i) the lands of the Tribal-transferor and non-Tribal-transferee so exchanged shall be restored to each other ; and the Tribal-transferor, or as the case may be, the non-Tribal-transferee shall pay the difference in value of improvements as determined under clause (a) of sub-section (4), or

(ii) the land transferred otherwise than by exchange be taken from the possession of the non-Tribal transferee, and restored to the Tribal transferor, free from all encumbrances, and the Tribal transferor shall pay such transferee and other persons claiming encumbrances the amount determined under clause (b) of sub-section (4):

Provided that, where land is transferred by a Tribal transferor in favour of a non-Tribal transferee before the 6th day of July 1974, after such transferee was rendered landless by reason of acquisition of his land for a public purpose, then only half the land so transferred shall be restored to the Tribal transferor.

¹[*Explanation*.—Where the lands of a Tribal and non-Tribal are purported to have been transferred to each other, otherwise than by exchange, but the date on which the instruments for such transfers are registered is the same or, where such instruments are registered on different dates, but the interval between the dates of registration is thirty days or less, then, notwithstanding anything contained in such instruments, for the purposes of this section, such transfers shall be deemed to be by way of exchange.]

Mah. LVII of 1977. ²[(1A) Where any proceedings are taken under clause (ii) of sub-section (1) before the date of commencement of the Maharashtra Restoration of Lands to Scheduled Tribes (Amendment) Act, 1977 (hereinafter in this section referred to as "the commencement date"), in respect of any land purported to have been transferred by a Tribal transferor to a non-Tribal transferee, otherwise than by exchange, and

(a) such proceedings are pending before the Collector or any appellate or revisional authority on the commencement date, and the Collector or such authority is satisfied, after giving a reasonable opportunity of being heard to both the parties, that there were transfers of lands by way of exchange between the parties within the meaning of the *Explanation* to sub-section (1), then,—

(i) if such proceedings are pending before the Collector, the Collector shall hold a fresh inquiry under clause (i) of sub-section (1) in respect of the lands deemed to be exchanged;

(ii) if such proceedings are pending before the appellate or revisional authority, such authority shall set aside the order of the Collector and direct the Collector to hold a fresh inquiry under clause (i) of sub-section (1) in respect of the lands deemed to be exchanged;

(b) such proceedings have been completed by the Collector or by any such authority, but the Collector, within a period of six months from the commencement date, is, on an application made by any of the parties to the exchange, or *suo motu*, satisfied, after giving a reasonable opportunity of being heard to both the parties, that there were transfers of lands by way of exchange between the parties within the meaning of the *Explanation* to sub-section (1), the Collector shall forthwith pass necessary orders to restore the *status quo* and then hold a fresh inquiry under clause (i) of sub-section (1) in respect of the lands deemed to be exchanged.]

(2) Where any land restored under clause (i) of sub-section (1) to a Tribal or a non-Tribal is burdened with encumbrances, then such encumbrances shall be transferred therefrom and attach themselves to the land restored to the non-Tribal or the Tribal, as the case may be.

(3) The Tribal transferor shall, notwithstanding anything contained in any law for the time being in force in the State, be entitled to restoration of land under this

¹ This *Explanation* shall be deemed always to have been added by Mah. 57 of 1977, s. 2(a).

² Sub-section (1A) was inserted, *ibid.*, s. 2(b).

section only if he undertakes to cultivate the land personally and to pay such amount to the non-Tribal transferee as the Collector may, under the provisions of sub-section (4), determine:

Provided that, in the case of a minor, the undertaking may be given by his guardian, and in the case of any other person under disability by his authorised agent.

(4) (a) Where lands are restored under clause (i) of sub-section (1), the Collector shall in the prescribed manner determine the value of the improvements, if any, made thereon after such exchange by the Tribal transferor or the non-Tribal transferee. If the value of the improvements, if any, made by a Tribal transferor is found to be more, the difference shall be payable by the non-Tribal transferee to the Tribal transferor; and if the value of the improvements, if any, made by the non-Tribal transferee is found to be more, the difference shall be payable by the Tribal transferor to the non-Tribal transferee.

(b) The amount payable by the Tribal transferor for the land restored to him under clause (ii) of sub-section (1) shall consist of an amount equal to 48 times the assessment of the land or the amount of consideration paid by the non-Tribal transferee for acquisition of the land whichever is less plus the value of the improvements, if any, made by the non-Tribal transferee therein to be determined by the Collector in the prescribed manner.

Explanation.—In determining the value of any improvement under clause (a) or clause (b), the Collector shall have regard to—

- (i) the labour and capital provided or spent on improvements;
- (ii) the present conditions of the improvements;
- (iii) the extent to which the improvements is likely to benefit the land during the period of ten years next following the year in which such determination is made; and
- (iv) such other factors as may be prescribed.

(c) The Tribal transferor, or as the case may be, the non-Tribal transferee who is found liable to pay the amount representing the difference in the value of improvements as determined by the Collector under clause (a) shall pay the said amount to the non-Tribal transferee, or as the case may be, the Tribal transferor, either in lump sum or in such annual instalments not exceeding twelve (with simple interest at 4½ per cent. per annum) as the Collector may direct.

(d) The Tribal transferor to whom land is restored [under clause (ii) of sub-section (1)] of this section shall pay to the non-Tribal transferee and other persons claiming encumbrances the amount determined under this sub-section, either in lump sum or in such annual instalments not exceeding twelve (with simple interest at 4½ per cent. per annum) as the Collector may direct.

(e) The apportionment of the amount determined under clause (b) amongst the transferee and the persons claiming encumbrances shall be determined by the Collector in the following manner, that is to say:—

(i) if the total value of encumbrances on the land is less than the amount determined under clause (b), the value of encumbrances shall be paid to the holders thereof in full;

(ii) if the total value of encumbrances on the land exceeds the amount determined under clause (b), the amount shall be distributed amongst the holders of encumbrances in the order of priority:

Provided that nothing in clauses (d) and (e) shall affect the right of holder of any encumbrances to proceed to enforce against the non-Tribal transferee his right in any other manner or any other law for the time being in force.

¹ This was deemed always to have been substituted for the words, brackets and figures " under clause (i) of sub-section (1) " by Mah. 30 of 1977, s. 4.

Provided that, where land is purchased or acquired by a non-Tribal-transferee before the 6th day of July 1974, after such transferee was rendered landless by reason of acquisition of his land for a public purpose, then only half the land so purchased or acquired shall be restored to the Tribal-transferor.

5. (1) A non-Tribal-transferee who after the land is ordered to be restored under clause (ii) of sub-section (1) of section 3 or under section 4,¹ [or after the land is vested in the State Government under sub-section (1) of section 5A,] continues to be in possession of the land, then the non-Tribal-transferee shall pay to the Tribal² [in the former case and to the State Government in the latter case] for the period (from the year following the year in which the land is ordered to be restored to the Tribal) till possession of the land is given to the Tribal³ [or, as the case may be, to the State Government], such amount for the use and occupation of the land as the Collector may fix in the prescribed manner. Damages for occupation of land in certain cases.

(2) If the non-Tribal-transferee fails to pay the amount fixed by the Collector under sub-section (1), it shall be recoverable by the Collector as an arrear of land revenue.

⁴5A. (1) Where any land (not being land acquired in exchange), which is liable to be restored to a Tribal-transferor under sub-section (1) of section 3 cannot be so restored either on account of the failure of the Tribal-transferor to give an undertaking referred to in sub-section (3) of section 3 or for any reason whatsoever or where any land referred to in section 4 cannot be restored to the Tribal by reason of such Tribal expressing, during the inquiry held by the Collector, his unwillingness to refund the purchase price or proportionate part thereof to the non-Tribal transferee, as required by the said section 4, or for any other reason, then, the Collector may, subject to rules, if any, made in that behalf, by order in writing direct that the land shall, with effect from the date of the order, be deemed to have been acquired and vest in the State Government free from all encumbrances. Lands which cannot be restored to vest in Government and to be granted to other Tribal subject to certain restrictions.

(2) On such vesting of the land, the non-Tribal transferee shall be entitled to receive from the State Government an amount equal to 48 times the assessment of the land, plus the value of the improvements, if any, made by the non-Tribal transferee therein. The provisions of clauses (b) and (e) of sub-section (4) of section 3 shall *mutatis mutandis* apply for determining the value of improvements and for apportionment of the encumbrances, if any, on the land between the non-Tribal transferee and the persons claiming encumbrances on the land.

(3) The land so vested in the State Government under sub-section (1) shall, subject to any general or special orders of the State Government in that behalf, be granted by the Collector to any other Tribal residing in the village in which the land is situate or within five kilometres thereof and who is willing to accept the land in accordance with the provisions of the Code, and the rules and orders made thereunder and to undertake to cultivate the land personally; so, however, that the total land held by such Tribal whether as owner or tenant does not exceed an economic holding within the meaning of sub-section (6) of section 36A of the Code.

(4) The person to whom land is granted under sub-section (3), shall pay to the State Government the amount referred to in sub-section (2), either in lump sum or in such annual instalments not exceeding twelve (with simple interest at 4½ per cent. per annum) as the Collector may direct and shall hold the land subject to such terms and conditions as may be prescribed.

¹ This was deemed always to have been inserted by Mah. 30 of 1977, s. 5(a).

² This was deemed always to have been inserted, *ibid.*, s. 5(b).

³ This was deemed always to have been inserted, *ibid.*, s. 5(c).

⁴ Section 5A was inserted, *ibid.*, s. 6.

(5) Without the previous sanction of the Collector, no land granted under sub-section (3) shall be transferred, whether by way of sale (including sale in execution of a decree of a Civil Court or of an award or order of a competent authority) or by way of gift, mortgage, exchange, lease or otherwise. Such sanction shall not be given otherwise than in such circumstances and on such conditions including condition regarding payment of premium or *nazarana* to the State Government, as may be prescribed :

Provided that, no such sanction shall be necessary where the land is to be leased by a serving member of the armed forces or where the land is to be mortgaged as provided in sub-section (4) of section 36 of the Code for raising a loan for effecting any improvement on such land.

(6) If sanction is given by the Collector to any transfer under sub-section (5), subsequent transfer of the land shall also be subject to the provisions of sub-section (5).

(7) Any transfer of land, and any acquisition thereof, in contravention of sub-section (5) or (6), shall be invalid; and as a penalty therefor, any right, title or interest of the transferor and transferee in or in relation to such land shall, after giving him an opportunity to show cause, be forfeited by the Collector; and the land together with the standing crops thereon, if any, shall without further assurance vest in the State Government and shall be disposed of in such manner as the State Government may, from time to time, direct.]

(f) During any period for which payment of rent is suspended or remitted under the relevant tenancy law, the Tribal transferor or as the case may be, non-Tribal transferee shall not be bound to pay the amount in lump sum or the amount of any instalment fixed under this section or interest thereon, if any:

(g) If the Tribal transferor or as the case may be, non-Tribal transferee fails to pay the amount in lump sum or remains in arrears of two or more instalments, the amount so remaining unpaid (with interest thereon at 4½ per cent. per annum) shall be recoverable by the Collector as an arrear of land revenue. The amount so recovered shall be paid by the Collector to the non-Tribal transferee and persons claiming encumbrances, if any, or as the case may be, the Tribal transferor.

4. Where any land of a Tribal is, at any time on or after the 1st day of April 1957 and before the 6th day of July 1974, purchased or deemed to have been purchased or acquired under or in accordance with the provisions of the relevant tenancy law by a non-Tribal transferee or where any acquisition has been regularised on payment of penalty under such law and such land is in possession of a non-Tribal transferee and has not been put to any non-agricultural use on or before the 6th day of July 1974, then the Collector shall, notwithstanding anything contained in any law for the time being in force, either *suo motu* at any time or on an application by the Tribal made within three years from the commencement of this Act and after making such inquiry as he thinks fit, direct that the land shall, subject to the provisions of sub-section (4) of section 3, be restored to the Tribal free from all encumbrances and that the amount of purchase price or a proportionate part thereof, if any, paid by such non-Tribal transferee in respect of such land in accordance with the relevant tenancy law shall be refunded to such non-Tribal transferee either in lump sum or in such annual instalments not exceeding twelve (with simple interest at 4½ per cent. per annum) as the Collector may direct. The provisions of clauses (d), (e), (f) and (g) of sub-section (4) of section 3 shall, so far as may be, apply in relation to the recovery of the amount from the Tribal and payment thereof to the non-Tribal transferee and the persons claiming encumbrances, if any :

Restoration of lands of persons belonging to Scheduled Tribes.

Provided that, where land is purchased or acquired by a non-Tribal transferee before the 6th day of July 1974, after such transferee was rendered landless by reason of acquisition of his land for a public purpose, then only half the land so purchased or acquired shall be restored to the Tribal transferor.

5. (1) A non-Tribal transferee who after the land is ordered to be restored under clause (ii) of sub-section (1) of section 3 or under section 4¹ [or after the land is vested in the State Government under sub-section (1) of section 5A.] continues to be in possession of the land, then the non-Tribal transferee shall pay to the Tribal² [in the former case and to the State Government in the latter case] for the period (from the year following the year in which the land is ordered to be restored to the Tribal) till possession of the land is given to the Tribal³ [or, as the case may be, to the State Government], such amount for the use and occupation of the land as the Collector may fix in the prescribed manner.

Damages for occupation of land in certain cases.

(2) If the non-Tribal transferee fails to pay the amount fixed by the Collector under sub-section (1), it shall be recoverable by the Collector as an arrear of land revenue.

¹ These words were deemed always to have been inserted by Mah. 30 of 1977, s. 5(a).

² These words were deemed always to have been inserted, *ibid.*, s. 5(b).

³ These words were deemed always to have been inserted, *ibid.*, s. 5(c).

Lands which cannot be restored to vest in Government and to be granted to other Tribal subject to certain restrictions.

1[5A. (1) Where any land (not being land acquired in exchange), which is liable to be restored to a Tribal transferor under sub-section (1) of section 3 cannot be so restored either on account of the failure of the Tribal transferor to give an undertaking referred to in sub-section (3) of section 3 or for any reason whatsoever or where any land referred to in section 4 cannot be restored to the Tribal by reason of such Tribal expensing, during the inquiry held by the Collector, his unwillingness to refund the purchase price or proportionate part thereof to the non-Tribal transferee, as required by the said section 4, or for any other reason, then, the Collector may, subject to rules, if any, made in that behalf, by order in writing direct that the land shall, with effect from the date of the order, be deemed to have been acquired and vest in the State Government free from all encumbrances.

(2) On such vesting of the land, the non-Tribal transferee shall be entitled to receive from the State Government an amount equal to 48 times the assessment of the land, plus the value of the improvements, if any, made by the non-Tribal transferee therein. The provisions of clauses (b) and (c) of sub-section (4) of section 3 shall *mutatis mutandis* apply for determining the value of improvements and for apportionment of the encumbrances, if any, on the land between the non-Tribal transferee and the persons claimin encumbrances on the land.

(3) The land so vested in the State Government under sub-section (1) shall, subject to any general or special orders of the State Government in that behalf, be granted by the Collector to any other Tribal residing in the village in which the land is situate or within five kilometres thereof and who is willing to accept the land in accordance with the provisions of the Code, and the rules and orders made thereunder and to undertake to cultivate the land personally; so, however, that total land held by such Tribal whether as owner or tenant does not exceed an economic holding within the meaning of sub-section (6) of section 36A of the Code.

(4) The person to whom land is granted under sub-section (3), shall pay to the State Government the amount referred to in sub-section (2), either in lump sum or in such annual instalments not exceeding twelve (with simple interest at 4½ per cent. per annum) as the Collector may direct and shall hold the land subject to such terms and conditions as may be prescribed.

(5) Without the previous sanction of the Collector, no land granted under sub-section (3) shall be transferred, whether by way of sale (including sale in execution of a decree of a Civil Court or of an award or order of a competent authority) or by way of gift, mortgage, exchange, lease or otherwise. Such sanction shall not be given otherwise than in such circumstances and on such conditions including condition regarding payment of premium or *nazarana* to the State Government, as may be prescribed :

Provided that, no such sanction shall be necessary where the land is to be leased by a serving member of the armed forces or where the land is to be mortgaged as provided in sub-section (4) of section 36 of the Code for raising a loan for effecting any improvement on such land.

(6) If sanction is given by the Collector to any transfer under sub-section (5), subsequent transfer of the land shall also be subject to the provisions of sub-section (5).

(7) Any transfer of land, and any acquisition thereof, in contravention of sub-section (5) or (6) shall be invalid; and as a penalty therefor, any right, title or interest of the transferor and transferee in or in relation to such land shall, after giving him an opportunity to show cause, be forfeited by the Collector; and the land together with the standing crops thereon, if any, shall without further assurance vest in the State Government and shall be disposed of in such manner as the State Government may, from time to time, direct.]

¹ Section 5A was deemed always to have been inserted by Mah. 30 of 1977, 5. 6.

6. (1) An appeal against any decision or order passed by the Collector may, notwithstanding anything contained in the Code, be made to the Maharashtra Revenue Tribunal constituted under the Code. Appeal.

(2) Every such appeal shall be made within a period of sixty days from the date of receipt of the decision or order of the Collector. The provisions of sections 4, XXX-5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal.

VI of 1963. (3) In deciding an appeal under sub-section (1), the Maharashtra Revenue Tribunal shall exercise all the powers which a Court has subject to the regulations framed by that Tribunal under the Code and follow the same procedure which a Court follows, in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

V of 1908.

7. Where no appeal has been filed within the period provided by sub-section (2) of section 6, the Commissioner may *suo motu* or on the direction of the State Government at any time— Revision.

(a) call for the record of any inquiry or proceeding of any Collector for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of, such Collector, as the case may be, and

(b) pass such order thereon as he thinks fit :

Provided that no such record shall be called for after the expiry of three years from the date of such order except in cases where directions are issued by the State Government; and no order of the Collector shall be modified, annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.

Bom. XXX- VI of 1959. 8. Notwithstanding anything contained in the Bombay Court-fees Act, 1959, every appeal before the Maharashtra Revenue Tribunal or application under this Act shall bear a court-fee stamp of such value as may be prescribed. Court-fee.

9. Every decision or order passed by the Collector under this Act, subject to an appeal to the Maharashtra Revenue Tribunal under section 6, and the decision of the Maharashtra Revenue Tribunal in appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any court. Finality of decision or order of Collector and decision of Revenue Tribunal.

19A. Notwithstanding anything contained in this Act or any law for the time being in force, no pleader shall be entitled to appear on behalf of any party in any proceedings under this Act before the Collector, the Commissioner or the Maharashtra Revenue Tribunal : Pleaders, etc., excluded from appearance.

Provided that, where a party is a minor or lunatic, his guardian may appear, and in the case of any other person under disability, his authorised agent may appear, in such proceedings.

Explanation.—For the purpose of this section, the expression 'pleader' includes an advocate, vakil or any other legal practitioner.]

10. No civil court shall have jurisdiction to settle, decide or deal with any question which under this Act is required to be decided or dealt with by the Collector, the Commissioner, the Maharashtra Revenue Tribunal or the State Government. Bar of jurisdiction of civil court or authority.

Powers for restoration of possession of land and of eviction of person in possession. [10A. Notwithstanding anything contained in section 5 or any other provision of this Act or in any other law for the time being in force, where possession of any land is to be restored to any Tribal transferor or non-Tribal transferee under any provision of this Act, it shall always be lawful for the Collector to evict any person not entitled to possession of the land, or any person wrongfully in possession thereof, at any time, in the manner provided in section 242 of the Code.]

Power to make rules. 11. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act. Such rules may provide for procedure for inquiries and for levying fees for any of the purposes of this Act for which specific provision for fees has not been made.

(2) 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, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

¹ Section 10A was inserted by Mah. 57 of 1977, s. 3.

THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES,
CALLINGS AND EMPLOYMENTS ACT, 1975.

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SCHEDULE I.

SCHEDULE II.

MAHARASHTRA ACT No. XVI OF 1975¹

[THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975]

[10th June 1975]

Amended by Mah. 21 of 1976.* (1-11-1976)†

An Act to provide for the levy and collection of a tax on professions, trades, callings and employments for the benefit of the State.

WHEREAS it is expedient to provide for the levy and collection of a tax on professions, trades, callings and employments for the benefit of the State for raising additional resources needed for implementing the Employment Guarantee Scheme of the State Government and to provide for establishment of the Employment Guarantee Fund and for matters connected therewith; It is hereby enacted in the Twenty-sixth Year of the Republic of India as follow :—

1. (1) This Act may be called the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975. Short ti
extent a
commen-
ment.

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

(3) It shall be deemed to have come into force on the 1st day of April 1975.

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

(a) "Commissioner" means the Commissioner of Profession Tax appointed under section 12, and includes an Additional Commissioner of Profession Tax (if any) appointed under that section ;

(b) "corporation area" means an area within the limits of a municipal corporation constituted under the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949 or the City of Nagpur Corporation Act, 1948 ;

²[(ba) "employee" means a person employed on salary or wages, and includes—
(i) a Government servant receiving pay from the revenues of the Central Government or any State Government or the Railway Fund ;

(ii) a person in the service of a body, whether incorporated or not, which is owned or controlled by the Central Government or any State Government, where the body operates in any part of the State, even though its headquarters may be outside the State;

(iii) a person engaged in any employment of an employer, not covered by items (i) and (ii) above ;]

(c) "employer", in relation to an employee earning any salary or wages on regular basis under him, means the person or the officer who is responsible for disbursement of such salary or wages and includes the head of the office or any establishment as well as the manager or agent of the employer ;

(d) "month" means a month reckoned according to the British calendar ;

(e) "person" means any person who is engaged in any profession, trade, calling or employment in the State of Maharashtra and includes a Hindu undivided family, firm, company, corporation or other corporate body, any society, club or association, so engaged, but does not include any person who earns wages on a casual basis ;

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

(g) "profession tax" or "tax" means the tax on professions, trades, callings and employments levied under this Act ;

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1975, Part V, page 387.

² Clause (ba) was inserted by Mah. 21 of 1976, s. 2(a).

* Section 12 of this Act shall be deemed to have come into force on 1st April 1975. [see s. 1(2) of Mah. 21 of 1976].

† This indicates the date of commencement of Act.

(h) "salary" or "wage" includes pay or wages, dearness allowance and all other remunerations received by any person on regular basis, whether payable in cash or kind, and also includes perquisites and profits in lieu of salary, as defined in section 17 of the Income-tax Act, 1961¹ [but does not include bonus in any form and on any account or gratuity] ;

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1961.

(i) "Schedule" means a Schedule appended to this Act ;

(j) "Tribunal" means the Maharashtra Sales Tax Tribunal constituted under section 21 of the Bombay Sales Tax Act, 1959, and discharging the functions of the Tribunal assigned to it by or under this Act ;

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(k) "year" means the financial year.

3. (1) Subject to the provisions of article 276 of the Constitution of India and of this Act, there shall be levied and collected a tax on professions, trades, callings and tax. employments for the benefit of the State.

(2) Every person engaged in any profession, trade, calling or employment and falling under one or the other of the classes mentioned in the second column of Schedule I shall be liable to pay to the State Government the tax at the rate mentioned against the class of such persons in the third column of the said Schedule :

Provided that, the tax so payable in respect of any one person shall not exceed two hundred and fifty rupees in any year :

Provided further that, entry 20 in Schedule I shall apply only to such classes of persons as may be specified by the State Government by notification in the *Official Gazette*, from time to time.

Employer's liability to deduct and pay tax on behalf of employees. 4. The tax payable under this Act by any person earning a salary or wage, shall be deducted by his employer from the salary or wage payable to such person, before such salary or wage is paid to him, and such employer shall, irrespective of whether such deduction has been made or not, when the salary or wage is paid to such persons be liable to pay tax on behalf of all such persons :

Provided that, if the employer is an officer of Government, the State Government may, notwithstanding anything contained in this Act, prescribe by rules the manner in which such employer shall discharge the said liability :

²[Provided further that, where any person earning a salary or wage—

(a) is also covered by one or more entries other than entry 1 in Schedule I and the rate of tax under any such other entry is more than the rate of tax under entry 1 in that Schedule, or

(b) is simultaneously engaged in employment of more than one employer, and such person furnishes to his employer or employers a certificate in the prescribed form declaring, *inter alia*, that he shall get enrolled under sub-section (2) of section 5 and pay the tax himself, then the employer or employers of such person shall not deduct the tax from the salary or wage payable to such person and such employer or employers, as the case may be, shall not be liable to pay tax on behalf of such person].

Registration and enrolment. 5. (1) Every employer (not being an officer of Government) liable to pay tax under section 4 shall obtain a certificate of registration from the prescribed authority in the prescribed manner.

(2) Every person liable to pay tax under this Act (other than a person earning salary or wages, in respect of whom the tax is payable by his employer), shall obtain a certificate of enrolment from the prescribed authority in the prescribed manner.

¹ These words were added by Mah. 21 of 1976, s. 2(b).

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

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and Employments Act, 1975*

¹[(2A). Notwithstanding anything contained in this section and the last preceding section, where a person is a citizen of India and is in employment of any diplomatic or consular office or trade commissioner of any foreign country situated in any part of the State, such person, if liable to pay tax, shall obtain a certificate of enrolment as provided in sub-section (2) and pay the tax himself.]

(3) Every employer or person required to obtain a certificate of registration or enrolment shall, within thirty days from the date of first publication of this Act in the *Official Gazette*, or, if he was not engaged in any profession, trade, calling or employment on that date, ²[within thirty days of his becoming liable to pay tax] or, in respect of a person referred to ³[in sub-section (2) or (2A)] within thirty days of his becoming liable to pay tax at a rate higher or lower than the one mentioned in his certificate of enrolment, apply for a certificate of registration or enrolment, or a revised certificate of enrolment, as the case may be, to the prescribed authority in the prescribed form, and the prescribed authority shall, after making such inquiry as may be necessary within thirty days of the receipt of the application (which period in the first year from the commencement of this Act shall be extended to ninety days), if the application is in order, grant him such certificate.

(4) The prescribed authority shall mention in every certificate of enrolment, the amount of tax payable by the holder according to Schedule I, and the date by which it shall be paid, and such certificate shall serve as a notice of demand for purposes of section 10.

¹ Sub-section (2A) was inserted by Mah. 21 of 1976 s. 4(a).

² These words were substituted for the words "within thirty days from the date of commencement of his profession, trade, calling or employment", *ibid.*, s. 4(b)(i).

³ These words, brackets, figures and letter were substituted for the words, brackets and figures "in sub-section (2)" *ibid.*, s. 4 (b) (ii).

(5) Where an employer or a person liable to registration or enrolment has wilfully failed to apply for such certificate within the required time, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose penalty not exceeding rupees twenty for each day of delay in case of an employer and not exceeding rupees five for each day of delay in case of others.

(6) Where an employer or a person liable to registration or enrolment has deliberately given false information in any application submitted under this section, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose a penalty not exceeding rupees one thousand.

6. (1) Every employer registered under this Act shall furnish to the prescribed authority ¹[a return in such form, for such periods and by such dates as may be prescribed] showing therein the salaries and wages paid by him and the amount of tax deducted by him in respect thereof ² * * * * *

(2) Every such return shall be accompanied by a treasury challan in proof of payment of full amount of tax due according to the return, and a return without such proof of payment shall not be deemed to have been duly filed.

(3) Where an employer has ³[without reasonable cause failed] to file such return within the required time, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees five for each day of delay.

7. (1) If the prescribed authority is satisfied that the return filed by any employer is correct and complete, he shall accept the return. Assessment of employers.

(2) (a) If the prescribed authority is not satisfied that the return filed is correct and complete, he shall serve upon the employer, a notice requiring him, on a date specified in the notice, to attend in person, or through an authorised representative, and to produce accounts and papers in support of the return.

(b) The prescribed authority shall, on examination of accounts and papers, assess the amount of tax payable by the employer.

(c) If the employer fails to comply with the terms of the notice, or if in the opinion of the prescribed authority the accounts and papers are incorrect or incomplete or unreliable, the said authority shall, after such inquiry as he deems fit, or otherwise, assess the tax due to the best of his judgment.

⁴[(2A) The amount of tax due from any employer shall be assessed separately for each year during which he was liable to pay tax :

Provided that, the prescribed authority may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any employer during any part of a year :

Provided further that, where a registered employer fails to furnish a return for any part of a year, the prescribed authority may, if it thinks fit, assess the tax due from such employer separately for different parts of such year.]

(3) If an employer has ⁵ * * * failed to get himself registered or being registered has failed to file any return, the prescribed authority shall, after giving the employer a reasonable opportunity of being heard and after holding such inquiry as he deems fit, or otherwise, pass an order assessing the amount of tax due to the best of his judgment.

¹ These words were substituted for the words " within fifteen days of expiry of a month, a return in the prescribed form " by Mah. 21 of 1976, s. 5(a)(i).

² The words " during the month immediately preceding that month " were deleted, *ibid.*, s. 5(a)(ii).

³ These words were substituted for the words " wilfully failed ", *ibid.*, s. 5(b).

⁴ Sub-section (2A) was inserted, *ibid.*, s. 6(a).

⁵ The word " wilfully " was deleted, *ibid.*, s. 6(b).

(4) The amount of a tax so assessed shall be paid within fifteen days of receipt of the notice of demand from the prescribed authority.

Payment of tax.

8. (1) The tax payable under this Act shall be paid in the prescribed manner.

(2) The amount of tax due from enrolled persons for each year as specified in their enrolment certificates shall be paid—

(a) in respect of a person who stands enrolled before the commencement of a year or is enrolled on or before the 31st August of a year. Before 30th September of that year.

(b) in respect of a person who is enrolled after the 31st August of a year. Within one month of the date of enrolment.

Consequences of failure to deduct or to pay tax.

9. (1) If an employer (not being an officer of Government) ¹[fails to pay the tax] as required by or under this Act, he shall, without prejudice to any other consequences and liabilities which he may incur, be deemed to be an assessee in default in respect of the tax.

(2) Without prejudice to the provisions of sub-section (1), ²[an employer referred to in that sub-section shall be liable] to pay simple interest at 2 per cent of the amount of the tax due for each month or part thereof for the period for which the tax remains unpaid.

(3) If an enrolled person fails to pay the tax as required by or under this Act, he shall be liable to pay simple interest at the rate and in the manner laid down in sub-section (2).

Penalty for non-payment of tax.

10. If an enrolled person or a registered employer fails, without reasonable cause, to make payment of any amount of tax within the required time or date as specified in the notice of demand, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding fifty per cent of the amount of tax due.

Recovery of tax, etc.

11. All arrears of tax, penalty, interest and fees under this Act shall be recoverable as an arrear of land revenue.

Authorities for implementation of the Act.

12. (1) (a) For carrying out the purposes of this Act, the State Government may appoint—

(i) an officer to be the Commissioner of Profession Tax for the whole of the State of Maharashtra ;

(ii) one or more officers to be the Additional Commissioners of Profession Tax as the State Government thinks necessary ;

(iii) such number of Deputy Commissioners of Profession Tax, Assistant Commissioners of Profession Tax and Profession Tax Officers and other officers and persons (with such designations) as the State Government thinks necessary.

(b) An officer appointed under paragraph (ii) or (iii) of clause (a) above shall, within the limits of such area as the State Government may specify, by notification in the *Official Gazette*, to be within his jurisdiction, exercise such powers and perform such duties as may be conferred or imposed upon him by or under this Act.

(c) The superintendence and control for the proper execution of the provisions of this Act and the rules made thereunder relating to the levy and collection of the tax shall vest in the Commissioner.

¹ These words were substituted for the words " does not deduct the tax at the time of payment of salary or wage, or after deducting fails to pay the tax " by Mah. 21 of 1976, s. 7(a).

² These words were substituted for the portion beginning with the words " if an employer " and ending with the words " be shall be liable ", *ibid.*, s. 7(b).

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(2) The Tribunal constituted under section 21 of the Bombay Sales Tax Act, 1959, shall be the Tribunal for the purposes of hearing appeals and revision applications and discharging other functions of the Tribunal under this Act, and accordingly, the provisions of section 21 of that Act (including any regulations made thereunder with such modifications, if any, therein as circumstances may require) and other provisions relating to the Tribunal under that Act shall also apply to and in relation to such Tribunal for the purposes of this Act.

(3) For carrying out the purposes of this Act, the State Government may, at its discretion, appoint any Government Department or officer, or a Municipal Corporation, Municipal Council or Zilla Parishad (hereinafter called "the Collecting Agent") as its agent responsible for levy and collection of the tax under this Act from such persons or class of persons as may be prescribed and thereupon, it shall be the duty of such Collecting Agent to carry out in such manner as may be prescribed, such functions under this Act as may be prescribed, and to render full and complete account of the tax levied and collected to the Commissioner in such manner and at such time as that office may require.

(4) Any officer authorised by the Collecting Agent in this behalf shall have for the purposes of levy and collection of the tax all the powers of the prescribed authority and such other powers as may be prescribed.

(5) A Municipal Corporation, Municipal Council or Zilla Parishad appointed as agent to carry out the purposes of this Act under sub-section (3) shall be paid such collection charges as may be determined by the State Government, after consultation with the local authority concerned.

(6) It shall be lawful for the Commissioner, or an Officer duly authorised by him, to have access to, and to cause production and examination of books, registers accounts or documents maintained or required to be maintained by the Collecting Agent for the purposes of this Act, and the Collecting Agent shall, whenever called upon to do so, produce such books, registers accounts or documents for inspection by the Commissioner or by the authorised officer.

12A. (1) If any question arises, otherwise than in proceedings before a Court of law or before the prescribed authority has commenced assessment of an employer under section 7, about the interpretation or the scope of any expression defined in section 2 or of any entry in Schedule I, the Commissioner shall make an order determining such question.

Explanation.—For the purposes of this sub-section, the prescribed authority shall be deemed to have commenced assessment of an employer under section 7, when the employer is served with a notice under that section.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, as respects the period prior to the determination.

(3) If any such question arises from any order already passed under this Act: no such question shall be entertained for determination under this section; but such question may be raised in appeal against or by way of revision of, such order.]

13. (1) Subject to rules as may be made by the State Government, any person or employer aggrieved by any order made under section 5, 6, 7, 9, 10, 15 or 16 may appeal against such order to,—

(a) the Assistant Commissioner, if the order is passed by any prescribed authority or officer subordinate to him;

(b) the Deputy Commissioner, if the order is passed by the Assistant Commissioner; and

(c) the Tribunal, if the order is passed by any officer not below the rank of Deputy Commissioner.

(2) No appeal shall be entertained after the expiry of sixty days from the date of receipt of demand notice or receipt of the order:

Provided that, the appellate authority may admit the appeal after the expiry of the above period, if he is satisfied that there was sufficient cause for the delay.

(3) No appeal shall be entertained, unless the amount of tax or penalty or interest in respect of which the appeal has been preferred has been paid in full.

(4) The appellate authority in disposing of an appeal, may—

(i) confirm, annual, reduce, enhance, or otherwise modify the assessment or penalty or interest, or

(ii) set aside the assessment or penalty or interest and direct the authority which made the assessment or imposed the penalty or charged the interest to pass a fresh order after further inquiry on specified points.

(5) No order under this section shall be passed without giving the appellant or his representative, and, where the appellate authority is the Tribunal, without giving the authority whose order or direction is the subject of the appeal or his representative, a reasonable opportunity of being heard.

Revision. 14. (1) Any order passed in appeal under section 13 may, on an application being made in this behalf, be revised by—

(a) the Deputy Commissioner, if the order is passed by the Assistant Commissioner ;

(b) Any Tribunal, if the order is passed by the Deputy Commissioner.

(2) Any order passed by the Deputy Commissioner under sub-section (1) or by the Commissioner under sub-section (4) of this section [or any order made by the Commissioner under section 12A, may, on an application being made to the Tribunal against such order, be revised by the Tribunal.]

(3) No revision shall be entertained under sub-section (1) or (2) after the expiry of sixty days from the date of the receipt of the order.

(4) The Commissioner may, of his own motion, revise any order passed by any authority other than the Tribunal under this Act :

Provided that, no order shall be revised by the Commissioner under this sub-section after the expiry of three years from the passing of the impugned order.

(5) No order under this section shall be passed without giving the applicant or the assessee a reasonable opportunity of being heard.

Rectification of mistakes. 15. (1) Any authority under this Act may, of his own motion or on an application being made in this behalf, rectify any mistake apparent on the face of the record.

(2) Any authority under this Act may review his own order if any employer has been under-assessed for any period :

Provided that, if an order under this section has an adverse effect on an employer or a person, no such order shall be passed unless a reasonable opportunity of being heard has been given to such employer or person :

Provided further that, no order under this section shall be passed after the expiry of three years from the passing of the impugned order.

Accounts. 16. (1) if the Commissioner is satisfied that the books of account and other documents maintained by an employer in the normal course of his business are not adequate for verification of the returns filed by the employer under this Act, it shall be lawful for the Commissioner to direct the employer to maintain the books of account or other documents in such manner as he may in writing direct, and thereupon the employer shall maintain such books of account or other documents accordingly.

(2) Where an employer wilfully fails to maintain the books of accounts or other documents as directed under sub-section (1), the Commissioner may, after giving him a reasonable opportunity of being heard, impose a penalty not exceeding rupees five for each day of delay.

Special mode of recovery. 17. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time, or from time to time, by notice in writing, a copy of which shall be forwarded to the assessee at his last address known to the Commissioner, require—

(a) any person from whom any amount of money is due, or may become due, to an assessee on whom notice of demand has been served under this Act, or

¹ These words were substituted for the words " may be revised by the Tribunal ", by Mah. 21 of 1976, s. 9.

(b) any person who holds or may subsequently hold money for or on account of such assessee,

to pay the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by the assessee in respect of the arrears of tax, penalty and interest under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purposes of this section, the amount of money due to an assessee from, or money held for or on account of an assessee by, any person shall be calculated after deducting therefrom such claims (if any) lawfully subsisting as may have fallen due for payment by such assessee to such person.

(2) The Commissioner may, at any time or from time to time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the assessee, and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the assessee after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged, or the extent of the liability of the assessee for tax, penalty and interest, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of money which a person is required to pay to the Commissioner or for which he is personally liable to the Commissioner under this section, shall if it remains unpaid be recoverable as an arrear of land revenue.

18. Any authority under this Act may inspect and search any premises, where any profession, trade, calling or employment liable to taxation under this Act is carried on or is suspected to be carried on and may cause production and examination of books, registers, accounts or documents relating thereto and may seize such books, registers, accounts or documents as may be necessary :

Production and inspection of accounts and documents and search of premises.

Provided that, if the said authority removes from the said premises any book, register, account or document, he shall give to the person in charge of the place, a receipt describing the book, register, account or document so removed by him and retain the same only for so long as may be necessary for the purposes of examination thereof or for a prosecution.

19. The prescribed authority shall refund to a person the amount of tax, penalty, interest and fees (if any) paid by such person in excess of the amount due from him. The refund may be made either by cash payment or, at the option of the person, by deduction of such excess from the amount of tax, penalty, interest and fee due in respect of any other period :

Refunds of excess payment.

Provided that, the prescribed authority shall first apply such excess towards the recovery of any amount due in respect of which a notice under section 7 has been served, and shall then refund the balance, if any.]

20. Any person or employer who, without sufficient cause, fails to comply with any of the provisions of this Act or the rules framed thereunder shall, on conviction, be punished with fine not exceeding five thousand rupees, and, when the offence is a continuing one, with fine not exceeding fifty rupees per day during the period of the continuance of the offence.

Offences and Penalties.

21. (1) Where an offence under this Act has been committed by a company every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Offences by companies.

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals ; and

(b) "director", in relation to a firm, means a partner in the firm.

Power to transfer proceedings.

22. The Commissioner may, after giving the parties a reasonable opportunity of being heard, wherever it is possible to do so, and after recording his reason for doing so, by order in writing, transfer any proceedings or class of proceedings under any provision of this Act, from himself to any other officer, and he may likewise transfer any such proceedings (including a proceeding pending with any officer or already transferred under this section) from any officer to any other officer or to himself:

Provided that, nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer to any other officer and the offices of both are situated in the same city, locality or place.

Explanation.—In this section, the word “proceedings” in relation to any assessee whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year, which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year in relation to such assessee.

Compounding of offences.

23. (1) Subject to such conditions as may be prescribed the Commissioner may, either before or after the institution of proceedings for an offence under this Act, permit any person charged with the offence to compound the offence on payment of such sum, not exceeding double the amount of tax to which the offence relates, as the Commissioner may determine.

(2) On payment of such sum, as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence.

Powers to enforce attendance etc.

24. All authorities under this Act shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, while trying a suit, in respect of enforcing the attendance of and examining any person on oath or affirmation or for compelling the production of any document. ^{V of 1908.}

Bar to proceedings.

25. (1) No suit shall lie in any civil court to set aside or modify any assessment made or order passed under this Act.

(2) No suit, prosecution, or other legal proceedings shall lie against any authority under this Act or against any employer for anything done or intended to be done in good faith under this Act or the rules framed thereunder.

Power to delegate.

26. The Commissioner may, subject to such conditions and restrictions as the State Government may by general or special order impose, by order in writing delegate to the authorities subordinate to him, either generally or as respects any particular matter or class of matters any of his powers under this Act.

Power to make rules.

27. (1) The power to make all rules under this Act shall be exercisable by the State Government by notification in the *Official Gazette*.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to carry out the purposes of this Act and to prescribe fees payable in respect of any applications to be made, forms to be supplied, certificates to be granted and appeals and applications for revision to be made under this Act [and also any applications for certified copies of documents filed and orders made under this Act].

(3) Rules made under this Act shall be subject to the condition of previous publication:

¹ These words were added by Mah. 21 of 1976, s. 11.

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rules to be made under this Act.

(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, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

¹[27A. Nothing contained in section 3 and other provisions of this Act shall Exemptions. apply to—

(a) the members of the armed forces of the Union serving in any part of the State ;

(b) the *badli* workers in the textile industry.]

28. (1) The enactments specified in the second column of Schedule II are hereby Amendment amended in the manner and to the extent specified in the third column thereof : of certain enactments.

Provided that, nothing in the said amendments shall affect or be deemed to affect—

(i) any right, obligation or liability already acquired, accrued or incurred for anything done or suffered, in respect of any period preceding the date of coming into force of these amendments ;

(ii) any legal proceeding or remedy whether initiated or availed of before or after the date of coming into force of these amendments, in respect of any such right, obligation or liability.

(2) The levy, assessment or recovery of any tax or the imposition or recovery of any penalty, in respect of such period, under the provisions of the relevant enactments and all proceedings under them, in respect of all matters aforesaid, shall be initiated and disposed of, or continued and disposed of, as the case may be, as if this Act had not been enacted.

29. Out of the proceeds of the tax and penalties and interest and fees recovered under this Act there shall, under appropriation duly made by law, be paid annually to such local authorities as were levying a tax on professions, trades, callings, and employments, immediately before the commencement of this Act, and whose power to levy such tax has been withdrawn under the provisions of this Act, such amounts on the basis of the highest collections made by them in any year during the period of three years immediately preceding the commencement of this Act, as may be determined by the State Government in this behalf. Grants to local authorities for loss of revenue.

¹ Section 27A was inserted by Mah. 21 of 1976, s. 12.

30. (1) ¹* * * * * * * * * * *
 [Amount equal to net proceeds of tax and contribution to be paid into the Fund established under the Maharashtra Employment Guarantee Act, 1977.] The proceeds of the tax levied and collected under this Act, together with penalties and interest and fees recovered thereunder, shall first be credited to the Consolidated Fund of the State, and, after deducting the expenses of collection and recovery as determined by the State Government and the amounts of grants made to the local authorities under section 29, the remaining amount shall, under appropriation duly made by law in this behalf, be entered into, and transferred to, the Employment Guarantee Fund established under the Maharashtra Employment Guarantee Act, 1977. Mah. XX of 1978.
- (2) Under appropriation duly made by law in this behalf, the State Government shall contribute annually to ³[the Employment Guarantee Fund an amount equal to the amount transferred to that Fund under sub-section (1).] * * * * *

SCHEDULE I

(See section 3)

Schedule of rates of tax on professions, trades, callings and employments

Serial No.	Class of persons	Rate of tax
1	2	3
1	Salary and Wage earners. Such persons whose monthly salaries or wages are—	
	(i) less than Rs. 400	Nil.
	(ii) Rs. 400 or more, but less than Rs. 500	Rs. 2 per month.
	(iii) Rs. 500 or more but less than Rs. 600	Rs. 4 per month.
	(iv) Rs. 600 or more but less than Rs. 800	Rs. 6 per month.
	(v) Rs. 800 or more, but less than Rs. 1,000	Rs. 8 per month.
	(vi) Rs. 1,000 or more, but less than Rs. 1,200	Rs. 11 per month.
	(vii) Rs. 1,200 or more, but less than Rs. 1,500	Rs. 15 per month.
	(viii) Rs. 1,500 or more	Rs. 20 per month.
2	(a) Legal practitioners including Solicitors and notaries public;	
	(b) Medical practitioners including Medical consultants [and Dentists];	
	(c) Technical and Professional Consultants, including Architects, Engineers, R.C.C. Consultants, Plumbers, Tax Consultants, Chartered Accountants, Actuaries and Managements Consultants;	
	(d) Chief Agents, Principal Agents, Special Agents, Insurance Agents and Surveyors or Loss Assessors registered or licensed under the insurance Act, 1938 (IV of 1938).	
	Where the standing in the profession of any of the persons mentioned above—	
	(A) in any Corporation area is—	
	(i) less than two years	Nil.
	(ii) two years or more but less than five years	Rs. 150 per annum.
	(iii) five years or more	Rs. 250 per annum.
	(B) in any other area in the State is—	
	(i) less than two years	Nil.
	(ii) two years or more, but less than five years	Rs. 50 per annum.
	(iii) five years or more, but less than ten years	Rs. 150 per annum.
	(iv) ten years or more	Rs. 250 per annum.
3	(a) Members of Associations recognised under the Forward Contracts (Regulation) Act, 1952 (LXXIV of 1952).	
	(b) (i) Members of stock exchanges recognised under the Security Contracts (Regulation) Act, 1956 (XLII of 1956).	Rs. 250 per annum.
	(ii) Remisiers recognised by stock exchange	Rs. 150 per annum.
4	Estate agents of brokers or building contractors	Rs. 250 per annum.
5	Directors (other than those nominated by Government) of companies registered under the Companies Act, 1956 (I of 1956).	Rs. 250 per annum.
6	(a) Bookmakers and trainers licensed by the Royal Western India Turf Club Limited.	Rs. 250 per annum.
	(b) Jockeys licensed by the said Club	Rs. 150 per annum.

¹ The portion beginning with the words "On the commencement" and ending with the words "Employment Guarantee Fund." were deleted by Mah. 20 of 1978, s. 13, Sch.

² These words were substituted for the words "transferred to, that Fund.", *ibid.*, s. 13, Sch.

³ These words were substituted for the words "the Fund an amount equal to the amount transferred to the Fund under sub-section (1)", *ibid.*, Sch.

⁴ This marginal note was substituted for the original, *ibid.*, Sch.

⁵ Sub-sections (3), (4), (5) and (6) were deleted, *ibid.*

⁶ These words were added by Mah. 21 of 1976, s. 13(a).

SCHEDULE I—contd.

Serial No.	Class of persons	Rate of tax
1	2	3
7	Self-employed persons in the motion picture industry, as follows :—	
	(a) Writers, Lyricists, Directors, actors and actresses (excluding junior artistes), play-back singers, cameramen, recordists, editors and still photographers ;	Rs. 250 per annum.
	(b) Junior artistes, production Managers, assistant Directors, assistant cameramen, assistant recordists, assistant editors, musicians and dancers.	Rs. 150 per annum.
8	Dealers registered under the Bombay Sales Tax Act, 1959 (Bom. LI of 1959).	
	Such dealers whose annual gross turnover of all sales or of all purchases is—	
	(i) Rs. 50,000 or more, but less than Rs. 75,000	Rs. 50 per annum
	(ii) Rs. 75,000 or more, but less than Rs. 1,50,000	Rs. 150 per annum.
	(iii) Rs. 1,50,000 or more	Rs. 250 per annum.
9	Occupiers of factories as defined in the Factories Act, 1948 (LXIII of 1948), who are not dealers covered by entry 8. Such occupiers of factories—	
	(i) where not more than fifteen workers are working	Rs. 150 per annum.
	(ii) where more than fifteen workers are working	Rs. 250 per annum.
	[Explanation.—For the purposes of this entry and entry 10, the average number of workers or employees who were working or employed during the last preceding year shall be taken into consideration. This average number shall be arrived at by adding the average number of workers or employees who attended in each working month in that year and dividing the total by the number of such months.]	
10	Employers of establishments as defined in the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948), who are not dealers covered by entry 8.	
	Such employers of establishments—	
	(i) where there are no employees	Nil
	(ii) where not more than five employees are employed	Rs. 50 per annum.
	(iii) where more than five, but not more than ten employees are employed.	Rs. 150 per annum.
	(iv) where more than ten employees are employed	Rs. 250 per annum
11	Owners [or lessees] of oil pumps and service stations	Rs. 250 per annum
12	Licensed foreign liquor vendors and employers of residential hotels and theatres as defined in the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948).	Rs. 250 per annum
13	Holders of permits for transport vehicles granted under the Motor Vehicles Act, 1939 (IV of 1939), which are used or adapted to be used for hire or reward.	
	Where any such person holds permit or permits for any taxis, three wheeler goods vehicles, trucks or buses—	
	(i) in respect of each taxi or three wheeler goods vehicle	Rs. 50 per annum.
	(ii) in respect of each truck or bus	Rs. 100 per annum.
		Provided that, the total amount payable by the same holder shall not exceed Rs. 250 per annum.
14	Money-lenders licensed under the Bombay Money-lenders Act, 1946 (Bom. XXXI of 1947)—	
	(i) in Corporation areas	Rs. 250 per annum.
	(ii) in other areas in the State	Rs. 150 per annum.

¹ This Explanation was added by Mah. 21 of 1976, s. 13(b).

² These words were inserted, *ibid.*, s. 13(c).

SCHEDULE I—concl'd.

Serial No. 1	Class of persons 2	Rate of tax 3
15	Individuals or institutions conducting Chit Funds— Where the value of the security required to be lodged by them with the Registrar under section 13 of the Maharashtra Chit Funds Act, 1974 (Mah. LV of 1974) is— (i) Rs. 5,000 or more, but less than Rs. 25,000 (ii) Rs. 25,000 or more	Rs. 150 per annum. Rs. 250 per annum.
16	Co-operative societies registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961) and engaged in any professions, trades or callings— (i) State level societies (ii) Co-operative sugar factories and spinning mills (iii) District level societies	Rs. 250 per annum. Rs. 250 per annum. Rs. 150 per annum.
17	Banking companies as defined in the Banking Regulation Act, 1949 (X of 1949)— (i) Scheduled banks (ii) other banks	Rs. 250 per annum. Rs. 150 per annum.
18	Companies registered under the Companies Act, 1956 (I of 1956) and engaged in any professions, trades or callings.	Rs. 250 per annum.
19	Firms registered under the Indian Partnership Act, 1932 (IX of 1932) and engaged in any professions, trades or callings.	Rs. 150 per annum.
20	Persons, other than those mentioned in any of the preceding entries, who are engaged in any professions, trades, callings or employments and in respect of whom a notification is issued under the second proviso to section 3(2). II. Notwithstanding anything contained in this Schedule, where a person is covered by more than one entry in this Schedule the highest rate of tax specified under any of those entries shall be applicable in his case.	Rs. 150 per annum.

SCHEDULE II
(See section 28)

Serial No. 1	Short title and number of enactments 2	Amendments 3
1	The Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949).	In section 127, in sub-section (2),— (a) clause (b) shall be deleted ; (b) in clause (f), after the words " any other tax " the brackets and words " (not being a tax on professions, trades, callings and employments), " shall be inserted.
2	The City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950).	In section 114, in sub-section (2),— (a) clause (a) shall be deleted ; (b) in clause (g), after the words " any other tax " the brackets and words " (not being a tax on professions, trades, callings and employments), " shall be inserted.
3	The Bombay Village Panchayats Act, 1958 (Bom. III of 1959).	In section 124, sub-section (4) shall be deleted.
4	The Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962).	(a) In section 157, clause (a) shall be deleted. (b) Sections 163 and 164 shall be deleted.
5	The Maharashtra Municipalities Act, 1965 (Mah. XL of 1965).	(a) In section 105, in sub-section (1), clause (c) shall be deleted. (b) In section 108, in clause (i), after the words " any other tax " the brackets and words " (not being a tax on professions, trades, callings and employments), " shall be inserted.



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ३, अंक ५०] शुक्रवार, डिसेंबर ३०, २०११/पौष ९, शके १९३३ [पृष्ठे २, किंमत : रुपये १४

असाधारण क्रमांक १२९

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Land Revenue Code and the Maharashtra Restoration of Lands to Scheduled Tribes (Amendment) Act, 2010 (Maharashtra Act No. XLIII of 2011), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XLIII OF 2011.

(First published, after having received the assent of the President, in the "Maharashtra Government Gazette" on the 30th December 2011.)

An Act further to amend the Maharashtra Land Revenue Code, 1966 and the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974.

Mah. XLI of 1966. Mah. XIV of 1975. WHEREAS it is expedient further to amend the Maharashtra Land Revenue Code, 1966 and the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974, for the purposes hereinafter appearing ; it is hereby enacted in the Sixty-first Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Land Revenue Code and the Maharashtra Restoration of Lands to Scheduled Tribes (Amendment) Act, 2010. Short title and commencement.

(2) It shall be deemed to have come into force with effect from the 6th July 2004.

CHAPTER II

AMENDMENTS TO THE MAHARASHTRA LAND REVENUE CODE, 1966

- Amendment of section 36 of Mah. XLI of 1966. 2. In section 36 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as "the said Code"), in sub-section (3),—
- (a) for the words "within thirty years of such transfer of possession" the words, figures and letters "within thirty years from the 6th July 2004" shall be substituted;
- (b) in the first proviso, for the words "within thirty years of such commencement" the words, figures and letters "within thirty years from the 6th July 2004" shall be substituted.

- Amendment of section 36A of Mah. XLI of 1966. 3. In section 36A of the said Code, in sub-section (4), for the words "within thirty years from the date of the transfer of occupancy" the words, figures and letters "within thirty years from the 6th July 2004" shall be substituted.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA RESTORATION OF LANDS TO SCHEDULED TRIBES ACT, 1974

- Amendment of section 3 of Mah. XIV of 1975. 4. In section 3 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (hereinafter referred to as "the principal Act"), in sub-section (1), for the words "within thirty years from the commencement of this Act" the words, figures and letters "within thirty years from the 6th July 2004" shall be substituted.
- Amendment of section 4 of Mah. XIV of 1975. 5. In section 4 of the principal Act, for the words "within thirty years from the commencement of this Act" the words, figures and letters "within thirty years from the 6th July 2004" shall be substituted.