

## Bombay Prevention of Fragmentation and Consilidation of Holdings Act, 1947

### Chapter 5 - General

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#### <sup>1</sup> [34. Vesting of powers of Settlement Commissioner :

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

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1. Section 34 was substituted for the original by Mah. 19 of 1966 s. 10.
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#### Section 34A - Constitution of village committees

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#### <sup>1</sup> [34A. Constitution of village committees :

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

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

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1. Section 34A was inserted by Bom.61 of 1956s, 3(21),
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#### Section 35 - Power of State Government or Commissioner to call for proceedings

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#### 35. Power of <sup>1</sup> [State] Government <sup>2</sup> [or Commissioner] to call for proceedings :

The <sup>1</sup> [State] Government <sup>2</sup> [or the Commissioner] in respect of such matters as the State Government may by general or special order specify in this behalf may at any time for the purpose of satisfying itself <sup>2</sup> [or himself as the case may be,] as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it or <sup>3</sup> [he, as the case may be,] thinks fit:

<sup>3</sup> [Provided that no order shall be varied or revised until the parties interested have been given a reasonable opportunity of showing cause against the proposed variation or revision of the order.]

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1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
  2. Substituted in accordance with the entry added by G.N.R.D. No. 3558/43445-M, dated the 14th April, 1959 in Bom. 8 of 1958, Sch.
  3. This proviso was added by Bom.61 of 1958, s. 3(22).
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#### Section 36 - Appeal and revision

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

of this Act.

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## Section 36A - Bar of jurisdiction

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### **<sup>1</sup> [36A. Bar of jurisdiction :**

(1) No Civil Court or Mamlatdar's Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the State Government or any officer or authority.

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

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1. Sections 36A, 36B and 36C were inserted Mah. 19 of 1966 s. 14(b), 3(23).

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## Section 36B - Suits involving issues required to be decided under this Act

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

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

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## Section 36C - Indemnity

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

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## Section 37 - Rules

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### **37. Rules :**

(1) The <sup>1</sup> [State] Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

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

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

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

<sup>2</sup> [(cc) the manner of choosing bylot under clause (b) of sub-section (2) of section 8AA];

(d) the manner in which the intention to make a scheme shall be published <sup>3</sup> [\*\*\*] under section 15;

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

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

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

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

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

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

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

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

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

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

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

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

(m) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a <sup>11</sup> [\* \* \*] mortgage, debt or other encumbrance under sub-section (1) of section 29;

<sup>12</sup> [(n) the circumstances in which and the conditions subject to which holdings may be transferred or subdivided under sub-section (1) of section 31;]

<sup>13</sup> [(nn) the manner of publication of an order under section 31A;

(o) the manner of publication of a draft variation under sub-section (1) of section 32 <sup>14</sup> [or of a varied scheme under sub-section (3A) thereof;

<sup>15</sup> [(o-1) the period within which the amount of compensation shall be refunded under sub-section (1) of section 33-A;

<sup>16</sup> [(o-2) the notice to be given under section 33-B;

<sup>17</sup> [(oo) the manner in which village committees shall be constituted, and the duties and functions to be discharged by them, under section 34A;

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

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

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

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

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

<sup>18</sup> [(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the Official Gazette, of such decision, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule].

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

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

3. The words "and the manner of preparation of the scheme" were deleted, Bom. 61 of 1958, s. 3(24).

4. Clause (dd) was inserted, Bom. 61 of 1958, s. 3(24).

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

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

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

8.Clauses (h), (i) and (ii) weresubstituted for the original clause (h) and (i) Mah. 19 of 1966, s. 17(a)(ii),s. 17(a)(iii).

9.This was substituted for theword, brackets and figure "sub-section (4)" Mah. 19 of 1966, s. 17(a)(ii),s. 17(a)(iv).

10.Clause (11) was inserted by Mah.31 of 1964, s. 5(a).

11.The word "lease' was deletedby Bom. 69 of 1953, s. 13(2).

12.Clause (n) was substituted byMah. 41 of 1977, s. 4.

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

14.This portion was added ibid. s.7(3).

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

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

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

18.sub-section (4) was substitutedfor the original by Mah. 19 of 1966, s. 17(b).

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## Section 38 - Repeals and savings

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### <sup>1</sup> [38. Repeals and savings :

Onthe commencement of this Act in that part of the <sup>2</sup> [State of Bombay]to which it is extended by the Bombay Prevention of Fragmentation andConsolidation of Holdings (Extension and Amendment) Act, 1958, the followingprovisions shall be repealed, namely :-

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

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

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

Providedthat such repeal shall not affect,-

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

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

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

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

Providedfurther that subject to the preceding proviso anything done or any action taken(including any appointment or delegation made, notification, order or noticesissued, rule, regulation or form framed, scheme framed or confirmed, standardareas laid down, fixed or revised, transfer, or lease or fragment; valuationthereof, partition of an undivided estate, or entry in the record of rightsmade, amount of compensation determined, certificate granted, consolidatedholdings duly transferred, alienated or sub-divided) under any such repealedlaw shall be deemed to have been done or taken under the correspondingprovision of this Act, and shall continue to be in force accordingly, unlessand until superseded by anything done or any action taken under this Act.]

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1. Section 38 was added by Bom. 61of 1958, S. 3(25).

2. These words were substituted forthe word "State" by the Mah. Adaptation of Laws (State and ConcurrentSubjects) Order, 1960.

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