The Jammu and Kashmir Land Revenue Act, 1939

Act 12 of 1939

Keyword(s):
Estate, Land, Holding Land Holder, Holding, Rent, Land Revenue, Arrear of Land Revenue, Defaulter, Rates and Cesses, Revenue Officer, Agricultural Year, Incumbrance, Survey Mark

Amendment appended: 7 of 2002

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THE JAMMU AND KASHMIR LAND REVENUE ACT, 1996

(1939 A. D.)

Act No. XII of 1996

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THE JAMMU AND KASHMIR LAND REVENUE ACT, 1996 (1939 A. D.)

Act No. XII of 1996

[Received assent of His Highness the Maharaja Bahadur on 15th July, 1939/31st Har, 1996 and published in Government Gazette dated 29th Bhadon, 1996.

An Act to amend, consolidate and re-enact the Jammu and Kashmir Land Revenue Regulation No. 1 of 1980.

Preamble.—WHEREAS it is expedient to consolidate, amend and declare the law in force in the Jammu and Kashmir State with respect to the making and maintenance of records-of-rights in land, the assessment and collection of the land revenue and other matters relating to land and the liabilities incident thereto ; It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. **Title, extent and commencement.**—(1) This Aca may be called the Jammu and Kashmir Land Revenue Act, 1996.

(2) It extends to the whole of the Jammu and Kashmir State [1][x x].

(3) It shall come into force on publication in the Government Gazette in the prescribed manner.

2. **Repeal.**—From the date when this Act comes into force, (a) the Jammu and Kashmir Land Revenue Regulation, 1980, shall be repealed, and (b) all rules and orders previously issued regarding matters dealt with in this Act so far as they may be repugnant to it, shall be considered to to be repealed :

Provided that, all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, forms and leases granted, records-of-rights and other records farmed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed and other things done under any of such rules and orders, shall, so far as may be, be deemed to have been

1. Certain words deleted by Act X of 2010.

respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

3. **Definitions.**—In this Act, unless there is something repugnant in the subject or context,—

(1) "estate" means any area—

(a) for which a separate record-of-rights has been made ;

(b) which has been separately assessed to land revenue, or would have been so assessed if the land revenue had not been released, compounded for or redeemed ; or

(c) which the Government may, by general rule or special order, declare to be an estate ;

(2) "land" means land which is occupied or has been let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes the site of buildings and other structures situated in such land and trees standing on such land, as well as areas covered by or fields floating over water, and sites of **jandars** and **gharats** but does not include the sites of any building in a town or village **abadi** or any land appurtenant to such building or sites ;

(3) "land-holders" does not include a tenant or an assignee of land revenue, but does include land-owner, **chakdar,** and a person to whom a holding has been transferred or an estate or holding has been let in farm under this Act for the recovery of an arrear of land revenue, or of a sum recoverable as such arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate ;

(4) "holding" means a share or portion of an estate held by one land-holder or jointly by two or more land-holders ;

(5) "rent", "tenant", "landlord" and "tenancy" have the meanings respectively assigned to those words in the Jammu and Kashmir Tenancy Act, 1980 ;

(6) "land revenue" includes assigned land revenue and any sum payable in respect of land by way of quit rent or of commutation for service to the Government or to a person to whom the Government has assigned the right to receive the payment ;

(7) "arrear of land revenue" means land revenue which remains unpaid after the date on which it becomes payable ;

(8) "defaulter" means a person liable for an arrear of land revenue, and includes a person who is responsible as surety for the payment of the arrear [1][or is a lambardar or a public servant who recovers the land revenue ;]

(9) "rates and cesses" means rates and cesses which are primarily payable by land-holders and includes—

(a) any annual rate chargeable on holders of lands under section 56 of the Jammu and Kashmir State Canal and Drainage Act, 1963 ;

(b) the village officer's cesses ;

(c) the education and road cesses

(d) sums payable on account of village expenses ; and

(e) sanitation cess ;

(10) "village cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service, nor imposed by or under any enactment for the time being in force ;

(11) "village officer" means and includes [2][x x x x] [3][x x x] a lambardar, [4][x x x] ;

(12) "Revenue officer" in any provision of this Act means a Revenue officer having authority under this Act, to discharge the functions of a Revenue officer under that provision ;

(13) [5]["Muafidar"] includes any person, other than a village servant, to whom the land revenue of any land has been assigned in whole or in part by the Government ;

[6][(14) "agricultural year" means as regards the State except the districts of Ladakh and Gilgit, the year commencing on the 15th of August, and as regards the districts of Ladakh and Gilgit, the year commencing on the 15th of April] :

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1. Added by Act XV of 1972.
2. Words "a Zaildar" omitted by Act XXVIII of 1956.
3. Words a "Safedposh" omitted by Act II of 2005.
4. Words and a "Patwari" omitted by Act XV of 1972.
5. Substituted by Act XXI of 1957.
6. Clause 14 substituted by SRO-515 dated 30-12-1968.

Provided that, the Government may, by previous notification in the Government Gazette, alter this definition ;

(15) "notification" means a notification published in the official Gazette by authority of Government ;

(16) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract ;

(17) "survey-mark" includes boundary mark ;

(18) "date of a Regular Settlement" means, as regards any estate, the date on which the record-of-rights of that estate, prepared at such Settlement, was finally attested.

4. **Exclusion of certain land from operation of the Act.**—(1) Except so far as may be necessary for the record, recovery and administration of village cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land revenue.

(2) An assistant Collector of the first class may define for the purposes of this Act, the limits of any such land.

5. **Powers to vary limits and alter number of Tehsils, Districts and Provinces.**—The Government may, by notificatoin, vary the limits of the Tehsils, Districts and Provinces into which the territories administered by it are divided, and may, by notification, alter the number of those Tehsils, Districts and Provinces.

CHAPTER II

REVENUE OFFICERS

Classes and Powers

[1][6. **Classes of Revenue Officers.**—(1) There shall be the following classes of Revenue officers, namely :—

(a) the Financial Commissioner,
(b) the [2][Divisional Commissioner,]

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1. Section 6 substituted by Act XIII of 1956 (for earlier amendment see Act III of 2008.)
2. Substituted by Act XI of 1965.

(c) the Collector,
(d) the Assistant Collector of the first class,
(e) the Assistant Collector of the second class.

(2) The Deputy Commissioner of a district shall be the Collector thereof ; and an Assistant Commissioner and a Tehsildar shall be an Assistant Collector of the first class and a Naib Tehsildar an Assistant Collector of the second class.

(3) Unless the Government issues a notification to the contrary, the jurisdiction of the Financial Commissioner shall extend to the whole of the State and of 1[Divisional Commissioners] to the Provinces and of Collectors and Assistant Collectors to the Districts and Tehsils respectively in which they are employed.

(4) The Government may by notification confer on any person—

(a) all or any of the powers of a Financial Commissioner, 1[Divisional Commissioner] or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector may be invested thereunder ;
and may by notification withdraw any powers so conferred.

(5) A person on whom powers are conferred under sub-section (4) shall exercise these powers within such local limits and in such classes of cases as the Government may direct and, except as otherwise directed by the Government, shall, for all purposes connected with the exercise thereof, be declared to be a Financial Commissioner, 1[Divisional Commissioner], Collector or Assistant Collector, as the case may be.

2[(5-a) The Government may, by notification in the Government Gazette, confer on an Assistant Commissioner or Assistant Settlement Officer the powers of Collector and such Collector shall exercise those powers in respect of such cases under this Act or any other law for the time being in force as may be transferred to him by the Collector from time to time.]

(6) The 1[Divisional Commissioner] and the Collector, shall respectively include the Settlement Commissioner and Settlement Officer and the Assistant Collector of the first class shall include Assistant Settlement officer and the Settlement Tehsildar, and Assistant Collector of the second class shall include the Settlement Naib Tehsildar :

1. Substituted by Act XI of 1965.
2. Sub-section (5-a) inserted Act XIX of 1961.

Provided that, the jurisdiction of Settlement Commissioner, Settlement officers, Assistant Settlement officers, Settlement Tehsildars and Naib Tehsildars shall extend only to the tracts under settlement :

Provided further that, the officers other than those specified in the first proviso shall, unless otherwise directed by the Government, not exercise jurisdicion in regard to cases arising out of Settlement operations.]

17. Omitted.

8. **Control.**—(1) The general superintendence and control over all Revenue officers shall be vested with the Government.

2[(2) The 3[Divisional Commissioner,] the Collectors and Assistant Collectors shall be subordinate to and under the control of the Financial Commissioner.

(3) Subject to the control of the Financial Commissioner, the Collectors shall be subordinate to and under the control of a 3[Divisional Commissioner].

(4) Subject as aforesaid and to the control of the 3[Divisional Commissioner,] all other Revenue officers in his district shall be subordinate to and under the control of a Collector].

4[(5) Subject as aforesaid and to the control of Collector, an Assistant Collector of the second class shall be subordinate to and under the control of an Assistant Collector of the first class].

5[9. **Power to distribute business.**— (1) The Financial Commissioner, the 3[Divisional Commissioner] or the Collector may by order in writing distribute in such manner as he thinks fit any business cognizable by any Revenue officer under his control.

(2) All Revenue officers shall exercise the powers vested in them within the local limits of their jurisdiction. An Assistant Commissioner in a district and a Naib Tehsildar in a tehsil shall exercise jurisdiction within the whole of the district or tehsil, as the case may be, subject to such distribution as may be made by the Deputy Commissioner or Tehsildar, respectively.

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1. Section 7 omitted by Act III of 2008.
2. Sub-sections (2), (3) and (4) of section 8 substituted by Act XIII of 1956 (for earlier amendment see Act III of 2008).
3. Substituted Act XI of 1965.
4. Sub-section (5) of section 8 inserted XIII of 1956.
5. Sections 9 and 10 substituted ibid.

10. Power to withdraw and transfer cases.—The Financial Commissioner or a [1][Divisional Commissioner] or a Collector may withdraw any case pending before any Revenue officer under his control and either dispose of it himself, or by written order refer it for disposal to any other Revenue officer under his control].

[2][10-A. **Exercise of powers by Revenue officers.**—An order under section 9 or section 10 shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.]

Appeals

[3][11. **Appeals.**—Save as otherwise provided by this Act, an appeal shall lie from an original or appellate under of a Revenue officers as follows namely :—

(a) to the Collector when the order is made by an Assistant Collector of either class ;

(b) to the [1][Divisional Commissioner] when the order is made by a Collector ;

(c) to the Financial Commissioner when the order is made by a [1][Divisional Commissioner] :

Provided that,—

(1) where an original order is confirmed on first appeal, no further appeal shall lie except on the grounds mentioned in clauses (a), (b) and (c) of sub-section (I) of section 100 of the Code of Civil Procedure 1977 ;

(2) where any such order is modified or reversed on appeal by the Collector, the order made by the [1][Divisional Commissioner] on further appeal, if any, to him shall be final ;

(3) the Government may especially empower an Assistant Collector of the first class to hear appeals against the orders of an Assistant Collector of the second calss.]

12. Limitation for appeals, revisions and reviews.—(1) [4][Save as otherwise provided in this Act,] the period of limitation for an appeal under the last foregoing section shall be as follows :—

1. Substituted by Act XI of 1965.
2. Section 10-a by Act XIII of 1956.
3. Section 11 substituted ibid (for earlier amendment see Act III of 2008).
4. Inserted by Act XIII of 1956.

(a) when the appeal lies to the [1][Collector or an Assistant Collector of the first class] ... 60 days ;

(b) when the appeal lies to [2][x x] the [3][Financial Commissioner or [4][Divisional Commissioner.] 90 days ;

Provided that, in the Districts of Ladakh and Gilgit twice the ordinary period of limitation for appeals under this section shall be allowed.

(2) Such provisions of the Limitation Act as apply to appeals, applications for revision and review in civil suits shall also apply to appeals, applications for revision and review under this Act.

Review and Revision

513. **Review by Revenue Officers.**—(1) A Revenue officer may, either of his own motion or on the application of any party interested, review and on so reviewing modify, reverse or confirm, any order passed by himself or any of his predecessors in office :

Provided as follows :—

(a) when a [4][Divisional Commissioner] or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue officer of a class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue officer to whose control he is immediately subject ;

(b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue officer that he had sufficient cause for not making the application within that period ;

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order :

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1. Substituted for "Wazir-i-Wazarat" by Act III of 2008.
2. Words "the collector or the settlement officer or" omitted ibid.
3. Substituted for "Commissioner" by Act XIII of 1956.
4. Substituted by Act XI of 1965 "for Commissioner".
5. Section 13 substituted by Act XIII of 1956 (for earlier amendment see Act I of 2001).

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For purposes of this section, the Collector shall be deemed to be successor in office of any Revenue officer of a lower class who has left the district or has ceased to exercise powers as a Revenue officer and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing review or confirming on review a previous order.]

114. Omitted.

[2][15. **Power to revise orders.**—(1) The [3][Financial Commissioner] may at any time call for the record of any case pending before or disposed of by any Revenue officer under [4][his control.]

(2) The [5][Divisional Commissioner] may call for the record of any case pending before or disposed of by, any Revenue officer subordinate to him.

(3) If in any case in which, the [5][Divisional Commissioner] has called for a record he is of opinion that the proceedings taken or order made should be modified or revised he shall report that case with his opinion thereon for the orders of the [3][Financial Commissioner.]

[6][(4) The Financial Commissioner may, in any case called for by him under sub-section (1) or reported to him under sub-section (3), pass such order as he thinks fit :

Provided that, he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate officer affecting any question of right between private persons without giving those persons an opportunity of being heard.]

15-A. **Power of Revenue officer to summon persons.**—(1) A Revenue officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue officer.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons so allows, by his recognised agent or by a legal practitioner holding authortiy granted by the High Court to appear and act in Civil Courts.

1. Section 14 repealed by Act XIII of 2008 (for earlier amendment see Act I of 2000.)
2. Section 15 substituted **ibid** (for earlier amendment see Act I of 2000.)
3. Substituted by Act XIII of 1956 for "Government".
4. Substituted **ibid** for "its control".
5. Substituted by Act XI of 1965 "for Commissioner".
6. Sub-section 4 of section 15 substituted by Act XIII of 1956.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue officer may require.

15-B. **Mode of service of summons.**—(1) A summons issued by a Revenue officer shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him, (b) on his recognsied agent, or (c) on an adult male member of his family usually residing with him.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed or if that person does not reside in the district in which the Revenue officer is employed, and the case to which the summons relates has reference to land in that District, then by posting a copy of the summons on some conspicuous place in or near the estate wherein land is situate.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue officer nominates in this behalf, and by proclamation of the contents thereof for the information of the other persons interested .

(4) **India Act VI of 1898.**—A summons may, if the Revenue officer so directs, be served on the person named therein, either in addition to or in substitution for any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under the Indian Post Office Act, 1898.

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

15-C. **Mode of service of notice, order or proclamation or copy thereof.**—A notice, order or proclamation or copy of any such document issued by a Revenue officer for service on any person shall be served in the manner provided in the last forgoing section for the service of a summons.

15-D. **Mode of making proclamation.**—When a porclamation relating to any land is issued by a Revenue officer, it shall in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum, or other customary method and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

16. **Persons by whom appearances and applications may be made before and to Revenue officers.**—(1- Appearances before a Revenue officer and applications to and acts to be done before him under this Act, may be made or done—

(a) by parties themselves, or

(b) by persons holding general or special powers of attorney on behalf of such party, or

(c) by any class of legal practitioners holding authority granted by the High Court to appear and act in Civil Courts

Provided that, any Revenue officer may, in any case for reasons to be recorded by him, require the personal attendance of any party :

Provided also that, no **pardah-nashin** lady or person who is exempted from personal appearance in a Civil Court shall be required to appear in person :

[1] [Provided further that when the Financial Commissioner or the Settlement Commissioner is holding office in a Province other than the one to which an appeal, review or revision pertains, such appeal, review or revision may be presented before a local Revenue Officer of the highest rank at the station for transmission to Financial Commissioner or the Settlement Commissioner, as the case may be.]

[2] [(d) by such class of retired Revenue officer not below the rank of a Tehsildar who has functioned as such for a period of not less than ten years, and is conversant with laws relating to the Revenue Department holding license issued by such authority, in such manner, subject to such conditions and on payment of such fees as may be prescribed by rules made by the Government.]

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1. Third Proviso to section 16 added by Act XXI of 1957.
2. Inserted by Act XVI of 1973 S-2.

Supplementary Provisions

17. **Place of sitting.**—A Revenue officer may for exercising his powers under this Act sit at any place within the local limits of his jurisdiction.

18. **Holidays.**—Any proceeding of a Revenue officer held on a day declared to be a holiday shall not be invalid by reason only of the fact that it was held on such day.

19. **Retention of powers by Revenue officer on transfer.**—When a Revenue officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Government otherwise directs.

[1][x x x x x x]

[2][19-A. **Power to refer for enquiry and report.**—A Revenue officer may refer a case which he is empowered to dispose of under this Act to another Revenue officer subordinate to him for enquiry and report, and may decide the case upon such enquiry and report.]

[3][CHAPTER III—REPEALED]

CHAPTER IV

Records-of-rights and Annual Records.

21. **Record-of-rights and documents included therein.**—(1) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

(2) The record-of-rights for an estate shall inculde the following documents, namely :—

(a) statements showing, so far as may be practicable—

(i) the persons who are land-holders, tenants or assignees of land revenue in the estate, or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein :

1. Proviso to section 19 deleted by Act III of 2008.
2. Section 19-A inserted by Act XII of 2005.
3. Section 20 repealed by section 7 of Jammu and Kashmir Lambardari Act 1972 (Act X of 1972) w.e.f. 1-5-1973.

(ii) the nature and extent of the interests of those persons ; and the conditions and liabilities attaching thereto ; and

(iii) the rent, land revenue, rates, cesses or other payments due from and to each of those persons and to the State ;

(b) a statement of customs respecting rights and liabilities in the estate ;

(c) a map of the estate ;

(d) such other documents as the [1][Financial Commissioner with the previous sanction of the Government] may prescribe.

[2][EXPLANATION.—Record-of-rights mentioned above includes record-of-rights and the map prepared and transferred under the provisions of the Jammu and Kashmir Consolidation of Holdings Act, 1962.]

22. Making of special revision of record-of-right.—(1) Where it appears to the Government that a record-of-rights for an estate does not exist or that the existing record-of-rights for an estate requires revision, it may by a notification direct that a record-of-rights he made or that the record-of-rights be revised, as the case may be.

(2) The notification may direct that the record-of-rights may be made or specially revised for all or any estate in any local area.

(3) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the State which has already arisen from any previous record-of-rights.

23. **Annual record.**—(1) The Collector shall cause to be prepared by the patwari of each estate annually or at such other intervals as the [1][Financial Commissioner with the previous sanction of the Government] may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter.

(2) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (2), clause (a) of section 21, and such other documents, if any, as the [1][Financial Commissioner with the previous sanction of the Government] may prescribe.

1. Substituted by Act XIII of 1956 for "Government".
2. Explanation under section 21 added by Act XV of 1972.

(3) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwari of each estate a register of mutations and such other registers as the [1][Financial Commissioner with the previous sanction of the Government] may prescribe.

Procedure for making Records.

24. **Making of that part of the annual record which relates to land-holders, assignees of revenue and occupancy tenants.**—(1) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a land-holder, [2][an occupancy tenant or a protected tenant,] shall report such acquisition to the patwari of the estate.

(2) If the person acquiring such right is a minor or otherwise disqualified, his guardian or other person having charge of his property or, if there is no property in his possession, of his person shall make such report to the patwari.

(3) The patwari shall enter in his register of mutations every such report and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under this section and has not been so made.

(4) A Revenue officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which under the foregoing sub-sections, report should have been made to the patwari and an entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired :

[3][Provided that the Government may by rules curtail, limit or restrict the power of any Revenue Officer or class of Revenue Officers to inquire into and dispose of any such case or class of cases.]

(5) Such an entry shall be made by the insertion in that record of a description of the right acquired, and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

(6) In cases of acquisitions of the rights of assignees of land revenue mutation shall be made in accordance with the final orders of competent authority.

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1. Substituted by Act XIII of 1956 for "Government".
2. Substituted by Act XXI of 1957.
3. Proviso to sub-section 4 added by Act XXXVIII of 1962.

Rs. a. p.

25. **Making of that part of the annual record which relates to other persons.**—The acquisition of any interest in land other than a right referred to in sub-section (1) of the last foregoing section shall—

(a) if it is undisputed, be recorded by the patwari in such manner as the Government may by rules in this behalf prescribe ; and

(b) if it is disputed, be entered by the patwari in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of the last foregoing section.

26. **Determination of disputes.**—If during the making, revision or preparation of any record or in the course of any inquiry under this Chapter, a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue officer may of his own motion, or on the application of any party interested but subject to the provisions of the next following section, and after such inquiry as he thinks fit including such summary enquiry into title as may be necessary, determine the entry to be made as to that matter :

[1][Provided that the Government may by rules curtail, limit or restrict the power of any Revenue Officer or class of Revenue Officers to inquire into and dispose of any such case or class of cases.]

(2) The final order passed by the Revenue officer declaring who is the party best entitled to the property shall be subject to any decree or order which may be subsequently passed by any Civil Court of competent jurisdiction.

27. **Restriction on variation of entries in records.**—Entries in records-of-rights or in annual records, except entries made in annual records by patwaries under clause (a) of section 25 with respect to undisputed acquisitions of interests referred to in that section, shall not be varied in subsequent records otherwise than by—

[2][(a) making entries in accordance with facts proved or admitted to have occurred :

Provided that, no such change in record-of-rights shall be affected without the order of the Government or any officer authorised by the Government in this behalf ;]

(b) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on these parties ;

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1. Proviso to sub-section (1) inserted by Act XXXVIII of 1962.
2. Substituted by Act IX of 2004 for original clause (a).

(c) making new maps where it is necessary to make them.

28. **Mutation fees.**—(1) The Government may fix a scale of fees for making all or any classes of entries in any record or register under this Chapter and for grant of copies of any such entries.

[1][(2) A fee in respect of any entry shall be payable (i) by the person who wants that an entry shall be made in his favour whether ultimately it is made in his favour or not, or (ii) by the person in whose favour the entry is made.]

29. **Penalty for neglect to report acquisition of any right referred to in section 24.**—Any person neglecting to make the report required by section 24 within three months from the date of his acquisition of a right referred to in that section shall be liable by order of an Assistant Collector of the Ist class, to a fine not exceeding five times the amount of the fee, which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

30. **Obligation to furnish information necessary for the preparation of record.**—Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue officer or village officer engaged in compiling the record, all information necessary for the correct compilation thereof

31. **Presumption in favour of entries in records-of-rights and annual records.**—Any entry made in record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with provision of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved.

32. **Suit for declaratory decree by person aggrieved by an entry in a record.**—(1) If any person considers himself aggrieved by an entry in a record-of-rights [2][he may institute a suit before the Collector (Deputy Commissioner)] for the correction of the record, and for possession of the right claimed if he is not in possession thereof, within one year (2) years in the case of Frontier Districts of Gilgit and Ladakh) from the date of publication of the record of the distribution of the assessment under section 49. sub-section (1).

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1. Sub-section (2) of section 28 substituted by Act II of 2007.
2. Substituted by Act XV of 1972 for "he may institute a suit".

(2) If any person considers himself aggrieved by an entry in an annual record, [1][he may institute suit a before the Collector (Deputy Commissioner),] within the period prescribed by the Limitation Act No. IX of 1995 for correction of the record and for possession of the right claimed if he is not in possession thereof, or for declaration of his right if he is in possession thereof :

Provided that, nothing in this sub-section shall entitle any person to bring a suit for the correction of the record-of-rights of a preceding Settlement after the period prescribed for such suit in sub-section (1) has expired.

(3) Nothing in this section shall be a bar to a suit by a tenant, to contest his liability to ejectment on the ground that he is an occupancy tenant under sections [2][7-A (1) and 50 (7)] of the Jammu and Kashmir Tenancy Act, 1980.

Supplemental Provisions.

33. **Power to make rules respecting records and other matters connected therewith.**—The Government may make rules—

(a) prescribing the language and script in which records and registers under this Chapter are to be made ;

(b) prescribing the form of those records and registers and the manner in which they are to be prepared, signed and attested ;

(c) for the survey of land so far as may be necessary for the preparation and correction of those records and registers ;

(d) for the conduct of inquiries by Revenue officers under this Chapter ;

(e) regulating the procedure of Revenue officers under this Act in cases for which a procedure is not prescribed by this Act ; and

(f) generally for the guidance of Revenue officers and village officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

1. Substituted by Act XV of 1972 for "he may institute a suit".
2. Substituted by Act II of 2007 for "5(1) and 50(7)".

34. **Records-of-rights and annual records for groups of estates.**— (1) The [1][Financial Commissioner] may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates.

(2) The provisions of this Chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates.

CHAPTER V

RESERVATION OF RIGHTS OF THE GOVERNMENT AND PROVISIONS RELATING TO ROYAL AND RESERVED TREES

[2][35. **Right of the Government in mines and minerals.**—The rights to mines, minerals, minor minerals and quarries shall vest in the Government and the Government shall have all powers necessary for the proper enjoyment of such rights.

EXPLANATION.—For purposes of this section 'minor minerals' mean the minor minerals in respect of which the State Government is empowered to make rules under section 15 of the Mines and Minerals (Regulation and Development) Act, 1957.]

[3][35-A. **Trees on Khalsa land.** (1) No person shall fell any tree standing on Khalsa (Government) land or cut branches thereof, or remove, sell or convert the wood or timber of any such tree to his own use otherwise than in accordance with the rules made by the Government or any officer empowered by the Government in that behalf.

(2) Nothing contained in sub-section (1) shall debar a person from removing leaves of such trees for agricultural purposes and purposes subservient to agriculture.]

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1. Substituted by Act XIII of 1956 for "Commissioner".
2. Section 35 substituted by Act XXIX of 1978 S-2.
3. Section 35-A inserted by Act XIX of 2003.

36. **Provision relating to royal and reserved trees. Rights of the Government in royal trees.**—All trees of the following descriptions, namely :—

English name	Botanical name	Local names
In the Provinces of Jammu and Kashmir		
Decdar ..	Cedrus Libani ,Var, Deodara ..	Deodar, Diar
Chil pine ..	Pinus Longifolia ..	Chil, Chir.
Blue pine	Pinus Excelsa ..	Kairu, Biar, Kail. Kachir.
Edible pine ..	Pinus Gerardiana ..	Chilghoza, Iri.
Fir ..	Abies Pindrow ..	Rewar, Budlu, Rai Rayal, Tung sararn
Spruce ..	Picea Morinda ..	Kachai, Kachhlu. Tos, Riar.
Himalayan Cypress ..	Cuprescus Torulosa ..	Padam.
Pencil Cedar ..	Juniperus Macropoda	Shelai' Chheali Padam, Dhua.
Chenar ..	Platanus Orientalis ..	Chenar, Buin.
Box ..	Buxus Sumpervirens	Chikri.
In the District of Ladakh		
Blue pine ..	Pinus Excelsa ..	Thangshing-
Chenar ..	Platanus Orientalis ..	Shingyel
In the District of Gilgat		
Blue pine ..	Pinus Excelsa ..	Chi
Fir ..	Abies Pindrow ..	Rai.
Spruce ..	Picea Morinda ..	Kathal.
Chenar ..	Platanus Orientalis	Buch.

shall be deemed to be royal trees. They, even when standing on private land, cannot be cut, or removed except in accordance with the rules framed by the Government in this behalf.

37. **Reserved trees.**—(1) All trees of the following descriptions, namely :—

English name,	Botanical name	Local names.
In the Province of Jammu		
Mulberry	Morussp	Tut.
In the Province ef Kashmir except Muzaffarabad and Karnah Tehsils.		
Mulberry	Morusp	Tul kul,Tut.

shall be deemed to be reserved trees.

The Government may, by notification, order that trees of any description specified in such notification shall be deemed to be reserved trees in any local areas specified therein.

(2) Reserved trees, although standing on private land, shall not be sold or converted by any person to his own use otherwise than in accordance with a general or special order of the Government or of an officer empowered by the Government in this behalf, under the rules in force for the time being.

38. **Penalties.**—A person proved to the satisfaction of an Assistant Collector not below the rank of a Tehsildar to have done any act [1][prohibited by section 35-A 36 or 37] shall be liable to a fine which may extend to [2][rupees five hundred and the wood of the trees so felled from State or private land shall be confiscated] and shall also be liable to make good to the State any loss or damage caused by such act :

Provided that, a person who has been fined under this section shall not be prosecuted under the Criminal Law for the same act and a person who has been punished under the Criminal Law for any act [1][prohibited by section 35-A, 36 or 37] shall not be liable to a fine under this section.

Such loss or damage shall be assessed by the Assistant Collector and the amount may be recovered from the person held liable as if the same were arrears of the land revenue.

1. Substituted by Act XIX of 2003 for "prohibited by sections 36 or 37".
2. Substituted by Act XI of 1965 for "Rs. 50".

Presumption as to Ownership of Forest and Waste Lands

39. Presumption as to ownership of forest and waste lands.— When in any record-of-rights it is not expressly provided that any forest, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the land-holders it shall be presumed to belong to the State.

Compensation for Infringement of the Rights of any person

40. Compensation for infrigement of rights of third parties in exercise of a right of the State.—(1) Whenever in the exercise of any right of the Government referred to in section 35, the rights of any person are infringed by the occuption or disturbance of the surface of any land, the Government shall pay, or cause to be paid to that person compensation for the infringement.

(2) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act for the time being in force.

CHAPTER VI

ASSESSMENT

41. Assessment of land revenue.—(1) All land to whatever purpose applied and wherever situate is liable to the payment of land revenue to the Government, except such land as has been wholly exempted from that liability by the provisions of any law for the time being in force.

(2) Land revenue shall be assessed in cash or in kind, or partly in cash and partly in kind as the Government may direct.

(3) Land may be assessed to the land revenue notwithstanding that revenue, by reason of its having been assigned, released, compounded for or redeemed, is not payable to the Government.

[1][41-A. **Surcharge.**—There [2][shall be levied and paid to] the Government a surcharge at the rate of Rs. 2 per Kanal on the land used for—

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1. Section 41-A added by Act XXVL of 1967.
2. Substituted by Act VI of 1970 for "shall be levied for and paid to".

(a) cultivation of saffron ; or

(b) production of fruit or fruit plants ; or

(c) production of vegetables or vegetable seeds :

[1][Provided that no surcharge shall be levied on the land—

(a) used for production of vegetables not exceeding one kanal in area ;

(b) used for production of potatoes in Marew—Warhwan, Paddar area of Kishtwar Tehsil in Doda District, and in Gurez Niabat of Tehsil Bandipore of Baramulla District ;

(c) under fruit trees not bearing fruit so long as such fruit trees do not bear fruit ;] and

[2][(d) used for production of saffron during the period bulbs stop to yield any crop or the land is lying fallow.]

General Assessments

42. **Notification of intended re-assessment and instructions as to principles of assessment.**—(1) A general assessment of the land revenue of any area shall not be undertaken without the previous sanction of the Government, and notification of that sanction.

(2) In granting the sanction, the Government may prescribe such principles of assessment and give such other instructions as it thinks fit.

43. **Sanction to proposed assessment and its duration.**—[3][(1) The assessment shall be made by a Settlement Officer.]

(2) Before making such assessment the Settlement Officer shall report his proposed method and the approximate amount thereof for the sanction of the Government in such form as it may prescribe.

(3) The Government shall when sanctioning the proposed method under sub-section (2) fix the period for which the assessment is to be in force.

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1. Proviso to section 41-A inserted by Act VI of 1970.
2. Clause (d) added by Act XV of 1972.
3. Section 43 (1) substituted by Act XIII of 1956 (for earlier amendment see Act III of 2008.)

44. **Announcement of assessment.**—(1) When the Settlement Officer has obtained the sanction of the Government to his proposed method of assessment he shall make an order determining the assessment for each estate and shall issue a notice summoing the headmen and other persons interested to attend at a place and on a date to be specified in the notice for announcement of the assessment.

(2) On the date and the place so appointed the Settlement Officer or with the previous sanction of the 1[Settlement Commissioner] any Assistant Collector subordinate to the Settlement Officer shall announce the assessment to the headmen and other persons who have attended pursuant to the notice and if they so desire, he shall give them a memorandum showing the particulars of the assessment.

(3) At the time of announcing the assessment the Settlement Officer or his subordinate officer making the announcement shall also declare the date from which it is to take effect, and, subject to the other provisions of this Act, it shall take effect accordingly.

45. **Application for reconsideration of assessment.**—(1) The landholder may, within thirty days from the date of the announcement of the assessment, present a petition to the Settlement Officer for a reconsideration of the amount, form or conditions of the assessment.

(2) Where the land revenue is assigned the assignee thereof may, within thirty days from the date, present a like petition to the Settlement Officer.

(3) The order passed by the Settlement Officer on the petition shall set forth his reasons for granting or refusing it.

(4) After consideration of the petition under this section, if any, the Settlement Officer shall submit a report that an assessment announced by him or any officer subordinate to him together with his order on such application to the 1[Settlement Commissioner] who shall subject to the sanction of the Government approve or modify the assessment.

46. **Confirmation of assessment.**—An assessment of the land revenue of an area shall not be considered final until it has been confirmed by the Government.

1. Substituted by Act XIII of 1956 for "Commissioner".

47. **Assessment to remain in force till new assessment takes effect.**—Notwithstanding the expiration of the period fixed for the continuance of an assessment under sub-section (3) of section 43, the assessment shall remain in force till a new assessment takes effect.

48. **Refusal to be liable for assessment and consequences thereof.**—(1) At any time within ninety days from the date of the announcement of an assessment the land holder or, where there are more land holders than one, any of them who would be individually or collectively liable for more than half the sum assessed, may give notice to the Settlement Officer of refusal to be liable for the assessment.

(2) When the Settlement Officer receives a notice under sub-section (1) the Collector may take possession of the estate and deal with it, as nearly as may be, as if the annulment of assessment thereof had been ordered as a process for the recovery of an arrear of land revenue due thereon.

(3) While the estate is in the possession of the Collector, the land-holder or land holders shall be entitled to receive from the State an allowance, to be fixed by the [1][Divisional Commissioner,] which shall not be less than five or more than ten per cent of the net income realized by the Collector from the estate.

49. **Distribution of the assessment on an estate over the holdings comprised therein.**—(1) If the assessment announced under section 44 is in whole or in part a fixed assessment of an estate for a term of years, the Settlement Officer shall, before the date on which the first instalment thereof becomes payable, make an order distributing over the several holdings comprised in the estate and make and publish a record of the distribution.

(2) The Settlement Officer may, for sufficient reasons, make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(3) If the assessment announced under section 44 is in the form of rates chargeable according to the results of each year or harvest, the Settlement Officer shall, from year to year or from harvest to harvest as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land revenue falls due, a record of the amount payable in respect of each holding.

1. Substituted by Act XI of 1956 for "Commissioner".

(4) The Government may make rules for the guidance of Settlement Officer in making, publishing and revising record under this section.

50. **Application for amendment of the distribution of an assessment.**—(1) Any person affected by a record made under sub-section (i) or sub-section (3) of the last foregoing section or by the revision of a record under sub-section (2) of that section may, within thirty days from the date of pubication of the record, present a petition to the Settlement Officer for a reconsideration of the record so far as it affects him.

(2) The order passed by the Settlement Officer on the petition shall set forth his reasons for granting or refusing it.

51. **After settlement collector or assistant collector to discharge duties Settlement Officer.**—When the Settlement or the revision of a Settlement operation comes to an end, any matter relating to the same that may require disposal or any action required or permitted to be taken by a Settlement Officer will be disposed of or taken by the Collector or such Assistant Collector of the first class subordinate to him as he may designate for the purpose.

52. **Special assessments.**—(1) Special assessments may be made by an Assistant Collector of the first class in the following cases namely :—

(a) when land not previously irrigated is made irrigable by any work carried out wholly or partially at the expense of the Government or with the permission of the Government at the expense of an Illaqadar or a Jagirdar ;

(b) when land revenue which has been released or assigned is resumed ;

(c) when waste-lands are sold, leased or granted by the Government ;

(d) when the assessment of any land has been annulled or the land-holder has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired ;

(e) when assessments of land revenue require revision in consequence of the action of water or sand or any calamity 1 [or the charging of a water rate on land irrigated by a canal under the Canal and Drainage Act, Svt. 1963] or from any other cause ;

(f) When revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 35 or section 39 has not been included in an assessment made under the foregoing provisions of this Chapter.

(2) The Government may make rules for the guidance of Revenue officers in making special asesssments, any may confirm such assessments.

(3) The foregoing provisions of this Chapter with respect to general assessments shall subject to such modification thereof as the Government may prescribe by rules under the last foregoing sub-section, regulate the procedure of Assistant Collectors of the first class making special assessments.

53. **Formation of State forests from excess waste land.**—When in the opinion of a Settlement Officer or any Assistant Collector of the first class empowered in this behalf by a general or special order of the Government, the waste land included in or adjoining an estate is so extensive as to exceed the reasonable requirements of the land-holders of the estate with reference to past urage or extention of cultivation or otherwise, the Settlement Officer or such Assistant Collector may at any time cause the excess area to be demarcated as a State forest in accordance with the Forest Demarcation Rules in force, at the time, on such conditions, as to payment of compensation or otherwise, as the Government may direct :

Provided that, no compensation shall be payable to any person solely on account of the formation of a State forest from waste land owned by the State.

CHAPTER VII

COLLECTION OF LAND REVENUE

54. **Security for payment of land revenue.**—(1) In the case of every estate, the entire estate and the land-holder or, if there are more than one, the land-holders, jointly and severally, shall be liable for the land revenue for the time being assessed on the estate ;

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1. Added by Act XVII of 1960.

Provided that, the Government may by notification declare that in any estate a holding or it holder shall not be liable for any part of the land revenue for the time being assessed on the estate except that part which is payable in respect of the holding.

(2) When there are superior and inferior land-holders in the same estate or in the same holding, the inferior land holders shall, in the absence of any special order of the Government to the contrary, be liable for the assessment.

(3) A notification under the proviso to sub-section (1) may have reference to any single estate or to any class of estate or estates generally in any local area.

[1][54-A. **Exemption from payment of land revenue.**—(1) Notwithstanding anything contained in this Act, a land-holder shall be exempt from payment of land revenue where the amount of the land revenue assessed on his holdings, whether such holdings are in one or more estates, does not exceed nine rupees :

Provided that such land-holder furnishes particulars of his holdings in such form and manner and to such authority as may be prescribed.

(2) Nothing in sub-section (i) shall entitle any land-holder to claim exemption in respect of land revenue assessed on any holding or part thereof which is used for—

(a) cultivation of saffron : or
(b) production of fruit or fruit plants ; or
(c) production of vegetables or vegetable seeds.

(3) No estate, holding or land-holder shall be liable for any part of land revenue assessed under this Act which but for the provisions of sub-section (1) was payable under this Act.]

55. **Further security for payment of land revenue.**—(1) The land revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof.

(2) The rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land revenue chargeable against the rents, profits or produce, and any arrear of land revenue due in respect of the estate or holding, have been paid.

1. Section 54-A added by Act XXVL of 1967

56. **Orders to regulate payment of land revenue.**—(i) Notwithstanding anything in any record-of-rights, the Government may fix the number and amount of the instalments and the times places and manner, by, at and in which land revenue is to be paid.

(2) Until the Government otherwise directs, land revenue shall be payable by the instalments, at the times and places and in the manner, by, at and in which it is payable at the commencement of this Act :

57. **Rules to regulate collection, remission and suspension of land revenue.**—[1][(1) The Government may make rules—

(a) regulating the collection, remission and suspension of land revenue and surcharge payable under this Act and may by those rules determine the circumstances and terms in and on which assigned land revenue may be collected by the assignee ;

(b) prescribing the form and manner in which and the authority to which the particulars mentioned in sub-section (1) of section 54-A shall be furnished.]

(2) Where land revenue due to an assignee is collected by a Revenue officer, there shall be deducted from the sum collected an amount of two per cent of such sum on account of the cost of collection :

Provided that, land revenue payable in kind to an assignee shall not be collected by a Revenue Officer.

(3) A suit for an arrear of assigned land revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the [2][Collector] specially authorising the institution of the suit.

58. **Insterest chargeable on arrear accrued more than six months, such interest and cost of any process, recoverable as part of arrear.**—(1) the [3][Financial Commissioner] may by special order in each case, direct that an arrear of land revenue shall be chargeable with interest at the rate of 9 per cent per annum, and such interest shall be recoverable as part of the arrear :

Provided that, no interest shall be charged on any arrear until a period of six months has elapsed since the arrear accrued.

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1. Section 57 (1) substituted by Act XXVL of 1967.
2. Substituted by Act III of 2008 for "Wazir-i-Wazarat".
3. Substituted by Act XIII of 1956 for "Commissioner".

(2) The cost of any process issued under this Chapter shall be recoverable as part of the arrear of land revenue in respect if which the process was issued.

59. **Certified account to be evidence as to arrear.**—A statement of account certified by a Revenue officer shall be conclusive proof of the existence of an arrear of land revenue, of its amount and of the person who is the defaulter.

60. **Recovery of public demands by enforcement of process in other districts than those in which they become payable.**—(1) Where an arrear of land revenue or a sum recoverable as an arrear of land revenue is payable by a person residing or having property in a district other than that in which the arrear accrued or the sum is payable, the 1[Collector] of the District in which the arrear accrued or the sum is payable, may send to the 1[Collector] of that other district a certificate stating—

(a) the name of the defaulter and such other particulars as may be necessary for his identification ; and

(b) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the 1[Collector] making it and shall be conclusive proof of the matters therein stated.

(3) The 1[Collector] of the other district shall on receiving the certificate proceed to recover the amount stated therein, as if it were an arrear of land revenue which has accrued in his own district.

61. **Process for recovery of arrears.**—Subject to the other provisions of this Act an arrear of land revenue may be recovered by any one or more of the following processes, namely :

(a) by service of a writ of demand on the defaulter :

(b) by arrest and detention of his person :

(c) by distress and sale of his movable property and uncut or ungathered crops :

(d) by transfer of the holding in respect of which the arrear is due ;

1. Substituted by Act III of 2008 for "Wazir-i-Wazarat".

(e) by attachment of the estate or holding in respect of which the arrear is due ;

(f) by annulment of assessment of that estate or holding ;

(g) by sale of that estate or holding ;

(h) by proceedings against other immovable property of the defaulter.

62. **Writ of demand.**—A writ of demand may be issued by a Revenue officer on or after the day following that on which an arrear of land revenue accrues.

63. **Arrest and detention of defaulter.**—(1) At any time after an arrear of land revenue has accrued a Revenue officer not below the rank of Tehsildar may issue a warrant directing [1][any public servant] to arrest the defaulter and bring him before the Revenue officer.

[2][(2) When the defaulter is brought before the Revenue officer, the Revenue officer may cause him to be taken before the collector or may order that he be confined to Civil Jail or if no Civil Jail exists in his jurisdiction in the local Judicial lock-up, for a period not exceeding six days and then if the arrear is still unpaid cause him to be taken before Collector.]

(3) When the defaulter is brought before the [1][Collector,] the [3][Collector] may issue an order to the officer incharge of the civil jail of the district directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the [3][Collector] thinks fit. The [3][Collector] shall without dealy report his order under this sub-section to the [4][Divisional Commissioner] for his information.

(4) If a Tehsildar keeps under detention, for a period exceeding 24 hours, a defaulter arrested under sub-section (1), he shall without delay report this action for the information of the [3][Collector] and the [3][Collector] may take such action on the report as he thinks fit.

1. Substituted by Act XVI of 1973 S-3.
2. Sub-section (2) substituted **ibid.**
3. Substituted by Act III of 2008 for "Wazir-i-Wazarat".
4. Substituted by Act XI of 1956 for "Commissioner".

(5) No defaulter shall be arrested or detained under this section for an arrear, unless it is due from himself [1][either personally or as a village headman]; or as a public servant having received amount of land revenue dues for credit into Government treasury having received or as a publlic servant amount of land revenue dues for credit into Government Treasury nor shall any defaulter be arrested or detained for an arrear which accrued before he came into the possession of the land for which the arrear is due, or, if the arrear is due from him as village headman, which accrued before he received that office.

(6) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot.

(7) So long as the defaulter is detained in jail under this section no other process for collection of land revenue due from him shall be enforced.

[2][(8) Every Police Officer shall help and afford assistance to the Revenue Officer in the exercise of his lawful authority.]

64. **Distress and sale of movable property and crops.**—(1) At any time after an arrear of land revenue has accrued, the movable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue officer, not below the rank of [3][Tehsildar.]

(2) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of movable property under the decree of a Civil Court :

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the [3][Tehsildar] thinks necessary for seed grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

65. **Transfer of holding.**—(1) At any time after an arrear of land revenue has accrued on a holding the Collector may, after a notice to the defaulter, transfer the holding to any person being a land-holder of the estate in which the holding is situate and not being a defaulter in respect of his holding on condition of his paying the arrear before being put in possession of the holding, and on such further condition as the Collector may see fit to prescribe.

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1. Substituted by Act XV of 1972 for "either personally or as village headman".
2. Added by Act XV of 1973 S-3.
3. Substituted ibid for "Collector".

(2) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer, but not exceeding the term of the Settlement then current.

(3) The Collector shall report to the [1][Divisional Commissioner] any transfer made by him under this section and the [1][Divisional Commissioner] may set aside the transfer or alter the conditions thereof or pass such other order as he thinks fit.

(4) A transfer under this section shall not affect the joint and several liability of the land-holders of the estate in which it is enforced, where such liability exists under the provisions of section 54 of this Act.

(5) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(6) When the transfer is for a term, the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the Government or of the transferee for any arrear of land revenue or rates and cesses due in respect thereof.

66. **Attachment of estate or holding.**—(1) At any time after an arrear of land revenue has accrued, the Collector [2][x x x] may cause the estate or holding in respect to which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose.

[3][The Collector attaching an estate or holding under this subsection shall forthwith report the case for the information of the [1][Divisional Commissioner] and the [1][Divisional Commissioner] may pass such orders on the report as he thinks proper.

(2) The [1][Divisional Commissioner] or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of the defaulter until the arrear has been satisfied or until the [1][Divisional Commissioner] restores the land to the defaulter.

1. Substituted by Act XI of 1956 for "Commissioner".
2. Words "or Wazir-i-Wazarat" omitted by Act III of 2008.
3. Substituted by Act III of 2008 for "Wazir-i-Wazarat".

(3) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land revenue and rates cesses shall be applied in discharge of the arrear.

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of attachment. But, if the arrear is sooner discharged the land shall be released and the surplus receipts, if any, made over to the land holder.

67. **Annulment of assessment of estate or holding.**—(1) When an arrear of land revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the [1][Divisional Commissioner] may, after a notice to the defaulter in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(2) The provisions of this section shall not be put in force for the recovery of an arrear of land revenue which has accrued on land while under attachment under the last foregoing section, or while under charge of the Court of Wards.

(3) When the assessment of any land has been annulled the Collector may, with the previous sanction of the [1][Divisional Commissioner,] either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the [1][Divisional Commissioner,] but not exceeding the term of the Settlement then current:

Provided that, the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of annulment.

(4) At any time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tehsil and when that assessment has been sanctioned by the [1][Divisional Commissioner] shall announce it to the land-holder.

(5) The land-holder may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

1. Substituted by Act XI of 1956 for "Commissioner".

(6) If notice is so given, the Collector may, with the previous sanction of the [1][Divisional Commissioner,] take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tehsil for any period within that term which the [1][Divisional Commissioner] may fix.

(7) When the assessment of a holding is annulled the joint responsibility, if any, of the other land-holders of the estate for the land revenue of that holding becoming due, after the annulment shall be in abeyance until a new assessment takes effect.

(8) The [1][Divisional Commissioner] may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled, shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

68. **Proclamation of attachment or annulment of assessment and consequences of the proclamation.**—(1) When any land is attached under section 66, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

(2) No payment, made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer.

(3) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer.

69. **Sale of estate or holding.**—When an arrear of land revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the [1][Divisional Commissioner,] may, in addition to or instead of all or any of those processes and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due :

1. Substituted by Act XI of 1956 for "Commissioner".

Provided that, land shall not be sold for the recovery of—

(a) any arrear which has accrued while the land was under the charge of the Court of Wards ; or

(b) any arrear which has accrued while the land was under attachment under section 66 of this Act ; or

(c) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 67, after either an annulment of assessment or a refusal to be liable therefor :

[1][Provided further that the sale of land under this section shall be subject to the provisions of section 4-A of the Jammu and Kashmir Alienation of Land Act, Samvat 1995 and section 140 of the Transter of Property Act, Samvat 1977.]

70. **Effect of sale on encumbrances.**—(1) Land sold under the last foregoing section shall be sold free of all encumbrances ; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(2) Nothing in sub-section (1) shall affect—

(a) a tenant's right of occupancy, unless the right was created by the defaulter himself ; or

(b) any lease at a fair rent, temporary, or perpetual for the erection of a dwelling house of manufactory, or for a mine, garden, tank, canal, place of worship or burial ground, so long as the land continued to be used for the purpose specified in the lease ; or

(c) any encumbrance, grant, contract, or right of occupancy specially seved by order of the [2][Divisional Commissioner] and proclaimed as hereinafter provided.

71. **Proceedings against other immovable property of defaulters.**—(1) if the arrear cannot be recovered by any of the processes hereinbefore provided, or if the [2][Divisional Commissioner] considers the enforcement of any of these processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding or any other immovable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due :

1. Added by Act XXIX of 1978 S-3.
2. Substituted by Act XI of 1956 for "Commissioner".

Provided that, no interests save those of the defaulter alone shall be so proceeded against, and no encumbrances created, grants made, or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(2) When the Collector determines to proceed under this section against immovable property other than land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(3) The Collector may at any time by order in writting withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(4) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof, shall be void.

(5) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land revenue is due.

72. **Remedies open to person denying his liability for an arrear.**— (1) Notwithstanding anything in section 59, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

(2) A suit under sub-section (1) shall be instituted in a Court having jurisdiction in the place where the office of the [1][Collector] of the district in which the arrear or some part thereof accrued is situate.

Procedure in sales

73. **Proclamation of sale.**—(1) On the receipt of the sanction of the [2][Divisional Commissioner] to the sale of any immovable property, the Collector shall issue ,proclamation of the intended sale, specifying—

1. Substituted by Act III of 2008 for "Wazir-i-Wazarat".
2. Substituted by Act XI of 1956 for "Commissioner".

(a) the date, time, and place of the sale ;

(b) the property to be sold, and if it is an estate or holding, the land revenue assessed thereon or payable in respect thereof ;

(c) if the property is to be sold for the recovery of an arrear due in respect thereof, the encumbrances, grants, contracts, and rights of occupancy, if any, specially saved by order of the 1[Divisional Commissioner] under section 70 sub-section (2) clause (c) ;

(d) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof, any encumbrance, grant or contract to which the property is know to be liable ; and

(e) the amount for the recovery of which the sale is ordered.

(2) The place of the sale specified under clause (a) of sub-section (1) must be either the office of the Collector, or some place appointed by the Collector in this behalf, and situate in or near the property to be sold.

74. **Indemnity to Revenue officer with respect to contents of proclamation.**—A Revenue officer shall not be answerable for any error mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

75. **Publication of proclamation.**—(1) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tehsildar of the tehsil in which the property to be sold is situate.

(2) After a copy of the proclamation has been served on the defaulter and pasted in the office of the Tehsildar, a copy thereof shall be pasted in the office of the Collector.

(3) The proclamation shall be further published in the manner directed under the Code of Civil Procedure.

76. **Time and conduct of sale.**—(1) The sale shall not take palce on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was pasted in the office of the Collector.

1. Substituted by Act XI of 1956 for "Commissioner".

(2) The sale shall be by public auction, and shall be conducted either by the Collector or by a subordinate Revenue officer especially authorised by him in this behalf.

(3) No person shall be permitted to bid at such sale who is under any law or rule enforced in the State prohibited from purchasing such property by private purchase.

77. **Power to postpone sale.**—The Collector or such Revenue officer may from time to time postpone the sale ; provided that, if the sale is postponed for more than 7 days a fresh proclamation shall be issued as prescribed for the original sale.

78. **Stay of sale.**—If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for sale, together with the cost incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 56 or into the Government treasury, the sale shall be stayed.

79. **Payment of deposit by highest bidder.**—When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty-five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser.

80. **Consequences of failure.**—If the person who made the highest bid fails to pay the deposit as required by the last foregoing section the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any which may happen on the re-sale, may be recovered from him by the Collector as if the same were an arrear of land revenue.

81. **Time for payment in full.**—The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared.

82. **Procedure on default of payment.**—In default of payment of the full amount of the purchase money within the period mentioned in the last foregoing section, the deposit referred to in section 79 shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no calim to the property or to any part of the sum for which it may subsequently be sold.

83. **Report of sale to Divisional Commissioner.**—Every sale of immovable property under this Chapter shall be reported by the Collector to the [1][Divisional Commissioner.]

84. **Application to set aside sale.**—(1) At any time within 60 days from the date of the sale, application may be made to the [1][Divisional Commissioner,] to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it.

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the [1][Divisional Commissioner] that he has sustained substantial injury by reason of the irregularity or mistake.

85. **Order confirming or setting aside sale.**—(1) After the expiration of 60 days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the [1][Divisional Commissioner] shall make an order confirming the sale, and if such application has been made and allowed, the [1][Divisional Commissioner] shall make an order setting aside the sale.

(2) An order made under this section shall be final.

86. **Refund of purchase money on setting aside of sale.**—Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase money.

87. **Proclamation after postponement or on re-sale.**—A re-sale consequent on a purchaser's default under section 82 or on the setting aside of a sale under section 85 shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

88. **On confirmation of sale possession and certificate to be granted to purchaser.**—(1) After a sale has been confirmed in the manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(2) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the encumbrances, grants, contracts, and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Divisional Commissioner under section 70, subsection (2), clause (c).

1. Substituted by Act XI of 1956 for "Commissioner".

(3) The certificate shall be deemed to be valid transfer of the property and need not be registered.

(4) No suits shall be maintained against any person claiming title under a purchase certified by the Collector on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

Nothing in this sub-section shall bar a suit to obtain a declaration that the name of the purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser or interfere with the right of a third person to proceed against that property though ostensibly sold to the certified purchaser on the ground that it is liable to satisfy a claim of such third person against the real owner.

(5) The certified purchaser of any immovable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmaiton of the sale, and be liable, for all instalments of land revenue and rates and cesses falling due in respect thereof after that date.

89. **Proceeds of sale.**—(1) When a sale of immovable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of confirmation of the sale whether the arrears are of land revenue or of sums recoverable as arrears of land revenue and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners, either collectively, or according to the amount of their recorded interests, as the Collector thinks fit.

(2) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

(3) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (1), the balances, remaining due from the defaulter may be recovered from him by further proceedings under this Chapter, or by any other means authorised by law.

CHAPTER VIII

Recovery of other demands by Revenue officers.

90. **Recovery of certain arrears through Revenue officer instead of by suit.**—An officer whose duty it is under any law or rule having the force of law to realize a sum of money and the same is lawfully recoverable as an arrear of land revenue may request an Assistant Collector of the first class under whose jurisdiction the person from whom it is recoverable resides or holds any property to realize the same as arrear of land revenue. With such request such officer shall forward to the Assistant Collector a certificate showing the correct amount due up to the date of such certificate :

1[Provided that the period of limitation for making request before the competent revenue authority for realising sums recoverable as arrears of Land Revenue under this chapter shall be the same as is prescribed for suits by or on behalf of the State under the limitation Act, Samvat 1995.]

The person from whom the money is so recovered may, if he denies his liability, sue the Government to recover the same.

91. **Other sums recoverable as arrears of land revenue.**—In addition to any sums recoverable as arrears of land revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely :—

(a) fees, fines, costs and other charges, including rates and cesses, payable under this Act ;

(b) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water or on account of other rights described in section 35 or section 39 in cases in which the revenue so due has not been included in the assessment of an estate ;

(c) sums leviable by or under the authority of the Government 2[x x x] as water rates, or on account of the maintenance or management of canals, embankments or other irrigation works, not being sums recoverable as arrears of land revenue under any enactment for the time being in force;

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1. Substituted by Act XXVIII of 1974 S-2.
2. Word "or His Highness the Maharaja Bahadur" omittet by Act X of 2010. by Act VI of 2004).

[1][(cc) sums granted on loan by the Government for advanced studies or for undergoing advanced or special training in India or abroad including interest or penalty, if any, chargeable thereon ;]

[2][(ccc) loan advanced by the Government to a person who has suffered on account of fire flood, earthquake or a calamity of like nature ;]

[3][(cccc) sums advanced in pursuance of Cabinet Order No. 1547-C of 1953 dated 15th December, 1953, as loan by the Government to craftsmen, artisans and petty traders with a view to their rehabilitation in such craft, art or trade ;]

(d) sums payable to the Government [4][x x x x,] by a person who is surety for the payment of any of the foregoing sums or of any other sums recoverable as an arrear of land revenue;

(e) with the previous sanction of the Government sums due to the postal Department, the Dharmarth Department ; [5][x x x]

[6][(ee) sums recoverable by the Food and Supplies Department on account of purchase, sale, transportation, milling, husking, storage or transit shortages of food grains and other essential commodities including the cost of gunny bags or any other type of containers of such/food grains and essential commodities.]

[7][(f) sums recoverable by Government as arrears of customs import and export duties ;]

[8][(g) sums due to the Agriculture Department on account of produce of agricultural crops including fruits, fruit contracts or supply of chemical fertilizers ;]

[9][(h) sums advanced as loan by Government for construction and repair of house or petty trades ;]

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1. Clause (cc) of section 91 substituted by Act IX of 1970 (it was inserted by Act VI of 2004.
2. Clause (ccc) of section 91 inserted by Act X of 2011 (w.e.f. 11th Chet 2010).
3. Clause (cccc) of section 91 inserted by Act XI of 2011.
4. Words "or Highness the Maharaja Bahadur" omitted by Act X of 2010.
5. Words "the Private Department of His Highness the Maharaja Bahadur or the Poonch Illaqa" omitted by Act X of 2010.
6. Clause (ee) substituted by Act XXVII of 1973 S-2.
7. Clause (f) of section 91 inserted by Act XII of 2011.
8. Clause (g) inserted by Act XXVIII of 1956.
9. Clause (h) substituted by Act XVI of 1966.

[1][(i) sums including interest, if any, due thereon, granted under National Loan Scholarships Scheme of the Government of India ;]

[2][(j) sums advanced as loan by the Industries Department under a Scheme relating to Intensive Development of Rural Industries ;

(k) sums recoverable by the Government under the Rules for the grant of subsidy to persons belonging to Schedule Castes and other Backward Classes for constructions and repairs of houses sanctioned vide Government Order No. SW-125 of 1966 dated 24-3-1966 ;]

[3][(l) sums recoverable as arrears of land revenue and collected by a public servant ;

[4][(m) sums due to Horticulture Department on account of sale of Horticultural Produce, fruit plants fertilizers pesticides and sums recoverable by the Government under fruit contracts or under long term loans advanced for establishment of new orchards ;

(n) sums recoverable as cost of quarters/plots from persons displaced from border areas as also from areas in Pak occupied Kashmir, when these become due.]

[5][(o) sums recoverable as premium on Nazool or Evacuee's Land under Government Order No. REV. (NDJ) 465 of 1972 dated 26th July, 1972 ;

(p) sums payable to the Government under Self-Employment Programme ;]

[6][(q) compensation, for land acquired by State under any law, received by any person not entitled to it ;]

[7][(r) all sums payable to the Government, which the Government may, from time to time by notification in the Government Gazette, declare to be recoverable as arrears of land revenue.

[8][(s) sums advanced by a Bank for the time being included in the second Schedule to the Reserve Bank of India Act, 1934, having an office for transacting the business of Banking in the State, or by the Jammu and Kashmir State Financial Corporation established under the Jammu and Kashmir State Financial Corporation Act, 1951,—

1. Clause (i) inserted by Act XIX of 1968.
2. Clause (j) and (k) added by Act III of 1969.
3. Clause (l), (m) and (n) added by Act XV of 1972.
4. Clause (m) substituted by Act XVI of 1973 S-4.
5. Clause (o) and (p) inserted by Act XXVII of 1973 S-2.
6. Clause (q) added by Act XXVIII of 1973 S-2.
7. Clause (r) added by Act XII of 1976 S-2.
8. Clause (s) and proviso substituted by Act IX of 1984 S-2.

(i) for the development of Agriculture or Horticulture Industry including fisheries, poultries, sheep and allied programme of Agriculture or Horticulture Development ;

(ii) to industries, handicrafts, handlooms, artisans, small business, small loans to professionals and self-employed persons ;

(iii) under Integrated Rural Development Programme and 20-Point Economic Programme ;

which the Government may from time to time by notification in the Government Gazette, declare to be recoverable as arrears of land revenue :

Provided that no such sum shall be so declared unless determined by such authority as the Government may from time to time notify in this behalf :

[1][Provided further that two per cent of the amount recovered shall be paid by a Bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 or by the Jammu and Kashmir State Financial Corporation, as the case may be, to the Government on account of service charges for the recoveries affected.

[1][**Explanation.**—For purposes of the clause—

(i) any reference in section 90 of this Act to an officer shall, under the context otherwise requires, be construed as a reference to a Bank for the time being included in the second schedule the Reserve Bank of India Act, 1934 or the Jammu and Kashmir State Financial Corporation, as the case may be ; and

(ii) "allied programmes of agriculture or horticulture development means making land fit for cultivation, cultivation of land, improvement of land by levelling, bunding or adopting other means of reclamation or soil conservation, development of the sources of irrigation viz. digging of khuls (minor canals,) lining of water courses, digging of wells, boring of tube-wells, instatllation of diesel engines or electrification of tube-wells purchase of pumping sets, spray and sprinkler equipments, laying of water pipes, raising and harvesting of seasonal crops and other products, farm mechanisation like purchase of tractors, hand tillers, power tillers, thrashers,

1. Substituted by Act XVIII of 1981 S-2.
2. Inserted ibid.

tractor trollies, cane crushers, establishment, development, maintenance and expansion of horticulture, forestry, cattle breeding, seed farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders poultry farmery and other categories of persons engaged in similar activities including marketing of agricultural products their storage and transport and the acquisition of implements and machinery in connection with any such activity purchase of pack animals like mules, horses, camels, bullocks, oxen, donkeys and purchase of bullock carts, horse carts, camel carts or any other like purpose."

(t) sums advanced as loan by the Jammu and Kashmir Rajya Sainik Board to ex-service-man ;

[1][(u) sums granted by the Central Government as relief and rehabilitation assistance to persons displaced from Chhamb Niabat area in 1971, received by a person not entitled to it.

92. **Application of Chapter VII to sums recoverable under this Chapter.**—(1) The provisions of Chapter VII shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land revenue and the person from whom, either as principal or as surety, it is due, were a defaulter in respect of such an arrear.

(2) If any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land revenue due in respect of land charged therewith, the provisions of section 70 shall apply to the sale of such land.

92-A. **Recovery of certain arrears through Revenue officer instead of by suit.**—When a village officer required by rules under section 20 to collect any land revenue or sum recoverable as an arrear of land revenue satisfies a Revenue officer that the revenue or sum has fallen due and has not been paid to him, the Revenue officer may, subject to any rules which the Government may make in this behalf, recover it as if it were an arrear of land revenue.

1. Inserted by Act XVIII of 1981 See 2.

CHAPTER IX

SURVEYS AND BOUNDARIES

93. **Power of Government to make rules for demarcation of boundaries and erection of survey-marks.**—(1) The Government may make rules as to the manner in which the boundaries of all or any estate in any local area are to be demarcated and as to the survey-marks to be created within those estates.

(2) Rules under this section may prescribe, among other matters, the forms of survey-marks and the material to be used in their construction.

94. **Power of Revenue officer to define boundaries.**—(1) A Revenue officer may, for the purpose of framing any record or making assessment under this Act or on the application of any person interested, define the limits of any estate, or of any holding, tenancy, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or reparied.

(2) In defining the limits of any land under sub-section (1), the Revenue officer may cause survey marks to be erected on any boundary already determined by, or by order of, any Court, or Revenue officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

(3) The Revenue officer to whom an application under this section may be made may depute another Revenue officer subordinate to him to take the necessary proceedings.

95. **Power of Revenue officer in proceedings under section 94 to reinstate party dispossessed.**—(I) In any proceeding under section 94 if it appears to the Revenue officer that any of the parties to the proceedings has, within a period of six months preceding the date of his order illegally encroached upon any land adjacent to the boundary defined, and previously in the lawful possession of any of the other parties to the proceeding, he may by his order direct that the party dispossessed be placed in possession of such land :

Provided that, no order under this section shall be passed by any officer below the rank of an Assistant Collector of the first class and if proceedings under section 94 are taken by an inferior officer he shall submit the case for orders to the Assistant Collector of the first class having jurisdictoin.

(2) The party dissatisfied with the order of the Revenue officer passed under sub-section (1) may seek his remedy in the Civil Court and subject to the decision of the Civil Court such order shall be final.

96. **Cost of erection and repair of survey-marks.**—Subject to any rules which the Government may make in this behalf, survey-marks shall be erected and kept in repair by or at the cost of the persons interested in the land, for the indication of the limits of which they are required :

Provided that, the Government may in any case direct that the cost of erection shall be borne by the Government or be paid out of the proceeds of the village officers' cess.

97. **Recovery of cost incurred by the Government.**—(1) If the persons interested in the land fail to errect or repair a survey-mark within thirty days from the date of their being required to do so by a Revenue officer, the latter may cause it to be erected or repaired.

(2) Where a Revenue officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction issued under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just.

The cost, if not paid, may be recovered as if it were an arrear of land revenue.

98. **Power of Revenue officers to enter on land for purposes of survey and demarcation.**—Any Revenue officer and person acting under the orders of a Revenue officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

99. **Surveys for purpose of preparation of records.**—When any land is being surveyed in pursuance of rules framed under section 33 (c), any Revenue officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits to those rights or interests.

Any person failing to comply with the notice shall be liable to pay a fine not exceeding Rs. 10 under the orders of the Revenue officer directing the survey.

100. **Provision of flag-holders and chainmen for surveys.**—(1) For the purposes of the survey of any land in pursuance of rules framed under section 33, clause (i), the land-holders shall be bound to provide fit persons to act as flag-holders and chainmen.

(2) If the land-holders fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue officer considers necessary may be employed, and the cost of employing them recovered from the land-holders as if it were an arrear of land revenue.

101. **Professional surveys.**—(1) If it is necessary to make a survey by other agency than that of Revenue officers or village officers the Government may publish a notification stating—

(a) the local area to be surveyed and the nature of the survey ;

(b) the names or official designations of the officers by whom the survey is to be made ; and

(c) the kind of survey-marks to be erected by those officers.

(2) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for purposes of the survey the powers conferred on Revenue officers by section 98.

102. **Penalty for destruction, injury or removal of survey-marks.**—(1) If any person wilfully destroys or injuries, or without lawful authority removes a survey-mark lawfully erected, he may be ordered by a Revenue officer not below the rank of a Tehsildar to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may, in the opinion of the said officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Ranbir Penal Code.

103. **Report of destruction or removal of, or injury to, survey-marks.**—Every village officer of an estate shall be legally bound to furnish a Revenue officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

CHAPTER X

PARTITION

104. **Effect of partitions of estates and tenancies on joint liability for revenue and rent.**—(1) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the [1][Divisional Commissioner,] affect the joint liability of the land or of the land-holders thereof, for the revenue payable in respect of the land in estates wherein under section 54 of this Act such joint liability exists, or operate to create a new estate, and if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(2) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

[2][105. **Application for partition.**—Any joint holder of land or any joint tenant of a tenancy in which [3][a right of occupancy or protected tenancy subsists,] or any mortgagee with possession of the share of such holder or tenant, may apply to a Revenue officer for partition of his share in the land or tenancy, as the case may be, if—

(a) at the date of the application the share is recorded under Chapter IV as belonging to him, or

(b) his right to the share has been established by a decree which is still subsisting at that date, or

(c) a written acknowledgement of that right has been executed by all persons interested in the admission or denial thereof.]

106. **Restrictions and limitations on partition.**—Notwithstanding anything in the last foregoing section—

(1) places of worship, cremation, and burial grounds held in common before partition shall continue to be so held after partition, unless the parties otherwise agree among themselves and record their agreement and file it with the officer making the partition ;

(2) partition of any of the following properties namely :—

1. Substituted by Act XI of 1956 for "Commissioner".
2. Section 105 substituted by Act VIII of 2004.
3. Substituted by Act II of 2007 for "a right of occupancy subsists.

(a) any embankment, water-course, well or tank and any land on which the supply of water to any such work may depend,

(b) any grazing ground, and

(c) any land which is occupied as the site of a town or village and is assessed to the land revenue,

may be refused if, in the opinion of the [1][Revenue officer,] the partition of such property is likely to cause inconvenience to the co-sharers, or other persons directly or indirectly interested therein, or to diminish the utility thereof to those persons ;

(3) the fact that a partition on the application of a joint holder or land would render necessary the serverance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the serverance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy ; and

(4) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof.

107. **Notice of application for partition.**—The [1][Revenue officer] shall, if the application is in order and not open to objection on the face of it, fix a day for the hearing thereof, and—

(a) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application and, if the share of which partition is applied for is a share in the tenancy, on the landlord also ; and

(b) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

108. **Addition of parties to application.**—On the day fixed for the hearing, or any day to which the hearing may be adjourned, the [1][Revenue officer] shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any, of them so desire, he shall add them as applicants for partition.

1 Substituted by Act VIII of 2004 for "Partition Officer".

109. **Absolute disallowance of partition.**—After examining such of the co-sharers and other persons as may be present on that day, the Revenue officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

110. **Procedure on objection that partition has already been made privately.**—If it is alleged by any of the co-sharers that the land or the tenancy has already been divided by a partition made privately, the Revenue officer, notwithstanding anything to the contrary in section 32 of this Act, shall proceed as though the objectoin was an application under section 118 of this Act, and if he finds that private partition has in fact been made, may pass orders affirming it, and refusing the application made under section 105 of this Act.

111. **Procedure on admission of application.**—If the [1][Revenue officer] does not refuse the application under the two last foregoing sections, he shall ascertain the questions, if any, in dispute between any of the persons interested distinguishing between—

(a) question as to title in the property of which partition is sought, including question as to the property to be divided ; and

(b) the mode of making the partition.

111-A. **Objection raising question of title.**—(1) If any objection is made by a recorded co-sharer involving a question of proprietary title to which has not been already determined by a Court of competent jurisdiction, the [1][Revenue officer] may either—

(a) decline to grant the application until the question in dispute has been determined by a competent Court, or

(b) require any party to the case to institute within three months a suit in the Civil Court for the determination of such question, or

(c) proceed to enquire into the merits of the objection.

(2) When the proceedings have been postponed under clause (b), if such party fails to comply with the requisition, the [1][Revenue officer] shall decide the question against him. If he institutes the suit the [1][Revenue officer] shall deal with the case in accordance with the decision of the Civil Court.

1. Substituted by Act VIII of 2004 for "Pratition Officer".

(3) If the [1][Revenue officer] decides to enquire into the merits of the objection, he shall follow the procedure laid down in the Code of Civil Procedure for the trial of original suits.

112. **Collector's decrees equivalent to decrees of Civil Court.**—All decrees passed under sub-section (3) of the proceeding section shall be held to be decrees of a Court of civil jurisdiction of the first instance and notwithstanding anything contained in section 11 shall be open to appeal to the District Judge or High Court, as the case may be, under the rules applicable to appeals to those Courts.

112-A. **Stay of partition pending decision of appeal.**—The Appellate Court may issue a precept to the [1][Revenue officer] directing him to stay the partition pending the decision of the appeal, whether the appeal is pending from a Civil Court under section 111-A (1) (b) or from the Court of the [1][Revenue officer] under section 111-A (3).

113. **Disposal of other questions.**—(1) When there is a question as to the mode of making a partition the [1][Revenue officer] shall, after such enquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

(2) An appeal may be preferred from an order under sub-section (1), and when such an appeal is preferred and the institution thereof has been certified to the[1][Revenue officer] by the officer to whom the appeal has been preferred, the [1][Revenue officer] shall stay proceedings pending the disposal of the appeal.

(3) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his share, he shall be permitted to withdraw therefrom on such terms as the Revenue officer thinks fit.

(4) When an applicant withdraws under the last foregoing subsection, the [1][Revenue officer] may, where the other applicants, if any, desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

114. **Administration of property excluded from partition.**—When any such property as is referred to in section 106, clause (2), is excluded from partition, the Revenue officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are to be borne by and divided among those persons or any of them.

1. Substituted by Act VIII of 2004 for "Pratition Officer".

115. **Distribution of revenue and rent after partition.**—(1) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the [1][Revenue officer] making the partition.

(2) The determination of the [1][Revenue officer] as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 49, sub-section (1).

(3) Where new estates have been created at a partition and the land revenue has been fraudulently or erroneously distributed among them, the [2][Divisional Commissioner] may, at any time, within 3 years of the confirmation of the partition, order a new distribution of the land revenue among the several estates, on an estimate of the assets of each estate at the time of partition, to be made conformably to the best evidence and information procurable respecting the same.

116. **Instrument of partition.**—When a partition is completed the Revenue officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

117. **Delivery of possession of property allotted on partition.**—When the order of partition has become final the officer making the partition shall put the parties entitled to separate possession into possession of such properties.

If for any reason any party to a partition complains that he has not been put into separate possession of the lands to which he is entitled under the partition, he may apply to the [1][Revenue officer] or his successor in office to put him in possession.

Such an application must be made within three years of the preparation of the instrument of partition as prepared under section 116. If an application be made after the expiry of three years the applicant shall be referred to the Civil Court to seek his relief by a suit for possession.

118. **Affirmation of partitions privately effected.**—(1) In any case in which a partition has been made without the intervention of a Revenue officer any party thereto may apply to an Assistant Collector of the first class for an order affirming the partition.

1. Substituted by Act VIII of 2004 for "Partition Officer".
2. Substituted by Act XI of 1965.

(2) On receiving the application, the Assistant Collector shall inquire into the case, and if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 114, 115, 116 and 117 or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter.

[1][**118-A. Partition of Shamilat lands.**—Nothing contained in sections 110, 111, 111-A, 112, 112-A, 113, 116, 117 or 118 shall apply to such lands as are recorded as **Shamilat** under Chapter IV of this Act.

118-B. **Procedure for dealing with applications for partition of Shamilat lands.**—If the Revenue officer does not refuse the application for partition of **Shamilat** land under section 109 or he is satisfied by a reference to the revenue record that the existing possession on lands recorded as **Shamilat** is not according to the shares of the co-sharing proprietors, he shall proceed to ascertain the individual shares of all the co-sharers and after deciding any question of title under the provisions of the next following section, make an order determining the mode of partition and specifying the area allotted to each one of such co-sharers.

118-C. **Disposal of questions of title.**—(1) If during the course of proceedings taken under the foregoing section an objection is raised by a co-sharer involving a question of title, the Revenue officer shall, after such summary enquiry as may be necessary, record his decision thereon giving his reasons for such decision.

(2) An order passed by the Revenue officer under sub-section (1) shall not be appealable or open to revision but shall be subject to any decree or order which may subsequently be passed by any Civil Court of competent jurisdiction.

118-D. **Completion of partition and delivery of possession.**—(1) When partition proceedings in respect of land recorded as **Shamilat** are completed, the Revenue officer shall put each of the co-sharers into separate possession of the lands to which he is entitled under the partition.

(2) If for any reason any co-sharer is precluded from being put into possession as provided for in sub-section (1), he may, within one year from the date of the order passed under section 118-B, apply to the Revenue officer or his successor in office to put him into possession.

1. Section 118-A, 118-B, 118-C, 118-D and 118-E added by Act XII of 2005.

118-E. **Procedure for determining mode of partition where Shamilat land held by a co-sharer exceeds the share due.**—(1) In determining the mode of partition under section 118-B, where a co-sharer in **Shamilat** is found to hold **Shamilat** land in excess of the share to which he is entitled and upon such lands improvements of any kind have been made, he shall be given an option of exchanging an area equal to that found in excess from out of his basic holding or **Shamilat** for distribution amongst those who are found to hold **Shamilat** land less than their due shares.

(2) Where any person who is not a co-sharer in **Shamilat** is found to hold any **Shamilat** land or where a co-sharer in **Shamilat** refuses to avail of the option provided in sub-section (1), or after availing of such option further land in excess is found to remain in his possession, such land shall—

(a) if it contains an orchard, be allotted, in joint ownership to such co-sharers as are found to possess **Shamilat** land less than their due sharers subject to the condition, that such land shall not be further partitioned, and

(b) if it contains trees other than fruit bearing trees, building or structure, the possessor thereof shall be given an optoin of removing such trees, or the material of such building or structure within a period of three months from the date the mode of partition is sanctioned.]

119. **Power to make rules as to casts of partition.**—The Government may make rules—

(a) for determining the costs of partitions under this Chapter and the mode in which such costs to be apportioned ;

(b) prescribing forms for use in proceedings under this Chapter ;

(c) prescribing fees and stamp duties ; and

(d) generally for carrying out the purposes of this Chapter.

[1][119-A. **Proceedings.**—Proceedings under this Chapter shall be taken by a Revenue officer not below the rank of an Assistant Collector of the first class [2][x x x .]

1. Section 119-A inserted by Act VIII of 2004.
2. Words "or Assistant Settlement Officer omitted by Act III of 2008.

CHAPTER XI

ARBITRATION

120. **Power to refer to arbitration.**—The law as to arbitration as contained in [1]Schedule II of the Civil Procedure Code, shall apply to arbitration in matters arising under this Act.

CHAPTER XII

SPECIAL JURISDICTION WITH RESPECT TO LAND

121. **Procedure to be followed in Settlement proceedings when a question of title arises.**—If, in the course of the record-of-rights or of revision of the record-of-rights in any local area in persuance of notification issued under section 22, any question of title arises it will be decided summarily [2][by an Assistant Collector of the first class whose division, subject to such orders as may be passed in appeal by the Collector shall be binding] on the parties till it is set aside by a decree of the Civil Court.

When such a decree is made the record-of-rights shall be corrected, if necessary in accordance therewith, on an application to the [2][Collector] within whose jurisdiction the property affected is situate.

CHAPTER XIII

SUPPLEMENTAL PROVISIONS

Revenue Depostis

122. **Power to deposit certain sums other than rent.**—In either of the following cases, namely :—

(a) when a headman or other land-holder or an assignee of land revenue to whom any sum other than rent is payable on account of liability under this Act, refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable, or

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1. Now the Jammu and Kashmir Arbitration Act of 2002.
2. Substituted by Act III of 2008 for "Wazir-i-Wazarat".

(b) when the person by whom any such sum is payable is in doubt as to the headman or other land-holder, or the assignee of land revenue, entitled to receive it,

that person may apply to Tehsildar within whose local jurisdiction the land in respect of which the payment is to be made is situate, for leave to deposit the sum in his office, and he shall receive the deposit, if after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(2) When a deposit has been so received, the liability of the depositor to the headman or other land-holder, or the assignee of land revenue, for the amount thereof shall be discharged.

123. **Disposal of the deposit.**—(1) The Tehsildar receiving the deposit under the foregoing section shall give a notice of the deposit to every person who he has reason to believe claims or is entitled to the deposit and may pay the amount, to any person or persons appearing to him to be entitled to the same. In case he is unable to decide who should receive the amount, he shall record his reasons therefor and may retain the deposit pending the decision of a Civil Court.

(2) No suit or other proceeding shall be maintained against either the Government or any of its officer for any act done under this section. Nothing herein contained shall prevent the rightful person from maintaining a suit for recovery of the money from the person to whom the same may have been paid.

Execution of Orders of Civil and Criminal Courts by Revenue officers.

124. **Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue officers.**—Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land or for the attachment or sale of the produce of any land shall be addressed to the Collector and shall be executed by him or any officer appointed by him in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith, made by the Government in consultation with the High Court.

125. **Attachment of assigned land revenue.**—(1) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land revenue shall require the person by whom the revenue is payable to pay it to the Tehsildar and the Tehsildar to hold it subject to the further orders of the Court.

(2) A payment to the Tehsildar under sub-section (1) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

126. **Preservation of attached produce.**—(1) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering or storing it, or doing any other act necessary for its preservation.

(2) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(3) When sale of produce follows on the attachment, the purchaser shall be entitled, by himself or by any person appointed by him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

Division of Produce.

127. **Division of produce.**—In either of the following cases, namely :—

(a) where land revenue is paid by division or appraisement of the produce ;

(b) where a superior and an inferior land-holder, or two or more share-holders in a holding or tenancy, are jointly interested in any produce, and either or any of the land-holders or tenants, as the case may be, desires the assistance of a Revenue officer, for the purpose of dividing or appraising the produce ;

the provisions of the Jammu and Kashmir Tenancy Act, 1980, with respect to the division or appraisement of produce, shall apply so far as they can be made applicable.

Miscellaneous.

128. **Village Cesses.**—(1) No village cess which is not sanctioned by the Government and the levy of which has not been established by judicial decision shall be levied in any estate by any landlord over and above the rent payable by a tenant.

(2) When a record-of-rights is being made or revised for an estate, or when the local area in which an estate is situate is being generally reassessed or at any other time when an order is made by the Government with respect to any estate, an Assistant Collector of the first class shall prepare a list of village cesses, if any, levied in the estate, which have been generally or specially approved by the Government.

(3) The Government may impose on the collection of any village cess comprised in the list prepared as above such conditions as to expenditure on Police or other establishments connected with the village market or fair as the Government may think fit.

(4) The Government may declare whether any particular cess, contribution or due levied in an estate is or is not a village cess and the said declaration shall be conclusive.

A cess or contribution levied in an estate shall cease to be leviable if it is not included in the list of cesses declared leviable by the Government.

129. **Superior land-holder's dues.**—When a superior land-holder is entitled to receive in respect of any land from an inferior land-holder, dues in kind or in cash of fluctuating nature, the Collector or the Settlement Officer may, on the application of either land-holder commute those dues into a fixed percentage of the land revenue payable by the inferior land-holder.

130. **Substitution of service for payment of land revenue.**—(1) Subject to any rules or orders in force relating to the creation of assignment of revenue, 1[the Government] may authorise the remission of land revenue in whole or in part in consideration of the person liable therefor undertaking to render in lieu thereof such public service as may be specified in an agreement to be approved by 2[the Government and executed by that person.

(2) 1[the Government] may cancel any remission authorised, and agreement made, under sub-section (1).

1. Substituted by Act X of 2010 for "His Highness the Maharaja Bahadur".
2. Substituted by ibid for "His Highness".

(3) If a land-holder bound by an agreement under sub-section (1) to render public service in lieu of paying land revenue fails to render the service to the satisfaction of [1][the Government] the Collector may determine the portion of the land revenue remitted which is represented by the service in respect of which the land -holder is in default, and, with the previous sanction of [2][the Government,] may recover that portion as if it were an arrear of land revenue due, in respect of the land for the land revenue whereof the service was substituted.

131. **Recovery of cost of assessing assigned land revenue.**—(1) When land of which the land revenue has been assigned in whole or in part is re-assessed, the assignee shall be liable to pay such a share of the cost of making the re-assessment as the Government may determine to be just.

(2) That share may be recovered by the [3][Collector] by deduction of the amount thereof from the land revenue due to the assignee.

132. **Penalty for failure to attend in obedience to order of Revenue officer.**—If a person required by a summons, notice, order or proclamation proceeding from a Revenue officer under the provisions of this Act to attend at a certain time at any place within the limits of his jurisdiction fails to comply with the requisition without a reasonable excuse, he shall be liable at the discretion of the Revenue officer to a fine which may extend to fifty rupees.

133. **Prevention of encroachment on common land.**—(1) When land which has been reserved for the common purposes of the co-shares therein has been encroached on by any co-sharer, a Revenue officer not below the rank of an Assistant Collector of the first class or the officer incharge of the Settlement or an Assistant Collector of the first class subordinate to him may, on the application of any other co-sharer, eject the encroaching co-sharer from the land, and, by order duly proclaimed, forbid repetition of the encroachment.

(2) **Prevention of encroachments on or cultivation of common land, or land reserved for public purposes or of which cultivation has been prohibited or is objectionable, or by person not entitled to bring it unler cultivation.**— (a) When land which has been reserved for grazing ground or any other public purpose, or of which the cultivation has been prohibited by a Revenue officer duly empowered in that behalf, has been encroached upon or brought under cultivation, or

1. Substituted by Act X of 2010 for "His Highness the Maharaja Bahadur".
2. Substituted by **ibid** for "His Highness".
3. Substituted by Act III of 2008 for "Wazir-i-Wazarat".

(b) when land has been brought under cultivation by any person not entitled under any law or rules having the force of law to bring it under cultivation, or

(c) when any person, without due authority, has taken possession of land belonging to the Government, a Revenue officer [1][empowered in this behalf by the Government] of his own motion or on the application of any person interested, may eject the person so encroaching upon or cultivating such land and take possession of such land without paying any compensation for crops or improvements, and may also, by order duly proclaimed, forbid repetition of the encroachment :

[2][Provided that where on any land mentioned in clause (a) any structure stands raised, the person encroaching upon the land shall be ejected therefrom forth-with leaving an area of 10 marlas under and adjacent to the structure in respect of which the owner thereof shall be given a notice in writing affording him an opportunity to—

(1) dismantle the structure standing on such land and to remove the material from the site ; or

(2) Offer suitable equivalent area in exchange from out of his proprietary land or from out of the land which he may acquire or purchase for the purpose, in the same village ; within a period of one month from the date of issue of the notice failing which the Revenue officer aforementioned may eject the owner or occupier of the structure and may dismantle or cause to be dismantled the structure and remove or cause to be removed the material from the site and in doing so the Revenue officer may use such force, as may be necessary.]

The person so ejected shall be liable under the order of a Revenue officer not below the rank of a [3][Collector] or officer in charge of the Settlement or an Assistant Collector of the first class subordinate to him, to a fine not exceeding Rs. 150 in addition to revenue payable on the land for the period of possession reckoned at village revenue rates.

[4][(d) The Collector shall be competent to accept or reject the officer made under sub-clause (ii) of the proviso to clause (c) by an order in writing.

1. Substituted by Act XXXV of 1978 S-2.
2. Proviso substituted by Act XXVIII of 1973 S-3.
3. Substituted by Act III of 2008 for "Wazir-i-Wazarat".
4. Clause (d and c) added by Act XVI of 1969.

(e) an exchange between the land, of which an offer is accepted under clause (d), and the land encroached upon shall be made by means of a mutation and the orders on such mutation shall be construed as having validly conferred title in the exchanged lands, notwithstanding anything contained in the Jammu and Kashmir Transfer of Property Act, 1977 and the Jammu and Kashmir Registration Act, 1977.]

(3) When land has been brought under cultivation by a person entitled under the rules or orders in force to bring it under cultivation, but a Revenue officer not below the rank of Tehsildar in any enquiry made under section 24 of this Act finds that, for reasons to be recorded by him, the cultivation of such land should be prohibited, he may eject the person cultivating it, and may, by order duly proclaimed, forbid its further cultivation.

[1][(4) No compensation shall be claimed by any person for any damage which he may sustain in consequence of the dismentling of any structure or removal of any material from the site under this section.

(4) (a) Where any land becoming available under this section is an orchard or growing vegetables, the Government may by order transfer it to the Panchayat of the area for proper management on such terms and conditions as it may specify.]

[2][(4) (b) Whoever.

(a) makes default in complying, with any of the provisions of, or

(b) disobeys an order made and proclaimed under,

sub-sections (1), (2) and (3) shall, without prejudice to his liability for ejectment thereunder, be punishable by an order of the Assistant Collector of the first class or a Settlement officer or an Assistant Collector of the first class subordinate to him, with a fine which shall not be less than twenty-five rupees and which may extend to fifty rupees which may be reported for every day during which the default or di-obedience continues, in addition to any punishment to which the offender may be liable under any other law for the time being in force.]

1. Sub-section (4) substituted by Act XXVIII of 1973 S-3.
2. Sub-section (4-b) inserted by Act XXIX of 1974 S-2.

(5) The proceedings of the Revenue officer under the foregoing sub-sections shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

[1][133-A. No land which grows or has been growing within the proceeding two years [2][shali crop, vegetables, or saffron lullis] shall be used for any purpose other than agricultural purpose, without, permission in writing of the Revenue Minister.]

[3][133-B. No person shall—

(a) convert any water-surface, water field or floating field into land by filling or by any other process ;

(b) fill with earth, stones, rubble or any other matter, or fence or enclose in any manner whatsoever, any water, for creating a water field or floating field or expanding the area of any authorised water field or a floating field ;

(c) use any water surface, water field or floating field for mooring a floating field (Radh) thereon within such limits as may by specified by the Government ;

in any lake in Kashmir Province without the permission in writing of the Government.

EXPLANATION.—For purposes of this section "Lake in Kashmir Province", means "Gagribal Lake", "Dal Lake", "Nagin Lake", "Anchar Lake", "Mansbal Lake", "Hokarsar Lake", "Haigam Rakh", and such other lakes as may be notified by the Government from time to time and every such lake shall comprise of such areas, waters, water fields and floating fields as the Government may, by general or special order specify in respect of each lake.

133-C. (1) If any person contravenes the provisions of section 133-A or section 133-B, the Collector or any other officer not below the rank an Assistant Collector of the first class, as he may auhtorise, may, by notice in writing served in the manner hereinafter provided, direct such person to show cause within the time specified in the notice as to why he should not remove the contravention and restore the land or water-surface or water field or floating field, as the case may be, to its original condition by a particular date and if such person fails to

1. Section 133-A substituted by Act XVI of 1973 S-5.
2. Substituted by Act III of 1987 S-2.
3. Section 133-B, 133-C, 133-D, 133-E, 133-F and 133-G inserted by Act VI of 1971.

show cause to the satisfaction of the Collector or such officer, within that time, the Collector or such officer may, after informing the person of his decision, remove or cause to be removed the contravention and in doing so, may use such force as may be necessary.

(2) The Collector or the officer authorised by him under sub-section (1) shall cause a copy of the notice to be served on the person, who contravenes the provisions of section 133-A or section 133-B, by delivering or tendering it to such person or failing him, on his recognised agent or on an adult male member of his family usually residing with him, and in case such person, agent or adult male member, as the case may be, refuses, evades or fails to accept or comply with the service of the notice or is not otherwise available, the Collector or the officer shall cause the notice to be served by having it affixed, on the outer door or some other conspicuous part of usual or last known place of residence of such person and if service cannot be so made ; the Collector or the officer shall cause the notice to be published in any local newspaper, besides affixing a copy thereof on some conspicuous place of the land or water field or the floating field or the fencing of the water in respect of which he has committed contravention, and thereupon the notice shall be deemed to have been duly served on him.

133-D. Without prejudice to the provisions of section 133-C, the person found under that section to have contravened the provisions of section 133-A or section 133-B, shall be punishable by the Collector or any officer not below the rank of an Assistant Collector of the first class, as may be authorised by him, with fine which may extend to two thousand rupees.

133-E. The provisions of section 133-C shall also apply in respect of all contraventions of the provisions of section 133-A and section 133-B committed before the commencement of the Jammu and Kashmir Land Revenue (Amendment) Ordinance 1971 (1 of 1971) i.e. the 9th February, 1971 :

Provided that the penalty of fine imposable for such contravention shall not exceed the amount provided for under the law as it stood at the time of commission of such contravention.

133-F. (1) Any person aggrieved by an order made under section 133-C or section 133-D, may prefer an appeal to the Divisional Commissioner within a period of thirty days from the date the order is passed.

(2) An appeal under sub-section (1) shall not operate as a stay of the proceedings under an order appealed from :

Provided that the Divisional Commissioner may stay the execution of the order under section 133-C and section 133-D, if he is satisfied that substantial loss may result to the party applying for stay of execution unless the order is made and that sufficient security has been given by the applicant for the due performance of such an order as may ultimately be binding upon him.

133-G. Notwithstanding anything contained in any other law for the time being in force, nothing done or purporting to have been done by the Collector, or the officer authorised by him in this behalf, under sections 133-A, 133-B, 133-C and 133-D or by the Divisional Commissioner under section 133-F, shall be called in question in any Court and no Court shall entertain any suit or proceeding or grant any injunction with respect to any action or thing or any matter for which a proceeding has been taken under the said provisions.]

134. **Papers kept by village officers to be deemed public documents.**—(1) Any record or paper which a village officer is required by any law or by any rule having the force of law to prepare or keep shall be deemed to be the property of the Government.

(2) A village officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Evidence Act, XIII of 1977, to be a public officer having the custody of a public document which any person has a right to inspect.

135. **Costs.**—(1) A Revenue officer may award or apportion the costs of any proceeding under this Act in any manner he thinks fit :

Provided that, if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

136. **Restriction on Revenue officers bidding at auction or trading.**—(1) [1][An officer of the Revenue Department] or a person employed in a Revenue office or patwari or **kanungo** shall not—

(a) purchase or bid for, either in person or by agent, in his own name or that of another, or jointly or in shares with others, any property situated within his jurisdiction which any Revenue officer or Revenue Court has ordered to be sold, or

1. Substituted by Act XIII of 2000 for "A Revenue Officer".

(b) in contravention of any rules made by the Government in this behalf, engage in trade.

(2) Nothing in sub-section (1) shall be deemed to preclude any person from becoming a member of a company incorporated under the Companies Act or any law in force in the State regarding the incorporation of companies.

137. **Power to make rules.**—(1) The Government may, in addition to any other rules which may be made by it under this Act, frame rules consistent with this Act and any other enactment for the time being in force—

(a) fixing the number and amount of the instalments, and the times and places and the manner, by, at, and in which any sum other than rent or land revenue, which is payable under this Act or of which a record has been made thereunder, is to be paid ;

(b) fixing the dates on which profits are to be divisible by headmen, or other persons by whom they are realised on behalf of cosharers ;

(c) prescribing the fees to be charged for the service and execution of processes issued by Revenue officers and revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service, and execution of those processes, and remuneration and duties of those persons ;

(d) regulating the procedure in cases where persons are entitled to inspect records of Revenue officers, or records or papers in the custody of village officers or to obtain copies of the same, and prescribing the fees payable for searches and copies ;

(e) prescribing forms for such books, entries, statistics and accounts as the Government thinks necessary to be kept, made or complied in Revenue offices, or submitted to any authority ;

(f) declaring what shall be the language of any of those offices ; and

(g) generally for carrying out the purposes of this Act.

(2) Until rules are made under clauses (a) and (b) of sub-section (1) the sums therein referred to shall be payable by instalments, at the times and places, and in the manner by, at, and in which they are now payable.

138. **Rules.**—The rules to be framed under this Act shall be published in Government Gazette and shall take effect from such date as may be mentioned therein, provided that such date is not less than [1][fifteen days] after the publication.

138-A. The Government may by notification in the Government Gazette delegate any of its functions or powers under this Act to any person specified in such notification.

Exclusion of Jurisdiction of Civil Courts

139. **Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue officers.**—Except as otherwise provided by this Act—

(1) no Civil Court shall have jurisdiction in any matter which a Revenue officer is empowered by this Act to dispose of or take cognizance of ;

(2) a Civil Court shall not exercise jurisdiction over any of the following matters, namely :—

(i) any question as to the limits of any land which has been defined by a Revenue officer as land to which this Act does or does not apply ;

(ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue officer, as such ;

(iii) any claim to the office of [2][x x x x x] village officer or in respect of any injury caused by exclusion from such office or to compel the performance of the duties or a division of the emoluments thereof ;

(iv) any notification directing the making or revision of a record-of-rights ;

(v) the framing of a record-of-rights or annual record ; or the preparation, signing or attestation of any of the documents included in such a record ;

(vi) the correction of any entry in a record-of-rights, annual record or register of mutations ;

1. Substituted by Act II of 2005 for 'two months'.
2. Words "Kanongo Zaildar, inamdar or" omitted by Act XV of 1972.

(vii) any notification of the undertaking of the general re-assessment of a district or tehsil having been sanctioned by the Government ;

(viii) the claim of any person to be liable for an assessment of land revenue or of any other revenue assessed under this Act ;

(ix) the amount of land revenue to be assessed on any estate or to be paid in respect of any holding under this Act ;

(x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force ;

(xi) any claim relating to the allowance to be received by a landholder who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act ;

(xii) the formation of an estate out of waste-land ;

(xiii) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water ;

(xiv) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery of land revenue, or any sum recoverable as an arrear of land revenue ;

(xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land revenue or any sum recoverable as an arrear of land revenue ;

(xvi) the amount of, or the liability of any person to pay any fees, fines, costs or other charges imposed under this Act ;

(xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, unless such question is to be determined by a Civil Court as a question of title arising out of the said proceedings ;

(xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy, or as to the distribution of land revenue on the partition of an estate or holding, or as to the distribution of rent on the partition of a tenancy ;

(xix) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue officer under this Act ;

(xx) any question relating to the preparation of a list of village cesses or the imposition by the Government of conditions on the collection of such cesses ;

(xxi) any proceedings under this Act for the commutation of the dues of a superior land-holder ;

(xxii) any claim arising out of the enforcement of an agreement to render public service in lieu of payment of land revenue ;

(xxiii) any claim arising out of the liability of an assignee of land revenue to pay a share of the cost of collecting or re-assessing such revenue, or arising out of the liability of an assignee to pay out of assigned land revenue, or of a person who would be liable for land revenue if it had not been released, compounded for or redeemed to pay on the land revenue for which he would but for such release, composition or redemption be liable, such a percentage for the remuneration of a Zaildar, inamdar or village officer as may be prescribed by rules for the time being in force under this Act ; and

[1][(xxiv) the claim of any person for declaring ownership or any right in respect of grazing land and other prohibited Shamilat lands.]

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1. Clause (XXIV) added by Act XV of 1972.

THE JAMMU AND KASHMIR LAND REVENUE (AMENDMENT) ACT, 2002.

Act No. VII of 2002.

[Received the assent of the Governor on 21st April, 2002 and published in the Government Gazette dated 23rd April, 2002].

An Act to amend the Jammu and Kashmir Land Revenue Act, Samvat 1996 (1939 A.D.).

Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-third Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Land Revenue (Amendment) Act, 2002.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. *Insertion of sections 22-A, 22-B, 22-C, 22-D, 22-E, 22-F, 22-G and 22-H in Act XII of Samvat 1996.*—After section 22 of the Jammu and Kashmir Land Revenue Act, Samvat 1996 (hereinafter referred to as 'the principal Act') the following section shall be inserted, namely :—

"22-A. *Preparation of Pass Book.*—(1) The Deputy Commissioner of the District shall cause to be prepared a Pass Book for every land holder in his District containing record of rights, agriculture holding, transfer of rights, ration cards, subsidies, liabilities etc. in revenue estate to enable the land holder make its use for credit facilities and for other matters connected therewith or incidental thereto.

(2) The Pass Book shall be in such form and valid for such period as may be prescribed.

(3) The Pass Book shall be completed by such persons and in such manner as may be prescribed. The person so authorised shall be the competent authority for purposes of sections 22-A, 22-B, 22-C, 22-D, 22-E, 22-F, 22-G and 22-H of this Act.

(4) On presentation of the Pass Book at the time of attention of mutation or otherwise with regard to any change in the interest of the holding of the land holder the revenue officer, after being satisfied of the correctness of the changes on the basis of the mutation proceedings and other relevant evidence, shall make an entry with respect to such change in the Pass Book in such form and manner as may be prescribed.

(5) The holder of the Pass Book shall get it updated within one month after the expiry of its period of validity and on his failure to get it validated, Pass Book shall otherwise, not be entertained at legal document whenever presented.

(6) Soon after the consignment of the next Jamabandi of the revenue estate in the Sadar Office but not later than 30th April of the year succeeding the year in which Jamabandi has been completed, the holder of the Pass Book shall hand it over to the new Jamabandi against receipt as may be prescribed. However, pending updation of the Pass Book, the entries therein for the period of the preceding Jamabandi would continue to remain valid for that period only.

(7) Every entry made in the manner prescribed, in the Pass Book issued under this section shall be presumed to be true and correct until the contrary is proved.

(8) The entries in Pass Book shall carry the same evidently value as if these were certified copies of the record-of-rights and other public record for all intents and purposes before the Courts and the financial institutions including Banks.

(9) If there be any mistake in the Pass Book, the same can be challenged by making an application to the Deputy Commissioner who shall make such appropriate orders to certify it, as he deems fit.

(10) No transfer made by the holder of a Pass Book in respect of any land specified in such Pass Book or any interest in such land shall be registered by any Registrar or Sub-Registrar unless the Pass Book is produced before him and on the production thereof he shall incorporate the particulars of the transfer registered by him in such form and manner as may be prescribed. Any transfer effected in contravention of this sub-section shall be null and void.

(11) No alteration in the revenue record shall be made by any revenue officer as a consequence of any transfer of land or any interest therein except on the production of the Pass Book.

(12) Any revenue officer may direct the transferer or transferee of any right or interest in the land to produce the Pass Book within fifteen days of issuance of a notice to him and such transferer or transferee shall thereupon produce the Pass Book either personally or through an authorised agent for making entry indicating the transfer. Any alteration made in contravention of this sub-section shall be void.

(13) Financial assistance may be granted by a financial institution to a land holder on production of the Pass Book. However, production of Pass Book will not be necessary for crop loans advanced by co-operative societies.

(14) A financial institution granting any financial assistance to the holder of the Pass Book shall make an entry to that effect in the Pass Book and where such financial assistance has been given on the security of any holding, the financial institutions shall also make an entry against the holding on the security of which the financial assistance

has been granted by it, and the entry so made shall have the effect of creating charge in favour of the financial institution on the holding against which the entry has been made and the holder of the Pass Book shall be debarred from alienating the said holding until the outstanding amount of the financial assistance granted by the financial institution has been repaid together with interest due thereon :

Provided that where any charge on any land or interest therein was created by a land holder in favour of a financial institution before the commencement of the Jammu and Kashmir Land Revenue (Amendment) Act, 2001, it shall not debar him from creating after such commencement subsequent charge on such land interest thereon in favour of financial institution as security for any financial assistance given to him by such institution :

Provided further that the financial institution which sanctions the first loan after the issue of the Pass Book shall ascertain and verify within fifteen days all outstanding loans (except crop loan) advanced by co-operative societies and encumbrances created by the land holder, as the case may be, by procuring an affidavit to that effect and shall enter and authenticate the details thereof in the Pass Book.

(15) The financial institution shall endorse a copy of the relevant entries incorporated in the Pass Book to the revenue officer as well as the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property which has been so charged is situated and on receipt of the same the revenue officer shall cause necessary entry to be made in the record of rights maintained under the Jammu and Kashmir Land Revenue Act, Samvat 1996.

(16) A charge or mortgage created on any land or interest or crop standing therein after the commencement of the Jammu and Kashmir Land Revenue (Amendment) Act,

2001 in favour of Government shall have priority over a charge or mortgage on such land or interest created by a land holder in favour of a financial institution after such commencement.

(17) A Pass Book issued under this section and made upto date shall remain in force until the next Jamabandi and shall be valid thereafter only if it has been made upto date and so certified in the manner as may be prescribed. Each page of the Pass Book shall be serially numbered and name of the land holder on each page to avoid tampering with.

(18) The Pass Book shall be issued to a land holder on payment of such amount as may be prescribed.

(19) If any person fails or refuses to produce a Pass Book on demand by a revenue officer or interpolates or erases anything in the Pass Book with an intent to defraud any authority or makes any false statement knowing or having reason to believe the same to be false or which he does not believe to be true with a view to gain wrongfully, shall be liable to be punished with a fine which may extend to one year or with an imprisonment which may extend to twenty hundred rupees or with both.

(20) No court shall take cognizance of an offence punishable under sub-section (1) except on a complaint made by the revenue officer. However, financial institution may inform the revenue officer about any tampering with the Pass Book coming to its notice.

22-B *Responsibility of the Competent Authority.*—The competent authority shall make every entry in the Pass Book personally from the revenue records of the village. The competent authority shall be responsible for the correctness of every entry made by him in the Pass Book. All entries relating to the revenue record shall be made in accordance with the relevant revenue records.

Explanation :—Competent Authority under this section and the preceding section shall mean an empowered officer or official of the Revenue Department, who under this Act is competent to make entries in the Pass Book.

22-C *Official copy of the Pass Book to be kept upto date.*— The Competent Authority shall make the necessary changes in the record of rights of the holding in time and keep it posted up to date.

22-D *Pass Book to be kept up to date.*—(1) The land holder shall produce his Pass Book before the competent authority at least every six months to get the changes in the record of rights effected in his copy by the competent authority unless the land holder desires to have such changes being posted earlier. The competent authority shall acknowledge the receipt of such Pass Book in writing to the land holder.

(2) Every change in the record of rights pertaining to the holding, after it is effected in the land holder's Pass Book shall be signed and returned within a period of one week after it is authenticated by the competent authority but not later than 15 days from the date of its receipt from the land holder.

(3) When the Pass Book is produced before the competent authority and there is no change to be effected, the competent authority shall make remarks in the Pass Book to the effect that no change is to be posted on the date relevant to the production of the Pass Book and shall sign and authenticate the same.

22-E *Entries to be made by the Banks and financial institutions in the Pass Book.*—(1) The Banks and the financial institutions shall make necessary entries in the relevant columns of the Pass Book regarding the financial assistance or loan given to the land holder and the charge

or mortgage created in the relevant columns of the Pass Book in respect of the land.

(2) The Bank or the financial institution, as the case may be, shall send an extract of the entries made in the Pass Book to the Competent Authority within fifteen days from the date of the transaction. The competent authority shall cause the entry to be made in the Pass Book maintained by it.

22-F *Alteration in the Pass Book.*—(1) No person shall make any change, alter or delete any entry in the Pass Book other than the person who is authorised to make any such entry or change in the Pass Book.

(2) Any person who makes false, fraudulent entries, alters or deletes any entry in the Pass Book or furnishes false information to the competent authority shall be liable to be punished with an imprisonment which may extend up to one year or with fine which may extend to twenty thousand rupees or with both.

22-G *Issue of the true copy of the Pass Book.*—(1) Where the land holder applies with an affidavit to the Deputy Commissioner, to the effect that the Pass Book issued to him has been lost or destroyed, the Deputy Commissioner shall after due verification direct for issuance of a fresh Pass Book on payment of such fees and cost as may be determined by the Government from time to time.

(2) When the Pass Book issued to the land holder has been filled up, or has been damaged or mutilated and can no longer be used, the land holder shall apply for issue of a fresh Pass Book along with old Pass Book and on satisfaction of the correctness of information given in the application, the Deputy Commissioner, shall direct the competent authority to issue a fresh Pass Book to the land holder on payment of such fee, as may be determined, by the Government, from time to time.

(3) Any copy of the order made under sub-section (2) shall be sent to the competent authority along with Pass Book, for complying with the directions.

(4) On receipt of the order under sub-section (3), the competent authority shall issue fresh Pass Book to the land holder, which shall be marked 'Fresh Pass Book' in red ink.

22-H *Issue of additional Pass Book to the joint holders.*—Where the Pass Book is issued in the name of occupant whose name appears first amongst the joint holders of the land and if any joint holder applies for the copy of the Pass Book, after due verification, the Deputy Commissioner, shall direct the competent authority to issue copy of the Pass Book on payment of such fees and costs as may be determined by the Government from time to time.

22-I *Issue of Pass Book to the heirs of land holder.*—(1) Once the Pass Book is issued to the land holder it shall not be necessary to issue a new Pass Book to a person who becomes a holder by succession. If there are more than one successors fresh Pass Book shall be issued to each successor.

(2) On application made by the successor of the deceased holder accompanied by the Pass Book issued to the deceased holder, the competent authority shall, after making such inquiries as it may deem necessary, transfer the Pass Book into the name of the successor."

3. *Amendment of section 121, Act XII of Samvat 1996.*—In section 121 of the principal Act, for the words "by an Assistant Collector of the 1st Class whose decision, subject to such orders as may be passed in appeal by the Collector shall be binding" the words "by the Collector whose decision, subject to such orders as may be passed in appeal by the Divisional Commissioner shall be binding" shall be substituted.

4. *Amendment of section 132, Act XII of Samvat 1996.*—(1) In section 132 of the principal Act, for the words "fifty rupees" the

words "rupees two thousand but shall not be less than rupees one thousand in any case" shall be substituted.

(2) The fine so imposed shall be recoverable as arrears of land revenue.

5. *Amendment of section 133 of Act XII of Samvat 1996.*—In section 133 of the principal Act for the words and figures "not exceeding Rs. 150" the following words shall be substituted "not less than Rs. 500 per day till the contravention on the land mentioned in section 133 is removed."

6. *Amendment of section 133-D of XII of Samvat 1996.*— For the words "Two thousand rupees" appearing in section 133-D the words "five thousand rupees and till such time such contravention is removed he shall be punished further with a fine of five hundred rupees for each day" shall be substituted.