

ACT No. XVI OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 29th October,
1889.)

An Act to amend the Central Provinces Land-revenue Act, 1881, and the Central Provinces Local Self-government Act, 1883.

WHEREAS it is expedient to amend the Central Provinces Land-revenue Act, 1881; It is hereby enacted as follows:— XVIII of 1881.

Title and commencement.

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1889; and

(2) It shall come into force at once.

Definition.

2. In this Act, unless there is something repugnant in the subject or context, the word "section" means a section of the Central Provinces Land-revenue Act, 1881.

Amendment of section 1.

3. In section 1 the words and figures "except those specified in Part VI of the first schedule of the Scheduled Districts Act, 1874," are hereby repealed. XVIII of 1881.

Amendment of section 4, clause (3).

4. In section 4, clause (3), after the words "proprietors as such of the village," the words "or to their transferees or assignees as such or to the patél," shall be inserted. XIV of 187

New clause substituted for section 4, clause (6).

5. For section 4, clause (6), the following shall be substituted, namely:—

"(6) "Sír-land" means—

"Sír-land:"

(a) land which was recorded as 'sír' in the papers of the last preceding settlement of the local area in which the land is situate;

(b) land which was not so recorded, but which at the commencement of the Central Provinces

Land-revenue

(Section 6.)

Land-revenue Act, 1889, was occupied by, and had been cultivated by, the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years ;

- (c) waste-land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years ;

and includes also in the Sambalpur district land which was recorded as 'bhogra' in the papers of the last preceding settlement of the local area in which the land is situate.

"*Explanation I.*—Land (other than bhogra) which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor and which had, after the date of such settlement, or the expiration of such period of twelve years, or six years (as the case may be), been so unoccupied for a period of six consecutive years is not sîr-land. Land is occupied by the proprietor when it is leased out by him with an express reservation of his sîr-rights.

"*Explanation II.*—In this definition the word 'proprietor' includes an assignee of proprietary rights, and land is said to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

"*Explanation III.*—When by any local custom land is liable to exchange or redistribution among the cultivators thereof, land which is not sîr-land and which is taken in exchange for sîr-land becomes sîr-land, and the sîr-land given in exchange for that land ceases to be sîr-land :".

6. After section 4, clause (6), the following shall be inserted, namely :—

"(6a) 'Survey-number' means a local area held by, or intended to be settled with, a raiyat under a separate

New clause inserted after section 4, clause (6).

"Survey-number:"

rate assessment of land-revenue in a village or estate which is the property of the Government:—

Amendment of section 4, clause (7).

7. To section 4, clause (7), the words “but does not include a survey-number” shall be added.

New clause inserted after section 4, clause (8).
“Proprietor:—

8. After section 4, clause (8), the following shall be inserted, namely:—

“(8a) ‘Proprietor,’ except in section 4, clause (6), and in sections 61, 62, 63 and 69, includes a gaontia of a Government village in the Sambalpur district:—

New clause substituted for section 4, clause (10).
“Málik-makbúza:—

9. For section 4, clause (10), the following shall be substituted, namely:—

“(10) ‘Málik-makbúza’ means any person owning one or more plots of land separately assessed with revenue in a mahál, and who is not a malguzár, inferior proprietor or member of the proprietary body of the mahál.

New clauses inserted after section 4, clause (13).

10. After section 4, clause (13), the following shall be inserted, namely:—

“Patél:—

“(13a) ‘Patél’ means a person appointed in manner prescribed under this Act to represent a body of Government raiyats in their dealings with the Government:

“Pattí:—

“(13b) ‘Pattí’ means the lands allotted to any sharer or body of co-sharers in a mahál by an imperfect partition under this Act:—

Amendment of section 4, clause (14).

11. For the *Explanation* to section 4, clause (14), the following shall be substituted, namely:—

“*Explanation I.*—An inferior proprietor is not, as such, a tenant.

“*Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur district, is a tenant of the farmer or gaontia for the time being.

“*Explanation III.*—A person who is not an absolute occupancy-tenant or an occupancy-tenant and who

(Sections 12-13.)

who holds land from a málik-makbúza or from the holder of a survey-number is a sub-tenant of that land."

New section substituted for section 6.

Revenue-officers.

12. For section 6 the following shall be substituted, namely:—

"6. (1) Besides the Chief Commissioner, there shall be the following classes of Revenue-officers, namely:—

- Commissioners;
- Deputy Commissioners;
- Assistant Commissioners;
- Tahsildárs;
- Naib-tahsildárs.

"(2) All Revenue-officers are subordinate to the Chief Commissioner; all Revenue-officers in a division are subordinate to the Commissioner of the division; and all Revenue-officers in a district are subordinate to the Deputy Commissioner of the district.

"(3) An officer in charge of a village-survey in a district which is not under settlement may be invested by the Chief Commissioner with the powers of a Revenue-officer of any class and, when so invested, shall be subordinate to such officer or officers as the Chief Commissioner may direct."

New section inserted after section 18.

Power for Revenue and Settlement Officers to require attendance of persons and production of documents.

13. After section 18 the following shall be inserted, namely:—

"18A. (1) Any Revenue-officer or class of Revenue-officers and any officer appointed to make a settlement may, if specially empowered in this behalf by the Chief Commissioner, order all persons whose presence may be, in the opinion of the officer making the order, necessary for any of the purposes of this Act to attend either in person or by authorized agent at any specified time and place, and may also direct them to produce any written document in their possession, and all such persons shall be legally bound to obey the order.

"(2) The power to require the attendance of parties

parties in person shall, so far as may be, be subject to the provisions of section 176 of the Code of Civil Procedure." XIV of 188

Amendment
of section 45.

14. In section 45, after the words "comprised in such area," the words "or who are in possession of the whole or any part of the land as gaontias or as thekadárs of Government land, or as raiyats who have accepted the assessment of a survey-number," shall be inserted.

Amendment
of section 46.

15. To section 46 the following shall be added, namely :—

"Provided that the Chief Commissioner may declare that any mahál which consists wholly or principally of forest is a forest-mahál, and may direct that the assessment shall be a specified share of the gross or net annual value of the produce of the mahál to be determined from time to time for each year, or part of a year, or that the assessment shall be in the form of rates chargeable on the produce of the mahál in each year or part of a year."

New section
inserted after
section 56.

16. After section 56 the following shall be inserted, namely :—

When assess-
ment is in
form of rates,
Deputy Com-
missioner to
publish
record of
amount pay-
able.

"56A. (1) If the assessment accepted is a specified share of the produce of a forest-mahál to be determined from time to time or in the form of rates chargeable on the produce of a forest-mahál, the Deputy Commissioner shall, from time to time, as the conditions of the assessment may require, notify to the malguzár, on or before such date, or at such intervals, as the Chief Commissioner may prescribe, the amount payable in respect of the forest-mahál.

"(2) The Deputy Commissioner and his subordinates may at any time enter on the forest-mahál and do all acts necessary for ascertaining the amount payable in respect thereof."

New section
inserted after
section 65.

17. After section 65 the following shall be inserted, namely :—

Power to
inquire into

"65A. The Settlement-officer may inquire into
the

(Section 18.)

the claim of any person holding from a proprietor a village or part of a village as thekadár, gaontia or farmer, and may, with the previous sanction of the Chief Commissioner, provide in the terms of settlement for the protection of such thekadár, gaontia or farmer against arbitrary enhancement or ejection:

the claims of the kadárs, gaontias or farmers.

“ Provided that the protection of a thekadár, gaontia or farmer shall not be provided for under this section unless he or those from whom he has inherited was or were in possession of the village at the last settlement of the local area in which the village is situate, or unless it is proved to the satisfaction of the Settlement-officer that he or those from whom he has inherited has or have established the village or substantially improved it at his or their own cost.”

18. After section 67 the following shall be inserted, namely :—

New sections inserted after section 67.

“ Procedure in Raiyatwári Settlements.

“ 67A. (1) The Chief Commissioner may make rules for the assessment of land held by raiyats direct from the Government.

Assessment of raiyatwári villages.

“ (2) Such rules may provide for the subdivision of occupied and unoccupied land into survey-numbers, on each of which a separate assessment shall be made :

“ Provided that no such survey-number shall include land occupied in separate interests by more raiyats than one at the time of its formation.

“ (3) Where the lands of a village have been divided into survey-numbers on each of which a separate assessment has been made, the village may be declared by the Chief Commissioner to be a regularly settled raiyatwári village.

“ (4) The assessment made on a survey-number may be either fixed or progressive or in the form of rates chargeable according to the results of each year or harvest.

“ 67B. (1) The

(Section 18.)

Assessment
to whom to
be offered.

“67B. (1) The assessment of each survey-number in a regularly settled raiyatwari village shall in the first place be offered to the raiyat (if any) holding the survey-number.

“(2) If such raiyat refuses to accept the assessment, he may be ejected as if for non-payment of revenue, and the assessment may be offered—

(a) to any co-partner of the ejected raiyat, and, if he also refuses,

(b) to any other person.

Assessment
of unoccupied
survey-
numbers.

“67C. A survey-number formed from unoccupied land in a regularly settled raiyatwari village may be allotted by the Settlement-officer at the time of settlement or by the Deputy Commissioner during the currency of the term of settlement to any person who accepts the assessment made upon it.

Responsi-
bility of
raiats for
assessment.

“67D. (1) A raiyat who has accepted the assessment of a survey-number in a regularly settled raiyatwari village, and his representatives and assigns, shall be responsible for the payment of the land-revenue assessed on such survey-number during the term of settlement, unless he or they has or have relinquished the survey-number by presenting at the tahsil office a written notice of relinquishment.

“(2) Such notice of relinquishment shall take effect from the first day of April next following the date of the presentation thereof.

Right of
raiats in-
heritable
but not
transferable.

“67E. (1) The right of a Government raiyat in a survey-number held by him shall devolve as if it were land, but is not transferable except to a person who, if he survived the raiyat, would inherit his right, or to a co-sharer in such right, or, with the permission of the Deputy Commissioner, by a lease to a sub-tenant cultivating under the raiyat.

“(2) The right of a raiyat in a survey-number held by him shall not be sold in execution of a decree.

“(3) A raiyat is not entitled to claim partition of a survey-number,

(Section 18.)

survey-number, but the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, partition a survey-number and apportion the assessment between the holders thereof.

“(4) Nothing in this section shall affect the rights of raiyats on whom proprietary rights in survey-numbers held by them have been conferred by special orders.

“67F. The Chief Commissioner may make rules—

Power to make rules for survey-numbers.

(a) prescribing the procedure under which unoccupied survey-numbers may be allotted to raiyats during the currency of the term of a settlement;

(b) providing for the appointment, in the case of survey-numbers held by two or more raiyats in co-partnership, of one of such raiyats to be primarily responsible for the payment of the land-revenue assessed on such survey-numbers;

(c) providing, in cases in which the assessment is in the form of rates chargeable according to the results of each year or harvest, for the manner and time in and at which the amount chargeable is to be notified to the raiyat.

“67G. The provisions of sections 55 and 56 shall, so far as they can be made applicable, apply to raiyatwari settlements made under this Act.

Provisions of sections 55 and 56 applicable to raiyatwari settlements.

“67H. The land-revenue payable at the commencement of the Central Provinces Land-revenue Act, 1889, by raiyats holding survey-numbers in villages declared to be regularly settled raiyatwari villages shall be deemed to have been assessed under the provisions of this Act.

Land-revenue now payable by raiyats to be deemed to be fixed under this Act.

“67I. Raiyats who hold Government land not included in a regularly settled raiyatwari village and who are not tenants within the meaning of this Act shall be liable for the payment of such land-revenue

Raiyats holding Government land not included in raiyatwari villages.

as

(Sections 19-21.)

as may be assessed in accordance with rules made under this Act on the land held by them :

“ Provided that such a raiyat shall not be compelled to pay revenue for land which he has vacated before the first day of April next before the commencement of the agricultural year on account of which the claim for such revenue arises.”

New section substituted for section 69. Determination and record of sîr-land.

19. For section 69 the following shall be substituted, namely :—

“ 69. (1) The Settlement-officer shall ascertain and determine the extent of all the land held as sîr-land as defined in section 4, clause (6), in each mahál, and shall record the same as sîr-land, and shall also record as sîr-land all land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been so cultivated for a period of not less than twelve consecutive years :

“ Provided that land so cultivated shall not be recorded as sîr-land, if it was recorded in the papers of the last preceding settlement of the mahál in which it is situate as tenant's land, or as land held by a tenant or in terms equivalent thereto, and if by recording it as sîr-land the total area of sîr-land in the mahál will amount to more than a quarter of the cultivated area of the mahál.

“(2) When a part of the land so cultivated has under this section to be omitted from the record of sîr-land, the proprietor shall have the right to choose the particular fields which are to be omitted.”

Amendment of section 91.

20. In section 91, after the words “ under a settlement or sub-settlement ” the words “ or otherwise under an assessment made in accordance with this Act ”, and after the words “ with whom such settlement or sub-settlement ” the words “ or such assessment ”, shall be inserted.

New clause inserted after section 94, clause (g).

21. After clause (g) of section 94 the following shall be inserted, namely :—

“(h) in the case of a raiyat who has accepted the assessment

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assessment of a survey-number, by ejecting him from his holding."

22. After section 124 the following shall be inserted, namely:—

Insertion of new section after section 124.

"124A. (1) When under any record-of-rights or sanad or any agreement with the Government the proprietor or the superior or inferior proprietor of any forest-land included within, or forming, a mahál is bound to manage such forest-land in accordance with rules or instructions prescribed by any Government officer, the Chief Commissioner may make rules regarding the control and management of such forest-land.

Powers to control management of forests.

"(2) If the proprietor or the superior or inferior proprietor, as the case may be, fails to observe the rules so made, the Deputy Commissioner may issue a notice calling on him to show cause, within a reasonable time to be specified in the notice, why he should not be excluded from the possession of the forest-land.

"(3) If no sufficient cause is shown, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, exclude such proprietor from the possession of the forest-land and assume the direct management thereof for a term to be fixed by the Chief Commissioner.

"(4) The costs of management shall be borne by the proprietor, or by the superior and inferior proprietors in such proportions as the Chief Commissioner may direct with reference to the amount of their respective interests in the forest or mahál, and shall be realizable as land-revenue.

"(5) The profits of such forest-land while under direct management shall be paid to the proprietor, or to the superior and inferior proprietors in the proportions in which the costs of management are borne by them.

"(6) No leases, liens, incumbrances or contracts created or made by the proprietor or by any person through

through or under whom he claims, of, upon or with respect to the forest-land held under direct management, shall be binding upon the Deputy Commissioner during such management.

“(7) The Deputy Commissioner may confiscate any timber or other forest-produce cut or removed in contravention of the rules made under sub-section (1).

“(8) On the expiration of the period fixed for the direct management the forest-land shall be restored to the proprietor, or superior or inferior proprietor, as the case may be.”

Amendment of section 125, clause (a).

23. In section 125, clause (a), for the words “subsequently to the preparation of the record-of-rights” the words “from time to time” shall be substituted.

New clause added to section 132.

24. To section 132 the following clause shall be added, namely:—

“(i) inquiring into the claims of thekadárs, gaontias or farmers and protecting them.”

Amendment of section 135.

25. In section 135, after the words “mortgagees or farmers” the words “or, in the case of regularly settled raiyatwári villages, of the raiyats” shall be inserted.

Repeal of section 136 and substitution therefor of new provisions respecting partition.

26. Section 136 is hereby repealed, and after section 135 the following shall be inserted, namely:—

“CHAPTER XA.

“PARTITION.

“Perfect and Imperfect Partition.

Perfect and imperfect partition.

“136. (1) Partition is either perfect or imperfect.

“(2) Perfect partition means the division of a mahál into two or more maháls.

“(3) Imperfect partition means the division of a mahál into two or more pattís jointly responsible for the revenue assessed on the whole mahál.

Persons entitled to imperfect partition.

“136A. Any recorded co-sharer of a mahál and any person in whose favour a decree has been passed
awarding

(Section 26.)

awarding to him a proprietary interest in a mahál, whether such interest consists of a fractional share in the whole mahál or a part of the mahál or of specific lands, is entitled to claim at any time imperfect partition of his share.

“136B. Any recorded co-sharer in a mahál, not being a mahál

(a) in the Sambalpur district, or

(b) held by superior and inferior proprietors and which the Chief Commissioner by rule declares to be incapable of perfect partition,

whose share, saving such part of it as may be impartible, has been completely separated from the rest of the mahál and is held by him in severalty, is entitled to claim perfect partition of his share at the time of settlement of such mahál.

“136C. No Civil Court shall entertain any suit or application for the imperfect or perfect partition of a mahál.

Persons entitled to perfect partition.

Jurisdiction of Civil Court barred as to partition.

“Imperfect Partition.”

“136D. (1) Applications for imperfect partition shall be made in writing to the Deputy Commissioner of the district in which the mahál is situate.

“(2) If the mahál is situate in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner may direct.

Applications for imperfect partition to be made to Deputy Commissioner.

“136E. (1) The Deputy Commissioner on receiving an application for imperfect partition shall, if the application be in order, and not open to objection on the face of it, publish a notification of the same at his office and at some conspicuous place on the mahál to which the application relates, and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection either in per-

Procedure on receipt of application.

son or by a duly authorized agent on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

“(2) Where from any cause notice cannot be personally served on any co-sharer, the notification shall be deemed sufficient notice under this section.

“136F. If on or before the day specified any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner on a consideration of such objection is of opinion that there is good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Objection
to partition

“136G. (1) If the objection raises any question of title or of proprietary right which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court or may proceed to inquire into the merits of the objection.

Objection
raising ques-
tion of title

“(2) In the latter case the Deputy Commissioner, after making the necessary inquiry and taking such evidence as may be adduced, shall record a judgment declaring the nature and extent of the interests of the party or parties applying for the partition, and of any other party or parties who may be affected thereby.

XIV of 1882. “(3) The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may with the consent of the parties refer any question arising in such case to arbitration, and the provisions of Chapter XXXVII of the same Code relative to arbitration shall apply to such references.

“136H. (1) All decrees and orders passed by the Deputy Commissioner under the last foregoing section deciding the rights of parties shall be held to be decrees and

Effect of
Deputy Com-
missioner's
orders in
such cases

(Section 26.)

and orders of a Court of Civil Judicature, and shall be open to appeal as if passed by the Court of the Deputy Commissioner acting as a Court of Civil Judicature of first instance under the Central Provinces Civil Courts Act, 1885.

and appeals therefrom.

XVI of 1885.

“(2) Upon such appeal being made the Court of appeal may issue a precept to the Deputy Commissioner directing him to stay the partition pending the decision of the appeal.

“136I. From any decree or order passed under the last foregoing section by a Commissioner sitting as a Court of appeal a second appeal shall, where a second appeal is by law allowed, lie to the Court of the Judicial Commissioner under the law for the time being in force relating to second appeals to that Court.

Second appeal in such cases.

“136J. When it has been decided to make a partition under this Chapter the Deputy Commissioner may give the parties the option of making the partition themselves or of appointing arbitrators for the purpose, or he shall make the partition himself.

Option to parties to make partition themselves or appoint arbitrators.

“136K. Before commencing to make the partition the Deputy Commissioner shall record a proceeding specifying the lands held in severalty, if any, and the land held in common, and laying down the principles to be followed in making the partition, with particulars of the method on which such principles are to be applied.

Proceeding to be recorded by the Deputy Commissioner before making partition.

“136L. (1) The patti of each sharer shall be made as compact as possible :

Each patti to be made as compact as possible.

“Provided that, so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

“(2) No partition shall be disallowed solely on the ground of incompactness. ✕

“136M. (1) If in making the partition it be necessary to include in any patti the land occupied by a dwelling-house or other building in the possession of another

Rule when house of one sharer is included in the patti of another.

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another co-sharer; such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose pattí it may fall.

“(2) The limits of such land and the rent to be paid for it shall be fixed by the Deputy Commissioner.

Sír-land belonging to one sharer not to be included without his consent in the pattí of another sharer.

“136N. (1) No sír-land belonging to any co-sharer shall be included in the pattí assigned on partition to another co-sharer unless with the consent of the co-sharer who cultivates it, or unless the partition cannot otherwise be conveniently carried out.

“(2) If such land be so included and after partition such co-sharer continue to cultivate it, he shall be recorded as an occupancy-tenant in respect of such land and his rent shall be fixed by order of the Deputy Commissioner.

Rule as to tanks, wells and other irrigation-works.

“136O. (1) Tanks, wells, water-courses and embankments shall be treated as attached to the land for the benefit of which they were originally made.

“(2) Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the pattís into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each pattí may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works shall be divided.

Rule regarding places of worship and burial-grounds.

“136P. (1) Places of worship and burial-grounds held in common previous to the partition of a mahál shall continue to be so held unless the parties otherwise agree among themselves.

“(2) In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

Deputy Commissioner may dismiss

“136Q. (1) If the costs to be paid by the applicant for

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for partition are not paid within a time to be fixed by the Deputy Commissioner, the case may be dismissed.

case for non-payment of costs or may quash proceedings.

“(2) If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may stay the partition and order the proceedings to be quashed, recording his reasons for so doing.

“136R. On completion of the partition the Deputy Commissioner shall submit the proceedings to the Commissioner, who may either uphold the partition proposed or modify it or quash the proceedings; and a partition shall not take effect until it has been sanctioned by him.

Commissioner's sanction to partition necessary.

“136S. (1) On a partition being sanctioned by the Commissioner, the Deputy Commissioner shall publish a notification of the fact at his office and at some conspicuous place in the village or villages of the mahál of which the partitioned pattís formed part.

When partition sanctioned, notification to be published.

“(2) The partition shall take effect from the first day of the agricultural year next after the date of such notification.

“ Perfect Partition.

“136T. (1) Applications for perfect partition shall be made, in such form as may be prescribed by the Chief Commissioner, to the Settlement-officer charged with the settlement of the area in which the mahál is situate.

Applications for perfect partition to be made to Settlement-officer.

“(2) Such applications must show that the share which it is desired to have formed into a separate mahál is already held in severalty saving such portion of it as may be impartible. An application failing to show this shall be rejected.

“136U. (1) Subject to any rules which may be made by the Chief Commissioner, the Settlement-officer, if he is satisfied of the truth of the matters stated in the application, may, if he thinks fit, declare the

Settlement-officer may declare shares in maháls to be separate maháls.

share

(Section 27.)

share to be a separate mahál and may assess it separately to land-revenue :

“ Provided that no share shall be declared to be a separate mahál till the proprietors of other shares in the mahál have been given an opportunity of objecting to its perfect partition.

“(2) Except with the sanction of the Commissioner an incompact estate shall not be declared to be a separate mahál.

“ *Supplemental Provisions.*

Power to make rules regarding partition-proceedings.

“ 136V. The Chief Commissioner may make rules regarding—

- (a) the form in which applications for partition shall be made ;
- (b) the procedure to be followed in referring matters to arbitrators and in giving effect to the award of arbitrators ;
- (c) the costs of partition and the mode in which costs are to be apportioned ; and,
- (d) generally, for carrying out the provisions of this Chapter.

Repeal of Act XIX of 1863.

“ 136W. Act XIX of 1863 (*an Act to consolidate and amend the Law relating to the partition of Estates paying revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal*) is hereby repealed with effect from the commencement of the Central Provinces Land-revenue Act, 1889.”

Amendment of section 137.

27. (1) In the first paragraph of section 137, for the words “and mukaddams” the words “mukaddams and patéls” shall be substituted.

(2) For the last paragraph of the same section the following shall be substituted, namely:—

“The lambardár of the village shall ordinarily also be the mukaddam. When a lambardár who does not reside in the village is appointed mukaddam thereof,

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thereof, he shall, subject to the approval of the Deputy Commissioner, appoint an agent to perform the duties of a mukaddam. If there are resident co-sharers in the village, the non-resident lam-bardár shall appoint one of them to be his agent unless the Deputy Commissioner for special reasons allows him to appoint some other person. If a mukaddam fails within a reasonable time to appoint an agent with the approval of the Deputy Commissioner, the Deputy Commissioner shall himself appoint an agent and shall fix the amount of his remuneration, which shall be paid to him by the mukaddam.

“An agent appointed under this section shall be deemed to have the powers conferred on, and to be responsible for the performance of the duties prescribed with regard to, mukaddams by this Act and the rules made hereunder.

“Any fine imposed on such agent for a breach of the provisions of this Act or the rules made hereunder may be recovered from the mukaddam whose agent he is by the Deputy Commissioner.

“In a raiyatwári village the patél shall ordinarily be the mukaddam.”

28. After section 143 the following shall be inserted, namely:—

“143A. It shall be the duty of every patél, in addition to his duties as mukaddam,—

- (a) to collect and pay into the Government treasury the land-revenue assessed on the survey-numbers or holdings of his village;
- (b) in respect of his village to report the abandonment of survey-numbers or holdings, the encroachment of raiyats on waste-land not included in their survey-numbers or holdings, and the non-payment of revenue or any facts which indicate that default will be made in the payment thereof;
- (c) to assist the patwári and village-watchman of

his

New section
inserted after
section 143.
Duties of
patél.

his village in the recovery of dues to which they are entitled;

(d) to prevent the unauthorized cutting of wood in Government forests included in or adjoining his village, and to report any such unauthorized cutting in such forests."

Amendment
of section
144.

29. (1) In section 144, after the words "may make rules" the following shall be inserted, namely:—

"(a) providing for the appointment of patwáris in tracts where they have not been already appointed;"

(2) In the same section clauses (a), (b) and (c) shall be read as clauses (b), (c) and (d), respectively, and the last paragraph beginning with the words "Provided that" and ending with the words "liable to assessment" is hereby repealed.

Repeal of
section 145.
Amendment
of section
146.

30. Section 145 is hereby repealed.

31. The portion of section 146, clause (b), beginning with the words "and may in such rules" and ending with the words "such duties" is hereby repealed.

New section
inserted after
section 146.

32. After section 146 the following shall be inserted, namely:—

Power to
fix amount
to be paid by
proprietors,
tenants and
raiyaats for
patwáris.

"146A. (1) The Chief Commissioner shall fix the nature and amount of the contributions to be made by proprietors and tenants in every mahál or in any specified local area and by raiyaats in every raiyatwári village towards the remuneration of patwáris and the defraying of any charges incurred on account of the proper supervision, maintenance and correction of the patwáris' records, and may direct that any or all of such contributions be paid into the Government treasury through the lambardár of the mahál, or the patél:

"Provided that, except with the previous sanction of the Governor General in Council, no proprietor shall

(Sections 33-36.)

shall be compelled to contribute under this section a sum exceeding six per cent. on the revenue for the time being assessed on his land, or which, when his land is wholly or partially free from revenue, would in the judgment of the Deputy Commissioner be assessable on his land if it were liable to a full assessment.

“(2) The contributions fixed under sub-section (1) may be recovered in the same manner as an arrear of revenue payable directly to the Government, and the provisions of section 116 shall be applicable in the case of a lambardár or patél through whom the contributions are payable.”

33. After section 147 the following shall be inserted, namely:—

New section inserted after section 147. Power to make rules regarding village-watchmen.

“147A. The Chief Commissioner may make rules regarding village-watchmen and may in the rules—

- (a) provide for and regulate their appointment, suspension or removal, prescribing the number of village-watchmen who may hold office at one time in a single village and providing for the appointment of a single village-watchman for two or more villages where such villages would be unable to support separate village-watchmen;
- (b) determine the character and amount of the remuneration which village-watchmen shall be entitled to demand from the members of the village-community;
- (c) define the duties and the mode of supervision of village-watchmen.”

34. In section 148, for the words “and patwáris” the words “patwáris and village-watchmen” shall be substituted.

Amendment of section 148.

35. In section 149, for the words “and patwáris” the words “and village-watchmen.” shall be substituted.

Amendment of section 149.

36. In section 151 the words “and the right to extract

Amendment of section 151.

extract sap from all palmyra and cocoanut trees" are hereby repealed.

Amendment of section 152, clause (13).

37. For clause (13) of section 152 the following clauses shall be substituted, namely :—

" (13) questions connected with, or arising out of, the exclusion of a proprietor from forest-land, and the direct management of such land under section 124A ;

" (13a) the distribution of the land or allotment of the revenue of a mahál by partition ; or the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahál or the pattí of another co-sharer ;".

Amendment of section 152, clause (14).

38. In clause (14) of section 152, for the words " or mukaddam " the words " mukaddam, patél or village-watchman " shall be substituted.

New sections inserted after section 161.

39. After section 161 the following shall be inserted, namely :—

Penalty for failure to perform duty or abuse of authority by mukaddam or agent.

" 161A. Any mukaddam or agent of a mukaddam who without reasonable excuse fails to perform any duty imposed on him by this Act or the rules made thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing failure, to a fine of ten rupees for each day during which the failure continues.

Penalty for neglecting or disobeying orders of mukaddam or agent.

" 161B. Any person who neglects or disobeys a reasonable order made by a mukaddam or agent of a mukaddam in pursuance of the duty imposed upon him by section 141, clause (e), shall be punishable with fine which may extend to twenty rupees, and, if the neglect or disobedience is continued, shall also be liable to a fine of five rupees for each day during which the neglect or disobedience is continued."

Power to assign titles to officers

40. Notwithstanding anything contained in section 29, the Chief Commissioner shall be deemed to have,

(Section 41.)

have, and to have had, authority to assign to the Settlement-officer the title "Assistant Settlement-officer" and to the Chief Settlement-officer the title "Settlement-officer".

appointed to
make
settlements.

I of 1883.

And whereas it is also expedient to amend the Central Provinces Local Self-government Act, 1883; It is hereby further enacted as follows:—

41. In section 41, sub-section (1), of the said Act, for the words "has been made in any settlement-record previous to the passing of this Act" the words "is made in any settlement-record" shall be substituted.

Amendment
of section
41, Act I,
1883.