

Jurisdiction and Procedure.  
X.—Supplemental.—  
Enactments repealed.

ACT NO. XII OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL,  
(Received the assent of the Governor General on the 21st October, 1898.)

An Act further to amend the Central Provinces Land-revenue Act, 1881.

Government may, subject to the provisions of this Act, direct that any suits shall be heard in such Courts competent as it thinks fit, and may impose a fine or penalty under this Act as if it were an arrears Act.

CHAPTER IX.

SUPPLEMENTAL.

Government may, by notification, make rules for the purposes of this Act and prescribe the practice thereunder.

mentioned in the schedule and specified in the following table.

SCHEDULE.

ACTS REPEALED.

(Section 100.)

No.	Extent of repeal.
1.	The whole.
2.	The whole.
3.	So much as relates to the Acts IX of 1883 and XVII of 1889.

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

- 1. (1) This Act may be called the Central Provinces Land-revenue Act, 1898; and
- (2) It shall come into force at once.
- 2. In Chapter I of the Central Provinces Land-revenue Act, 1881 (hereinafter referred to as "the said Act"), clause (6) of section 4 is repealed, and after section 4 the following shall be added, namely:—

Short title and commencement.

Substitution of new definition of "sir-land" for that contained in section 4, clause (6) of Act XVII, 1881.

Meaning of "sir-land."

4A. (1) Subject to the provisions of sub-section (2), "sir-land" (that is to say, the demesne or permanent home-farm land of a proprietor) includes the following, and no other, land, namely:—

- (a) land finally recorded under section 69 as "sir-land" in the papers of the current settlement;
- (b) land declared, under section 132, clause (j), to be "sir-land"; and
- (c) land in the Sambalpúr district recorded as "bhogra" in the papers of the current settlement.

(2) In

## (Section 2.)

Temporary provisions for districts not settled since 1889.

(2) In any local area of which no settlement has been made since the commencement of the Central Provinces Land-revenue Act, 1889, and no settlement of such local area next following the commencement of the Central Provinces Land-revenue Act, 1898, "sir-land" includes—

(a) land defined as sir-land in the foregoing section :

Provided that any such land (other than bhogra) which, at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by the proprietor, and which had, after the date of the settlement last preceding the commencement of the said Act, been so unoccupied for a period of not less than twelve consecutive years, shall not be deemed to be "sir-land";

(b) land which at the commencement of the Central Provinces Land-revenue Act, 1889, was occupied by and had been cultivated by the proprietors or one of the proprietors thereof for a period of not less than twelve consecutive years ;

(c) land which had at the commencement of the Central Provinces Land-revenue Act, 1889, been broken up from waste by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years : Provided that any such land which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by the proprietor, and had been so unoccupied by him for six consecutive years, shall not be deemed to be "sir-land."

*Explanation I.*—For the purposes of sub-section (2), land shall be deemed to be occupied by the proprietor when it is leased out by him with an express reservation

(Section 3.)

reservation of his sîr-rights, and land shall be deemed to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

*Explanation II.*—For the purposes of this section—

- (a) the word "proprietor" shall be deemed to include an assignee of proprietary rights, but not a mâlik-mâkbuzâ :
- (b) 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" :
- (c) subject to the proviso to sub-section (2), clause (a), land which has been recorded as "sîr-land" in the papers of any settlement made before the commencement of this Act shall be deemed to have been finally recorded as "sîr-land" under section 69.'

3. For section 65A of the said Act the following shall be substituted, namely :—

'65A. (1) The Settlement-officer may inquire into the claim of any person holding from a proprietor a village or part of a village as thîkâdâr, gaontia or farmer, and may, notwithstanding any contract to the contrary and with the previous sanction of the Chief Commissioner, declare such thîkâdâr, gaontia or farmer to be "protected" for the purposes of this section :

Provided that no thîkâdâr, gaontia or farmer shall be declared to be protected under this section unless he or those from whom he has inherited has or have been in possession of the village or part of

Substitution of new section for section 65A, Act XVIII, 1881.

Power to inquire into claims of thîkâdârs, gaontias and farmers.

## (Section 3.)

of the village for a period of not less than two years, or unless it is proved to the satisfaction of the Settlement-officer that he or those from whom he inherited has or have established the village or substantially improved it at his or their own cost.

Provided also that, when a thikádár, farmer or gaontia is entitled to claim protection within the meaning of this section, the Settlement-officer may, in his discretion and with the previous sanction of the Chief Commissioner, instead of declaring him to be protected, confer on him the rights of an occupancy-tenant in respect of the whole or part of any land which he may be cultivating, whether as sár-land or otherwise, at the time of the inquiry, and shall determine the rent payable by him as occupancy-tenant of such land.

(2) When a thikádár, farmer or gaontia is declared to be protected under this section, the Settlement-officer may, at the request of the proprietor of the village, determine the amount of the thiká-jama which shall be payable by such thikádár, gaontia or farmer to the proprietor of the village on and from the date on which the settlement of the village takes effect.

(3) Any person who, having held any village or part of a village as a thikádár, farmer or gaontia, was ejected by the proprietor from, or lost possession otherwise than by transfer or voluntary surrender of, such village, or part of a village, and who had at the date of such ejection or dispossession earned a claim to be protected, may at any time before the expiration of two years from the date of such ejection or dispossession apply to the Settlement-officer to reinstate him in the possession of the village or part of the village from which he was ejected; and the Settlement-officer may, with the previous sanction of the Chief Commissioner, replace him in the possession of such village or part of a village and declare him to be protected, or may confer upon him the rights of an occupancy-tenant in

(Section 3.)

whole or part of any land in the village which he was cultivating at the time of his ejection, and to determine the sum in possession of such land and determine the amount which shall be payable by him to the proprietor as such tenant.

*Explanation.*—Any such person as is described in this sub-section who, having been ejected subsequently to the first day of January 1893, applied to a Revenue Officer for reinstatement within two years of his ejection, shall be deemed to have made the application required by this sub-section.

(2) The incidents of the tenure of a thikádár (including a farmer or gaontia) who has been declared to be protected under this section shall be as follows:—

(a) the tenure shall be heritable, but not transferable by sale, gift, mortgage or dower; it shall not be saleable in execution of any decree, nor shall any decree be passed for the sale thereof; and, save in so far as any arrangements to the contrary are in force at the time of the declaration, it shall not be partitioned and shall devolve on one member only of the thikádár's family;

(b) when on the death of a thikádár there are two or more heirs bearing the same relationship to him, the eldest of such heirs shall succeed:

Provided, first, that of such heirs an heir who was joint with the thikádár shall have preference over an heir who was separate: and

Provided, secondly, that the eldest of two or more such heirs shall be at liberty at the time of succession to resign his right in favour of another heir bearing the same degree of relationship to the deceased thikádár as he himself bears:

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- (c) a protected thikádár, whether holding a written lease or a verbal lease, shall be entitled to a renewal of the lease on its expiry, on his agreeing to pay the village at a fair and equitable thiká-jama;
- (d) in the event of any dispute arising between the proprietor and the protected thikádár as to what is a fair and equitable thiká-jama, the matter shall be referred to the Deputy Commissioner, whose decision shall, subject to revision by the Commissioner and Chief Commissioner, be final;
- (e) not more than one enhancement of the thiká-jama or, where it is so specially provided in the terms of the settlement of the village, no enhancement of the thiká-jama shall be imposed on a protected thikádár during the currency of a settlement;
- (f) all miscellaneous dues and cesses, unless specially authorized by the Chief Commissioner, shall be included in the thiká-jama payable under the lease; and
- (g) a protected thikádár shall comply with the rules made under section 124A for the management of malguzari forests.
- (5) In any proceedings before a Court for the ejectment of a thikádár, gaontia or farmer, if it appears that the thikádár, gaontia or farmer has filed an application before a Revenue-officer to obtain a declaration that he is protected, or if he files such an application before the Court, the Court shall stay proceedings until the application has been disposed of in accordance with the provisions of this Act, and shall, if the application is filed before itself, forward such application to the Deputy Commissioner or Settlement-officer for disposal.
- (6) If any protected thikádár, gaontia or farmer is shown to have since the commencement of the Central Provinces Land-revenue Act, 1898, contravened,
- or

(Section 4.)

...contravening, the conditions of his tenure as defined in clause (a) or clause (g) of sub-section (4), who has grossly mismanaged the village held by him in lease, the Settlement-officer or Deputy Commissioner may, with the previous sanction of the Commissioner, declare such thikádár, gaontia or farmer to have forfeited the protection previously conferred on him under this section, and such thikádár, farmer or gaontia shall from the date of such declaration cease to be protected.

(7) Nothing in this section shall affect the liability of any protected thikádár, farmer or gaontia to ejectment in execution of a decree for ejectment passed, in accordance with any law for the time being in force and not inconsistent with this Act, on the ground—

- (a) that he has failed to pay the thiká-jama legally payable by him;
- (b) that he has diverted the cultivable land of the village to non-agricultural purposes, or is chargeable with some act or omission which renders him liable to be ejected.

4. For section 69 of the said Act the following shall be substituted, namely:—

‘69. (1) The Settlement-officer shall ascertain and determine the extent of all the land which is held as sir-land as defined in section 4A, and which has not lost its character as sir-land under the provisions of section 45 of the Central Provinces Tenancy Act, 1898, and shall record the same as sir-land.

(2) The Settlement-officer shall also record as sir-land—

- (a) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been continuously so cultivated for a period of not less than twelve consecutive years; and

(b) land

Substitution of new section for section 69, Act XVIII, 1881.

Determination and record of sir-land.

thikádár, gaontia or farmer from the commencement of the Central Provinces Land-revenue Act, 1898, contravened.

## (Section 4.)

(b) land which is at the time of his death cultivated by the proprietor, or by his heirs or proprietors thereof, and, having been broken up from waste-land by the proprietor or one of such proprietors, since been continuously cultivated for a period of not less than sixty years.

Provided that no land shall be recorded under this sub-section if the total area of land within the mahal already exceeds, or will be made to exceed, one-quarter of the occupied area of the mahal :

Provided, further, that the Settlement-officer, with the previous sanction of the Commissioner, may exempt any mahal or part thereof from this provision in respect of land falling under clause (b) of this section.

(3) When a part of such land as is referred to in sub-section (2) is excluded from the record of the mahal under the proviso to that sub-section, the proprietor shall have the right to choose the particular lands which are to be excluded.

(4) An order or entry of the Settlement-officer recording, or omitting or refusing to record, any land as sir-land under sub-section (1) shall be final unless and until it is reversed or modified by the decree of a Civil Court in a suit instituted under section 82 at any time after the record is attested by the Settlement-officer, or his order regarding the entry is passed, and within one year after the settlement comes into effect; and an order or entry recording, or omitting or refusing to record, any land as sir-land under sub-section (2) shall be final unless and until it is reversed or modified on appeal or revision in accordance with the provisions of sections 22 to 26.

(5) The Settlement-officer shall, at the request of any proprietor, furnish him, free of cost, with a list of all the land which has been recorded as sir-land under

this





(j) declaring, either on his own motion or on a reference made by a Court or Revenue officer, land to be sîr-land under the provisions of section 69, sub-section (2), clause (b), and the provisos thereto.'

Addition of new section after section 136V, Act XVIII, 1881.

Partition may be effected by distribution of mahals.

9. After section 136V of the said Act the following section shall be added, namely :—

'136W. Notwithstanding anything contained in this Chapter, when an estate, in respect of the whole or part of which imperfect partition is sought, consists of two or more mahals, or shares in two or more mahals, the partition may be effected by the distribution of such mahals or shares between the co-sharers, or by imperfect partition of the mahals or shares, or partly by such distribution and partly by imperfect partition, as the Deputy Commissioner may, of his own motion or on the application of the parties, deem fit. In making the partition referred to in this section the Deputy Commissioner shall be guided by the provisions of this Chapter so far as they are compatible with the distribution as aforesaid.'

Rules regarding village-watchmen may provide for their punishment.

Addition of new section after section 157, Act XVIII, 1881.

Recovery of miscellaneous revenue.

10. In clause (a) of section 147A of the said Act between the words "appointment" and "suspension" the word "punishment" shall be inserted.

11. In Chapter XII of the said Act, after section 157 the following shall be added, namely :—

'157A. Rents, fees and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof and all moneys falling due to the Government under any grant, lease or contract which provides that they shall be so recoverable, may be recovered under this Act in the same manner as an arrear of land-revenue.'

12. In

12. In sections 161A and 161B of the said Act, for words "punishable with fine" the words "liable, in the order of a Deputy Commissioner, to a fine" shall be substituted.

Transfer from Criminal to Revenue Courts of power to fine a mukad-dam for breach of duty under the Act.

13. Sections 3, 5, 17, 19, 20 and 24 of the Central Provinces Land-revenue Act, 1889, are repealed.

Repeals.

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